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HOUSE BILL NO. 87

Offered January 8, 2020

Prefiled December 10, 2019

A *BILL to amend and reenact §§ 2.2-3705.3, 2.2-3711, 3.2-4113, 4.1-225, 16.1-69.48:1, 16.1-260, 16.1-273, 16.1-278.8:01, 16.1-278.9, 17.1-805, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-259.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.09, 18.2-308.1:5, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-11.2, 19.2-66, 19.2-81.1, 19.2-83.1, 19.2-120, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-386.28, 19.2-389, as it is currently effective and as it shall become effective, 19.2-392.02, 22.1-277.08, 24.2-233, 37.2-416, 46.2-390.1, 52-35, 53.1-231.2, 54.1-2903, 54.1-3408.3, 54.1-3442.6, and 54.1-3442.8 of the Code of Virginia; to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 41.2, containing articles numbered 1 through 7, consisting of sections numbered 3.2-4121 through 3.2-4199.6; and to repeal §§ 18.2-248.1, 18.2-250.1, and 18.2-251.1 of the Code of Virginia, relating to the cultivation, manufacture, sale, possession, and testing of marijuana; penalties.*

Patrons—Carter and Samirah

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.3, 2.2-3711, 3.2-4113, 4.1-225, 16.1-69.48:1, 16.1-260, 16.1-273, 16.1-278.8:01, 16.1-278.9, 17.1-805, 18.2-46.1, 18.2-247, 18.2-248, 18.2-248.01, 18.2-251, 18.2-251.03, 18.2-251.1:1, 18.2-252, 18.2-254, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-259.1, 18.2-265.1, 18.2-265.2, 18.2-265.3, 18.2-287.2, 18.2-308.09, 18.2-308.1:5, 18.2-308.4, 18.2-460, 18.2-474.1, 19.2-11.2, 19.2-66, 19.2-81.1, 19.2-83.1, 19.2-120, 19.2-188.1, 19.2-303.01, 19.2-386.22 through 19.2-386.25, 19.2-386.28, 19.2-389, as it is currently effective and as it shall become effective, 19.2-392.02, 22.1-277.08, 24.2-233, 37.2-416, 46.2-390.1, 52-35, 53.1-231.2, 54.1-2903, 54.1-3408.3, 54.1-3442.6, and 54.1-3442.8 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 3.2 a chapter numbered 41.2, containing articles numbered 1 through 7, consisting of sections numbered 3.2-4121 through 3.2-4199.6, as follows:

§ 2.2-3705.3. Exclusions to application of chapter; records relating to administrative investigations.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Information relating to investigations of applicants for licenses and permits, and of all licensees and permittees, made by or submitted to the Virginia Alcoholic Beverage Control Authority, the Virginia Lottery, the Virginia Racing Commission, the Department of Agriculture and Consumer Services relating to investigations and applications pursuant to *Chapter 41.2* (§ 3.2-4121 *et seq.*) of Title 3.2 or Article 1.1:1 (§ 18.2-340.15 *et seq.*) of Chapter 8 of Title 18.2, or the Private Security Services Unit of the Department of Criminal Justice Services.

2. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth pursuant to § 54.1-108.

3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution of higher education. However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.

4. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 *et seq.*) of Title 32.1.

5. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.2-3900 *et seq.*) or under any local ordinance adopted in accordance with the authority specified in § 2.2-524, or adopted pursuant to § 15.2-965, or adopted prior to July 1,

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59 1987, in accordance with applicable law, relating to local human rights or human relations commissions.
60 However, nothing in this subdivision shall prevent the distribution of information taken from inactive
61 reports in a form that does not reveal the identity of the parties involved or other persons supplying
62 information.

63 6. Information relating to studies and investigations by the Virginia Lottery of (i) lottery agents, (ii)
64 lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or
65 regulations that cause abuses in the administration and operation of the lottery and any evasions of such
66 provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where
67 such information has not been publicly released, published or copyrighted. All studies and investigations
68 referred to under clauses (iii), (iv), and (v) shall be open to inspection and copying upon completion of
69 the study or investigation.

70 7. Investigative notes, correspondence and information furnished in confidence, and records otherwise
71 exempted by this chapter or any Virginia statute, provided to or produced by or for (i) the Auditor of
72 Public Accounts; (ii) the Joint Legislative Audit and Review Commission; (iii) an appropriate authority
73 as defined in § 2.2-3010 with respect to an allegation of wrongdoing or abuse under the Fraud and
74 Abuse Whistle Blower Protection Act (§ 2.2-3009 et seq.); (iv) the Office of the State Inspector General
75 with respect to an investigation initiated through the Fraud, Waste and Abuse Hotline or an investigation
76 initiated pursuant to Chapter 3.2 (§ 2.2-307 et seq.); (v) internal auditors appointed by the head of a
77 state agency or by any public institution of higher education; (vi) the committee or the auditor with
78 respect to an investigation or audit conducted pursuant to § 15.2-825; or (vii) the auditors, appointed by
79 the local governing body of any county, city, or town or a school board, who by charter, ordinance, or
80 statute have responsibility for conducting an investigation of any officer, department, or program of such
81 body. Information contained in completed investigations shall be disclosed in a form that does not reveal
82 the identity of the complainants or persons supplying information to investigators. Unless disclosure is
83 excluded by this subdivision, the information disclosed shall include the agency involved, the identity of
84 the person who is the subject of the complaint, the nature of the complaint, and the actions taken to
85 resolve the complaint. If an investigation does not lead to corrective action, the identity of the person
86 who is the subject of the complaint may be released only with the consent of the subject person. Local
87 governing bodies shall adopt guidelines to govern the disclosure required by this subdivision.

88 8. The names, addresses, and telephone numbers of complainants furnished in confidence with
89 respect to an investigation of individual zoning enforcement complaints or complaints relating to the
90 Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et
91 seq.) made to a local governing body.

92 9. Records of active investigations being conducted by the Department of Criminal Justice Services
93 pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.),
94 and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

95 10. Information furnished to or prepared by the Board of Education pursuant to subsection D of
96 § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security,
97 unauthorized alteration, or improper administration of tests by local school board employees responsible
98 for the distribution or administration of the tests. However, this section shall not prohibit the disclosure
99 of such information to (i) a local school board or division superintendent for the purpose of permitting
100 such board or superintendent to consider or to take personnel action with regard to an employee or (ii)
101 any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the
102 identity of any person making a complaint or supplying information to the Board on a confidential basis
103 and (b) does not compromise the security of any test mandated by the Board.

104 11. Information contained in (i) an application for licensure or renewal of a license for teachers and
105 other school personnel, including transcripts or other documents submitted in support of an application,
106 and (ii) an active investigation conducted by or for the Board of Education related to the denial,
107 suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses
108 including investigator notes and other correspondence and information, furnished in confidence with
109 respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a)
110 application information to the applicant at his own expense or (b) investigation information to a local
111 school board or division superintendent for the purpose of permitting such board or superintendent to
112 consider or to take personnel action with regard to an employee. Information contained in completed
113 investigations shall be disclosed in a form that does not reveal the identity of any complainant or person
114 supplying information to investigators. The completed investigation information disclosed shall include
115 information regarding the school or facility involved, the identity of the person who was the subject of
116 the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an
117 investigation fails to support a complaint or does not lead to corrective action, the identity of the person
118 who was the subject of the complaint may be released only with the consent of the subject person. No
119 personally identifiable information regarding a current or former student shall be released except as
120 permitted by state or federal law.

121 12. Information provided in confidence and related to an investigation by the Attorney General under
 122 Article 1 (§ 3.2-4200 et seq.) or Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2, Article 10 (§
 123 18.2-246.6 et seq.) of Chapter 6 or Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, or Article 1
 124 (§ 58.1-1000) of Chapter 10 of Title 58.1. However, information related to an investigation that has been
 125 inactive for more than six months shall, upon request, be disclosed provided such disclosure is not
 126 otherwise prohibited by law and does not reveal the identity of charging parties, complainants, persons
 127 supplying information, witnesses, or other individuals involved in the investigation.

128 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

129 A. Public bodies may hold closed meetings only for the following purposes:

130 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,
 131 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public
 132 officers, appointees, or employees of any public body; and evaluation of performance of departments or
 133 schools of public institutions of higher education where such evaluation will necessarily involve
 134 discussion of the performance of specific individuals. Any teacher shall be permitted to be present
 135 during a closed meeting in which there is a discussion or consideration of a disciplinary matter that
 136 involves the teacher and some student and the student involved in the matter is present, provided the
 137 teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing
 138 in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body
 139 or an elected school board to discuss compensation matters that affect the membership of such body or
 140 board collectively.

141 2. Discussion or consideration of admission or disciplinary matters or any other matters that would
 142 involve the disclosure of information contained in a scholastic record concerning any student of any
 143 public institution of higher education in the Commonwealth or any state school system. However, any
 144 such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall
 145 be permitted to be present during the taking of testimony or presentation of evidence at a closed
 146 meeting, if such student, parents, or guardians so request in writing and such request is submitted to the
 147 presiding officer of the appropriate board.

148 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the
 149 disposition of publicly held real property, where discussion in an open meeting would adversely affect
 150 the bargaining position or negotiating strategy of the public body.

151 4. The protection of the privacy of individuals in personal matters not related to public business.

152 5. Discussion concerning a prospective business or industry or the expansion of an existing business
 153 or industry where no previous announcement has been made of the ~~business'~~ *business's* or industry's
 154 interest in locating or expanding its facilities in the community.

155 6. Discussion or consideration of the investment of public funds where competition or bargaining is
 156 involved, where, if made public initially, the financial interest of the governmental unit would be
 157 adversely affected.

158 7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual
 159 or probable litigation, where such consultation or briefing in open meeting would adversely affect the
 160 negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable
 161 litigation" means litigation that has been specifically threatened or on which the public body or its legal
 162 counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in
 163 this subdivision shall be construed to permit the closure of a meeting merely because an attorney
 164 representing the public body is in attendance or is consulted on a matter.

165 8. Consultation with legal counsel employed or retained by a public body regarding specific legal
 166 matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be
 167 construed to permit the closure of a meeting merely because an attorney representing the public body is
 168 in attendance or is consulted on a matter.

169 9. Discussion or consideration by governing boards of public institutions of higher education of
 170 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or
 171 work to be performed by such institution. However, the terms and conditions of any such gifts, bequests,
 172 grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and
 173 accepted by a public institution of higher education in the Commonwealth shall be subject to public
 174 disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision,
 175 (i) "foreign government" means any government other than the United States government or the
 176 government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity
 177 (a) created under the laws of the United States or of any state thereof if a majority of the ownership of
 178 the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the
 179 membership of any such entity is composed of foreign persons or foreign legal entities or (b) created
 180 under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a
 181 citizen or national of the United States or a trust territory or protectorate thereof.

182 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the
183 Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority,
184 and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from
185 private sources.

186 11. Discussion or consideration of honorary degrees or special awards.

187 12. Discussion or consideration of tests, examinations, or other information used, administered, or
188 prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

189 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible
190 disciplinary action against a member arising out of the possible inadequacy of the disclosure statement
191 filed by the member, provided the member may request in writing that the committee meeting not be
192 conducted in a closed meeting.

193 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to
194 consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing
195 body in open meeting finds that an open meeting will have an adverse effect upon the negotiating
196 position of the governing body or the establishment of the terms, conditions and provisions of the siting
197 agreement, or both. All discussions with the applicant or its representatives may be conducted in a
198 closed meeting.

199 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic
200 activity and estimating general and nongeneral fund revenues.

201 16. Discussion or consideration of medical and mental health records subject to the exclusion in
202 subdivision 1 of § 2.2-3705.5.

203 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to
204 subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and
205 discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game
206 information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3
207 and subdivision 11 of § 2.2-3705.7.

208 18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity
209 of, or information tending to identify, any prisoner who (i) provides information about crimes or
210 criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the
211 apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders
212 other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

213 19. Discussion of plans to protect public safety as it relates to terrorist activity or specific
214 cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement
215 or emergency service officials concerning actions taken to respond to such matters or a related threat to
216 public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2,
217 where discussion in an open meeting would jeopardize the safety of any person or the security of any
218 facility, building, structure, information technology system, or software program; or discussion of reports
219 or plans related to the security of any governmental facility, building or structure, or the safety of
220 persons using such facility, building or structure.

221 20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or
222 of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of
223 trustees of a trust established by one or more local public bodies to invest funds for postemployment
224 benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title
225 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the
226 Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,
227 holding or disposition of a security or other ownership interest in an entity, where such security or
228 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that
229 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of
230 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia
231 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or
232 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such
233 ownership interest or the future financial performance of the entity, and (ii) would have an adverse
234 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a
235 local finance board or board of trustees, the board of visitors of the University of Virginia, or the
236 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure
237 of information relating to the identity of any investment held, the amount invested or the present value
238 of such investment.

239 21. Those portions of meetings in which individual child death cases are discussed by the State Child
240 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which
241 individual child death cases are discussed by a regional or local child fatality review team established
242 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
243 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in

244 which individual adult death cases are discussed by the state Adult Fatality Review Team established
 245 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
 246 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of
 247 meetings in which individual death cases are discussed by overdose fatality review teams established
 248 pursuant to § 32.1-283.7, and those portions of meetings in which individual maternal death cases are
 249 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

250 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern
 251 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
 252 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
 253 Virginia Medical School, as the case may be, have been delegated, in which there is discussed
 254 proprietary, business-related information pertaining to the operations of the University of Virginia
 255 Medical Center or Eastern Virginia Medical School, as the case may be, including business development
 256 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
 257 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
 258 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
 259 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
 260 Medical School, as the case may be.

261 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority
 262 or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
 263 disposition by the Authority of real property, equipment, or technology software or hardware and related
 264 goods or services, where disclosure would adversely affect the bargaining position or negotiating
 265 strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the
 266 Authority; grants and contracts for services or work to be performed by the Authority; marketing or
 267 operational strategies plans of the Authority where disclosure of such strategies or plans would adversely
 268 affect the competitive position of the Authority; and members of the Authority's medical and teaching
 269 staffs and qualifications for appointments thereto.

270 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within
 271 the Department of Health Professions to the extent such discussions identify any practitioner who may
 272 be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

273 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
 274 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees
 275 by or on behalf of individuals who have requested information about, applied for, or entered into
 276 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.)
 277 of Title 23.1 is discussed.

278 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
 279 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in §
 280 56-484.12, related to the provision of wireless E-911 service.

281 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
 282 Professional and Occupational Regulation, Department of Health Professions, or the Board of
 283 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach
 284 a decision or meetings of health regulatory boards or conference committees of such boards to consider
 285 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as
 286 requested by either of the parties.

287 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
 288 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are
 289 defined in § 33.2-1800, or any independent review panel appointed to review information and advise
 290 the responsible public entity concerning such records.

291 29. Discussion of the award of a public contract involving the expenditure of public funds, including
 292 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where
 293 discussion in an open session would adversely affect the bargaining position or negotiating strategy of
 294 the public body.

295 30. Discussion or consideration of grant or loan application information subject to the exclusion in
 296 subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation
 297 and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory
 298 Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

299 31. Discussion or consideration by the Commitment Review Committee of information subject to the
 300 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually
 301 violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

302 32. Discussion or consideration of confidential proprietary information and trade secrets developed
 303 and held by a local public body providing certain telecommunication services or cable television services
 304 and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this

305 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et
306 seq.).

307 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless
308 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets
309 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

310 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting
311 security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

312 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee
313 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative
314 files subject to the exclusion in subdivision B 1 of § 2.2-3706.

315 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of
316 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and
317 meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and
318 consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or
319 recover scholarship awards.

320 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion
321 in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia
322 Port Authority.

323 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting
324 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,
325 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College
326 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment
327 Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in
328 subdivision 24 of § 2.2-3705.7.

329 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of
330 § 2.2-3705.6 related to economic development.

331 40. Discussion or consideration by the Board of Education of information relating to the denial,
332 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

333 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created
334 by executive order for the purpose of studying and making recommendations regarding preventing
335 closure or realignment of federal military and national security installations and facilities located in
336 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization
337 appointed by a local governing body, during which there is discussion of information subject to the
338 exclusion in subdivision 8 of § 2.2-3705.2.

339 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of
340 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable
341 information of donors.

342 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of
343 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information
344 contained in grant applications.

345 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority
346 of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or
347 charges for the use of projects of, the sale of products of, or services rendered by the Authority and
348 certain proprietary information of a private entity provided to the Authority.

349 45. Discussion or consideration of personal and proprietary information related to the resource
350 management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii)
351 subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of
352 records that contain information that has been certified for release by the person who is the subject of
353 the information or transformed into a statistical or aggregate form that does not allow identification of
354 the person who supplied, or is the subject of, the information.

355 46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control
356 Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to
357 investigations of applicants for licenses and permits and of licensees and permittees.

358 47. Discussion or consideration of grant or loan application records subject to the exclusion in
359 subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the
360 Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title
361 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of
362 § 23.1-3133 or by the Virginia Research Investment Committee.

363 48. Discussion or development of grant proposals by a regional council established pursuant to
364 Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth
365 and Opportunity Board.

366 49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response

367 team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses
 368 involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii)
 369 individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to
 370 §§ 15.2-1627.5 and 63.2-1605.

371 50. Discussion or consideration by the Board of the Virginia Economic Development Partnership
 372 Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the
 373 portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to
 374 subdivision 33 of § 2.2-3705.7.

375 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic
 376 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and
 377 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of
 378 § 60.2-114.

379 52. *Discussion or consideration by the Board of Agriculture and Consumer Services of information*
 380 *subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for*
 381 *licenses and permits and of licensees and permittees.*

382 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a
 383 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open
 384 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or
 385 motion that shall have its substance reasonably identified in the open meeting.

386 C. Public officers improperly selected due to the failure of the public body to comply with the other
 387 provisions of this section shall be de facto officers and, as such, their official actions are valid until they
 388 obtain notice of the legal defect in their election.

389 D. Nothing in this section shall be construed to prevent the holding of conferences between two or
 390 more public bodies, or their representatives, but these conferences shall be subject to the same
 391 procedures for holding closed meetings as are applicable to any other public body.

392 E. This section shall not be construed to (i) require the disclosure of any contract between the
 393 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1
 394 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant
 395 to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body
 396 empowered to issue industrial revenue bonds by general or special law, to identify a business or industry
 397 to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of
 398 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance
 399 of such bonds.

400 **§ 3.2-4113. Production of industrial hemp lawful.**

401 A. It is lawful for a grower or his agent to grow, a dealer or his agent to deal in, or a processor or
 402 his agent to process industrial hemp in the Commonwealth for any lawful purpose. No grower or his
 403 agent, dealer or his agent, or processor or his agent shall be prosecuted under § ~~18.2-247, 18.2-248,~~
 404 ~~18.2-248.01, 18.2-248.1, 18.2-250, or 18.2-250.1~~ 3.2-4164, 3.2-4165, 3.2-4167, 3.2-4169, 3.2-4170,
 405 3.2-4172, or 3.2-4177 for the possession, growing, dealing, or processing of industrial hemp. In any
 406 complaint, information, or indictment, and in any action or proceeding brought for the enforcement of
 407 any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or the Drug Control Act
 408 (§ 54.1-3400 et seq.), it shall not be necessary to negate any exception, excuse, proviso, or exemption
 409 contained in this chapter or the Drug Control Act, and the burden of proof of any such exception,
 410 excuse, proviso, or exemption shall be on the defendant.

411 B. Nothing in this chapter shall be construed to authorize any person to violate any federal law or
 412 regulation.

413 C. No person shall be prosecuted under § ~~18.2-247, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-250, or~~
 414 ~~18.2-250.1~~ 3.2-4164, 3.2-4165, 3.2-4167, 3.2-4169, 3.2-4170, 3.2-4172, or 3.2-4177 for the involuntary
 415 growth of industrial hemp through the inadvertent natural spread of seeds or pollen as a result of
 416 proximity to a production field, dealership, or process site.

417 **CHAPTER 41.2.**

418 **MARIJUANA.**

419 **Article 1.**

420 **General Provisions.**

421 **§ 3.2-4121. Definitions.**

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

423 "*Child-resistant*" means, with respect to packaging or a container: (i) specially designed or
 424 constructed to be significantly difficult for a typical child under five years of age to open and not to be
 425 significantly difficult for a typical adult to open and reseal and (ii) with respect to any product intended
 426 for more than a single use or that contains multiple servings, resealable.

427 "*Cultivation*" or "*cultivate*" means the planting, propagation, growing, harvesting, drying, curing,

428 grading, trimming, or other similar processing of marijuana for use or sale. "Cultivation" or "cultivate"
429 does not include manufacturing or testing.

430 "Edible marijuana product" means a marijuana product intended to be consumed orally, including
431 any type of food, drink, or pill containing marijuana or marijuana concentrate.

432 "Licensed premises" means the premises specified in a license to operate a marijuana establishment
433 within which the licensee is authorized under this chapter and the regulations adopted pursuant to this
434 chapter to cultivate, manufacture, test, or sell retail marijuana or retail marijuana products.

435 "Licensee" means a person licensed pursuant to this chapter to operate a marijuana establishment.

436 "Locality" means counties, cities, towns, authorities, or special districts in the Commonwealth.

437 "Local license" means a license issued by a locality pursuant to § 3.2-4150 that permits a person to
438 operate a marijuana establishment in such locality.

439 "Manufacturing" or "manufacture" means the production of marijuana products or the blending,
440 infusing, compounding, or other preparation of marijuana and marijuana products, including marijuana
441 extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not
442 include cultivation or testing.

443 "Marijuana" means any part of a plant of the genus *Cannabis* whether growing or not, its seeds, or
444 its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its
445 seeds, or its resin. "Marijuana" does not include any oily extract containing one or more cannabinoids
446 unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor does
447 "marijuana" include the mature stalks of such plant, fiber produced from such stalk, or oil or cake
448 made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of
449 plants of the genus *Cannabis*. "Marijuana" does not include (i) industrial hemp, as defined in
450 § 3.2-4112, that is possessed by a person registered pursuant to § 3.2-4115 or his agent or (ii) a hemp
451 product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no greater than
452 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown, dealt, or
453 processed in compliance with state or federal law.

454 "Marijuana concentrate" means marijuana that has undergone a process to concentrate one or more
455 active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a
456 marijuana plant is a concentrate for purposes of this chapter.

457 "Marijuana cultivation facility" means a facility licensed under this chapter to purchase marijuana
458 plants and seeds from other marijuana cultivation facilities; to cultivate, label, and package marijuana;
459 to transfer possession of retail marijuana to marijuana secure transporters; to sell marijuana to
460 marijuana manufacturing facilities, to retail marijuana stores, and to other marijuana cultivation
461 facilities; and to sell marijuana plants and seeds to other marijuana cultivation facilities and immature
462 marijuana plants and seedlings to retail marijuana stores.

463 "Marijuana establishment" means a marijuana cultivation facility, a marijuana testing facility, a
464 marijuana manufacturing facility, a marijuana secure transporter, a retail marijuana store, or a
465 marijuana microbusiness.

466 "Marijuana manufacturing facility" means a facility licensed under this chapter to purchase
467 marijuana from a marijuana cultivation facility or another marijuana manufacturing facility; to
468 manufacture, label, and package marijuana and marijuana products; to transfer possession of its retail
469 marijuana and retail marijuana products to marijuana secure transporters; and to sell marijuana and
470 marijuana products to marijuana stores and to other marijuana manufacturing facilities.

471 "Marijuana microbusiness" means a facility licensed under this chapter to cultivate not more than
472 150 marijuana plants; to prepare, manufacture, label, and package marijuana and marijuana products
473 obtained from such plants; and to sell such marijuana and marijuana products to consumers. A
474 "marijuana microbusiness" may not sell or otherwise transfer marijuana to any other marijuana
475 establishment.

476 "Marijuana paraphernalia" means all equipment, products, and materials of any kind that are either
477 designed for use or are intended for use in planting, propagating, cultivating, growing, harvesting,
478 manufacturing, compounding, converting, producing, processing, preparing, strength testing, analyzing,
479 packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing
480 into the human body marijuana.

481 "Marijuana products" means products that are composed of marijuana and other ingredients and are
482 intended for use or consumption, including edible products, ointments, and tinctures.

483 "Marijuana secure transporter" means a person licensed under this chapter to obtain marijuana from
484 a marijuana establishment and transport such marijuana to another marijuana establishment.

485 "Marijuana testing facility" means a facility licensed under this chapter to develop, research, and
486 test marijuana, marijuana products, and other substances.

487 "Non-retail marijuana" means marijuana that is not cultivated, manufactured, or sold by a licensed
488 marijuana establishment.

489 "Non-retail marijuana products" means marijuana products that are not manufactured and sold by a

490 licensed marijuana establishment.

491 "Person" means any individual, group of individuals, firm, company, corporation, partnership,
492 business, trust, association, or other legal entity.

493 "Retail marijuana" means marijuana that is cultivated, manufactured, or sold by a licensed
494 marijuana establishment or that is cultivated or manufactured by a person pursuant to § 3.2-4162.

495 "Retail marijuana products" means marijuana products that are manufactured and sold by a licensed
496 marijuana establishment or that are manufactured by a person pursuant to § 3.2-4162.

497 "Retail marijuana store" means a facility licensed under this chapter to purchase marijuana,
498 immature marijuana plants, and seedlings from a marijuana cultivation facility; to purchase marijuana
499 and marijuana products from a marijuana manufacturing facility; to receive possession of retail
500 marijuana and retail marijuana products from marijuana secure transporters; and to sell retail
501 marijuana, retail marijuana products, immature marijuana plants, and seedlings to consumers.

502 "State license" means a license issued by the Board that permits a person to operate a marijuana
503 establishment.

504 "Testing" or "test" means the research and analysis of marijuana, marijuana products, or other
505 substances for contaminants, safety, or potency. "Testing" or "test" does not include cultivation or
506 manufacturing.

507 "Unreasonably impracticable" means that the measures necessary to comply with the regulations or
508 ordinances adopted pursuant to this chapter subject licensees to unreasonable risk or require such a
509 high investment of money, time, or any other resource or asset that a reasonably prudent businessperson
510 would not operate the marijuana establishment.

511 **§ 3.2-4122. Powers and duties of the Board.**

512 The Board shall have the following powers and duties in regard to administering the provisions of
513 this chapter:

514 1. Adopt regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and §
515 3.2-4123;

516 2. Hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the
517 production of records, memoranda, papers, and other documents before the Board, and administer oaths
518 and take testimony thereunder. The Board may authorize any Board member to hold and conduct
519 hearings, issue subpoenas, administer oaths, and take testimony thereunder, and decide cases, subject to
520 final decision by the Board, on application of any party aggrieved. The Board may enter into consent
521 agreements and may request and accept from any applicant or licensee a consent agreement in lieu of
522 proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent
523 agreement shall include findings of fact and may include an admission or a finding of a violation. A
524 consent agreement shall not be considered a case decision of the Board and shall not be subject to
525 judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) but may be
526 considered by the Board in future disciplinary hearings;

527 3. Grant, suspend, and revoke licenses for the cultivation, manufacture, transportation, sale, and
528 testing of retail marijuana and retail marijuana products as provided by law;

529 4. Assess and collect civil penalties and civil charges for violations of this chapter and Board
530 regulations;

531 5. Employ personnel and contract with advisors and consultants as necessary to adequately perform
532 its duties;

533 6. Hold at least four public meetings each calendar year for the purpose of hearing complaints and
534 receiving the views of the public with respect to the administration of this chapter;

535 7. Submit an annual report to the Governor and the General Assembly on or before December 15 of
536 each year. Such report shall contain the following information for the year ending the previous June 30:

537 (i) the number of state licenses of each category issued; (ii) demographic information concerning the
538 licensees; (iii) a description of enforcement and disciplinary actions taken against licensees; and (iv) a
539 statement of revenues and expenses of the Board related to the implementation, administration, and
540 enforcement of this chapter. Such report shall be governed by the provisions of § 2.2-608; and

541 8. Do all acts necessary or advisable to carry out the purposes of this chapter.

542 **§ 3.2-4123. Authority of the Board to adopt regulations.**

543 A. The Board may adopt reasonable regulations, not inconsistent with this chapter or the general
544 laws of the Commonwealth, that it deems necessary to carry out the provisions of this chapter and to
545 prevent the illegal cultivation, manufacture, sale, and testing of retail marijuana and retail marijuana
546 products.

547 B. The Board may also adopt regulations to provide for the issuance of additional types or classes of
548 state licenses to operate marijuana-related businesses, including licenses that authorize only limited
549 cultivation, manufacturing, transportation, delivery, storage, sale, or purchase of marijuana, licenses
550 that authorize the consumption of retail marijuana and retail marijuana products within designated

551 areas, licenses that authorize the consumption of retail marijuana and retail marijuana products at
 552 special events in limited areas and for a limited time, licenses that authorize cultivation for purposes of
 553 propagation, and licenses intended to facilitate scientific research or education.

554 C. The Board shall adopt regulations pursuant to this chapter in accordance with the Administrative
 555 Process Act (§ 2.2-4000 et seq.).

556 D. Board regulations shall be uniform in their application.

557 E. Courts shall take judicial notice of Board regulations.

558 F. The Board's power to regulate shall be broadly construed.

559 **§ 3.2-4124. Regulations.**

560 A. The Board shall adopt regulations pursuant to § 3.2-4123 that:

561 1. Develop such forms, licenses, identification cards, and applications as are necessary or convenient
 562 for the administration of this chapter;

563 2. Prescribe procedures for issuing, renewing, suspending, and revoking a state license;

564 3. Provide a schedule of application, licensing, and renewal fees for marijuana establishments in
 565 amounts not more than necessary to pay for the implementation, administration, and enforcement costs
 566 of this chapter and that are proportional to the size of each category of licensee or the volume of
 567 business conducted by each category of licensee;

568 4. Provide a schedule of penalties and fines for violations of this chapter or regulations adopted
 569 hereunder;

570 5. Establish requirements for all licensees under this chapter for the form, content, and retention of
 571 all records and accounts;

572 6. Ensure compliance with the provisions of this chapter by requiring inspections of all licensees at a
 573 frequency determined by the Board;

574 7. Govern the outdoor cultivation of marijuana by a marijuana cultivation facility licensee, including
 575 security requirements to include lighting, physical security, and alarm requirements, provided that such
 576 requirements do not prohibit the cultivation of marijuana outdoors or in a greenhouse;

577 8. Establish requirements for securely transporting marijuana between marijuana establishments;

578 9. Establish sanitary standards for retail marijuana product preparation;

579 10. Establish a testing program for retail marijuana and retail marijuana products pursuant to
 580 § 3.2-4153;

581 11. Establish requirements for health and safety warning labels to be placed on retail marijuana and
 582 retail marijuana products to be sold or offered for sale by a licensee to a consumer in accordance with
 583 the provisions of this chapter;

584 12. Establish a maximum tetrahydrocannabinol level for retail marijuana products;

585 13. Establish reasonable time, place, and manner restrictions on outdoor advertising of retail
 586 marijuana and retail marijuana products, not inconsistent with the provisions of this chapter, so that
 587 such advertising does not encourage or otherwise promote the use or consumption of retail marijuana
 588 or retail marijuana products by persons under 21 years of age. Such regulations shall permit (i) any
 589 outdoor signage or advertising not otherwise prohibited by this chapter and (ii) the display of outdoor
 590 retail marijuana or retail marijuana product advertising on lawfully erected billboard signs regulated
 591 under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real
 592 estate as defined in § 55.1-1100, but only in accordance with this chapter;

593 14. Prescribe which hours or days, if any, that retail marijuana or retail marijuana products shall
 594 not be sold by retail marijuana store licensees;

595 15. Establish a plan to promote and encourage participation in the marijuana industry by people
 596 from communities that have been disproportionately impacted by marijuana prohibition and enforcement
 597 and to positively impact those communities; and

598 16. Require retail marijuana store licensees to file an appeal from any hearing decision rendered by
 599 a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to
 600 the licensee at the address on record with the Board by certified mail, return receipt requested, and by
 601 regular mail.

602 B. The Board shall not adopt regulations that:

603 1. Establish a limit on the number of any type of state licenses that may be granted;

604 2. Require a customer to provide a retail marijuana store with identifying information other than
 605 identification necessary to determine the customer's age or require the retail marijuana store to acquire
 606 or record personal information about customers other than information typically required in a retail
 607 transaction; or

608 3. Are unreasonably impracticable.

609 **§ 3.2-4125. Hearings; representation by counsel.**

610 Any licensee or applicant for any license granted by the Board shall have the right to be represented
 611 by counsel at any Board hearing for which he has received notice but shall not be required to be
 612 represented by counsel during such hearing.

613 **§ 3.2-4126. Hearings; allowances to witnesses.**

614 Witnesses subpoenaed to appear on behalf of the Board shall be entitled to the same allowance for
615 expenses as witnesses for the Commonwealth in criminal cases in accordance with § 17.1-611. Such
616 allowances shall be paid out of the fund from which other costs incurred by the Board are paid upon
617 certification to the Comptroller.

618 **§ 3.2-4127. Seed-to-sale tracking system.**

619 To ensure that no retail marijuana grown or processed by a marijuana establishment is sold or
620 otherwise transferred except by a retail marijuana store or as otherwise authorized by law, the Board
621 shall develop and maintain a seed-to-sale tracking system that tracks retail marijuana from either the
622 seed or immature plant stage until the retail marijuana or retail marijuana product is sold to a
623 customer at a retail marijuana store.

624 **§ 3.2-4128. Employment practices.**

625 An employer:

626 1. Shall not be required to permit or accommodate the use, consumption, possession, trade, display,
627 transportation, sale, or cultivation of marijuana or marijuana products in the workplace;

628 2. May enact and enforce workplace policies restricting the use of marijuana and marijuana
629 products by employees in the workplace or while otherwise engaged in activities within the course and
630 scope of employment; and

631 3. May discipline employees who are under the influence of marijuana in the workplace or while
632 otherwise engaged in activities within the course and scope of employment in accordance with the
633 employer's workplace policies regarding the use of marijuana and marijuana products by employees.

634 **§ 3.2-4129. Prohibition or regulation of retail marijuana and retail marijuana products on private
635 property.**

636 A person shall not be prohibited from prohibiting or otherwise regulating the cultivation,
637 manufacture, testing, distribution, sale, display, or consumption of retail marijuana or retail marijuana
638 products on property such person owns, occupies, or manages, provided that a lease agreement may not
639 prohibit a tenant from lawfully possessing and consuming retail marijuana or retail marijuana products
640 by means other than smoking.

641 **§ 3.2-4130. Custody or visitation with a minor.**

642 A person shall not be denied custody or visitation with a minor due to conduct that is permitted by
643 this chapter, unless such person's behavior is such that it creates an unreasonable danger to the minor
644 that can be clearly articulated and substantiated.

645 Article 2.

646 Administration of Licenses.

647 **§ 3.2-4131. General licensing requirements; penalty.**

648 A. An applicant for a license to operate a marijuana establishment shall submit an application to the
649 Board on forms provided by the Board, accompanied by any fees required by the Board, and meet each
650 of the following requirements, if applicable. Except as otherwise provided in this section, if the applicant
651 is a business entity, every officer, director, manager, and general partner of the business entity shall
652 meet each of the requirements of this section. An applicant shall disclose in or include with its
653 application the names and addresses of the applicant and all natural persons and business entities
654 having a direct or indirect financial interest in the applied-for license and the nature and extent of the
655 financial interest held by each such person or entity and, if applicable, the nature and extent of any
656 financial interest the person or entity has in any other license applied for or issued under this chapter.

657 1. The applicant shall be at least 21 years of age. If the applicant is a business entity, every officer,
658 director, manager, and general partner of the business entity shall be at least 21 years of age.

659 2. The applicant shall not have had a license, permit, certificate, or other government-issued
660 authorization issued in another jurisdiction allowing the cultivation, manufacture, testing, or sale of
661 marijuana or marijuana products revoked.

662 3. The applicant shall not have been convicted within seven years of the date of application in any
663 state, territory, or foreign jurisdiction of any felony, nor within seven years of the date of application
664 shall the applicant have been convicted of an offense in another state, territory, or foreign jurisdiction,
665 which if committed in Virginia would be a felony. Such conviction shall be treated as a felony
666 conviction under this section regardless of its designation in the other state, territory, or foreign
667 jurisdiction. Any applicant who has been convicted of a felony seven years or more prior to the date of
668 the application shall have completed all terms of sentencing and probation in order to be eligible for a
669 license. For purposes of this subdivision, the term "felony" shall not include any violation of § 3.2-4167,
670 3.2-4168, 3.2-4169, 3.2-4170, 3.2-4172, 3.2-4173, 3.2-4174, 3.2-4176, 3.2-4177, 3.2-4178, 3.2-4194,
671 3.2-4195, or 3.2-4171.

672 a. The applicant shall submit fingerprints and personal descriptive information to the Board.

673 b. The Board shall forward the personal descriptive information along with the applicant's

674 fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for
 675 the purpose of obtaining a national criminal history record information check regarding such applicant.
 676 The cost of the fingerprinting and criminal history record information check shall be paid by the
 677 applicant.

678 c. The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that
 679 no record exists, shall make a report to the Board.

680 d. If an applicant is denied a license because of the information appearing in his criminal history
 681 record, the Board shall notify the applicant that information obtained from the Central Criminal
 682 Records Exchange contributed to such denial. The information shall not be disseminated except as
 683 provided for in this section.

684 4. The applicant shall not be a manufacturer, distributor, or retailer of alcoholic beverages licensed
 685 under Chapter 2 (§ 4.1-200 et seq.) of Title 4.1 nor shall the applicant be a retailer of tobacco or
 686 tobacco products.

687 B. Any application filed pursuant to this section shall be verified by the oath or affirmation of the
 688 applicant or an officer of the applicant that all of the information contained therein is true. Any person
 689 who knowingly makes a false statement to the Board for the purposes of obtaining a license under this
 690 chapter is guilty of a Class 4 felony. The Board shall revoke the license of a licensee if, subsequent to
 691 the issuance of the license, the Board determines that the licensee knowingly or recklessly made a false
 692 statement of material fact to the Board in applying for the license.

693 C. Upon receipt of a complete application and application fee, the Board shall forward a copy of the
 694 application to the locality in which the marijuana establishment is proposed to be located, determine
 695 whether the applicant and the premises qualify for the state license by meeting the requirements of this
 696 chapter and Board regulations, and issue the appropriate license or send the applicant a notice of
 697 rejection within 90 days setting forth the specific reasons why the Board did not approve the state
 698 license application.

699 **§ 3.2-4132. Notice to localities.**

700 The Board shall notify the local governing body wherein each marijuana establishment is proposed
 701 to be located through the county or city attorney or the chief law-enforcement officer of the locality of
 702 each license application that is received by the Board. Local governing bodies shall notify the Board
 703 whether the proposed marijuana establishment is in compliance with any ordinance adopted by the
 704 locality pursuant to § 3.2-4150 and in effect at the time of the application and submit any other
 705 objections to the granting of a license within 30 days of the filing of the application.

706 If a locality limits the number of marijuana establishments that may be licensed in such locality
 707 through an ordinance adopted pursuant to § 3.2-4150 and such limit prevents the Board from issuing a
 708 state license to all applicants who meet the licensing requirements of this chapter, the locality shall
 709 select which of the competing applications to forward to the Board for approval in a competitive
 710 process intended to select applicants who are best suited to operate in compliance with the provisions of
 711 this chapter within the locality.

712 **§ 3.2-4133. Multiple licenses awarded to one person permitted; exceptions.**

713 A. As used in this section, "interest" means an equity ownership interest or a partial equity
 714 ownership interest or any other type of financial interest, including but not limited to being an investor
 715 or serving in a management position.

716 B. A person shall be permitted to possess one or any combination of the following licenses:
 717 marijuana cultivation facility license, marijuana manufacturing facility license, or retail marijuana store
 718 license. However, no licensee who has been issued either a marijuana cultivation facility license,
 719 marijuana manufacturing facility license, or retail marijuana store license shall be issued a marijuana
 720 testing facility license, marijuana secure transporter license, or marijuana microbusiness license or have
 721 any interest in a marijuana testing facility licensee, marijuana secure transporter licensee, or marijuana
 722 microbusiness licensee. Additionally, no licensee who has been issued a marijuana testing facility
 723 license, marijuana secure transporter license, or marijuana microbusiness license shall be issued a
 724 marijuana cultivation facility license, marijuana manufacturing facility license, or retail marijuana store
 725 license or have any interest in a marijuana cultivation facility licensee, marijuana manufacturing facility
 726 licensee, or retail marijuana store licensee.

727 C. Additionally, no person shall be permitted to have any interest in more than five marijuana
 728 cultivation facility licensees or in more than one marijuana microbusiness licensee. However, the Board
 729 may approve an application from a person who holds an interest in more than five marijuana
 730 cultivation facility licensees or in more than one marijuana microbusiness licensee if, after January 1,
 731 2023, the Board adopts a regulation authorizing a person to hold an interest in more than five
 732 marijuana cultivation facility licensees or in more than one marijuana microbusiness licensee.

733 **§ 3.2-4134. Each license separate; posting; expiration.**

734 A. Each license granted by the Board to an applicant under this chapter is separate and distinct
 735 from any other license issued by the Board to that same applicant under this chapter.

736 B. Each license granted by the Board shall designate the place where the business of the licensee
737 will be carried out.

738 C. Each license shall be posted in a location conspicuous to the public at the place where the
739 licensee carries out the business for which the license is granted.

740 D. The privileges conferred by any license granted by the Board shall continue until the last day of
741 the twelfth month next ensuing or the last day of the designated month and year of expiration, except
742 the license may be sooner terminated for any cause for which the Board would be entitled to refuse to
743 grant a license or by operation of law, voluntary surrender, or order of the Board.

744 E. The Board may grant licenses for one year or for multiple years, not to exceed three years.
745 Qualifications for a multiyear license shall be determined on the basis of criteria established by the
746 Board. Fees for multiyear licenses shall not be refundable.

747 **§ 3.2-4135. Licensee shall maintain possession of premises.**

748 As a condition of licensure, a licensee shall at all times maintain possession of the licensed premises
749 of the marijuana establishment that the licensee is licensed to operate, whether pursuant to a lease,
750 rental agreement, or other arrangement for possession of the premises or by virtue of ownership of the
751 premises. If the licensee fails to maintain possession of the licensed premises, the license shall be
752 revoked by the Board.

753 **§ 3.2-4136. Conditions under which Board may refuse to grant licenses.**

754 The Board may refuse to grant any license if it has reasonable cause to believe that:

755 1. The applicant, or if the applicant is a business entity, any officer, director, manager, or general
756 partner of the business entity:

757 a. Is not 21 years of age or older;

758 b. Is not a resident of the Commonwealth;

759 c. Has been convicted in any court of a felony under the laws of any state, or of the United States,
760 within seven years of the date of the application or has not completed all terms of sentencing and
761 probation resulting from any such felony conviction. For purposes of this subdivision, the term "felony"
762 shall not include any violation of § 3.2-4167, 3.2-4168, 3.2-4169, 3.2-4170, 3.2-4172, 3.2-4173,
763 3.2-4174, 3.2-4176, 3.2-4177, 3.2-4178, 3.2-4194, 3.2-4195, or 3.2-4171;

764 d. Is not a person of good moral character and repute;

765 e. Is not the legitimate owner of the business proposed to be licensed, or other persons have
766 ownership interests in the business that have not been disclosed;

767 f. Has not demonstrated financial responsibility sufficient to meet the requirements of the business
768 proposed to be licensed;

769 g. Has misrepresented a material fact in applying to the Board for a license;

770 h. Has defrauded or attempted to defraud the Board, or any federal, state, or local government or
771 governmental agency or authority, by making or filing any report, document, or tax return required by
772 statute or regulation that is fraudulent or contains a false representation of a material fact; or has
773 willfully deceived or attempted to deceive the Board, or any federal, state, or local government or
774 governmental agency or authority, by making or maintaining business records required by statute or
775 regulation that are false or fraudulent; or

776 i. Is a member or employee of the Board.

777 2. The place to be occupied by the applicant:

778 a. Does not conform to the requirements of the governing body of the county, city, or town in which
779 such place is located with respect to sanitation, health, construction, or equipment, or to any similar
780 requirements established by the laws of the Commonwealth or by Board regulation;

781 b. Is so located that granting a license and operation thereunder by the applicant would result in
782 violations of this chapter or Board regulations or violation of the laws of the Commonwealth or local
783 ordinances relating to peace and good order;

784 c. Is so located with respect to any church or synagogue; hospital; public, private, or parochial
785 school or institution of higher education; public or private playground or other similar recreational
786 facility; or state, local, or federal government-operated facility that the operation of such place under
787 such license will adversely affect or interfere with the normal, orderly conduct of the affairs of such
788 facilities or institutions;

789 d. Is located in an area zoned exclusively for residential use or within 1,000 feet of a public or
790 private elementary or secondary school; or

791 e. Is so located with respect to any residence or residential area that the operation of such place
792 under such license will adversely affect real property values or substantially interfere with the usual
793 quietude and tranquility of such residence or residential area.

794 3. There exists any law, ordinance, or regulation of the United States, the Commonwealth, or any
795 political subdivision thereof that warrants refusal by the Board to grant any license.

796 4. The Board is not authorized under this chapter to grant such license.

797 **§ 3.2-4137. Conditions under which the Board shall refuse to grant licenses.**

798 *The Board shall refuse to grant any license to any member or employee of the Board or to any*
 799 *corporation or other business entity in which such member or employee is a stockholder or has any*
 800 *other economic interest.*

801 *Whenever any other elected or appointed official of the Commonwealth or any political subdivision*
 802 *thereof applies for such a license or continuance thereof, he shall state on the application the official*
 803 *position he holds, and whenever a corporation or other business entity in which any such official is a*
 804 *stockholder or has any other economic interest applies for such a license, it shall state on the*
 805 *application the full economic interests of each such official in such corporation or other business entity.*

806 **§ 3.2-4138. Hearing for refusal to grant licenses; Administrative Process Act.**

807 *The action of the Board in granting or in refusing to grant any license shall be subject to judicial*
 808 *review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend*
 809 *to the entire evidential record of the proceedings provided by the Board in accordance with the*
 810 *Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court.*
 811 *Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended,*
 812 *stayed, or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus*
 813 *nor injunction shall lie in any such case.*

814 **§ 3.2-4139. Grounds for which Board may suspend or revoke licenses.**

815 *The Board may suspend or revoke any license if it has reasonable cause to believe that:*

816 *1. The licensee, or if the licensee is a business entity, any officer, director, manager, or general*
 817 *partner of the business entity:*

818 *a. Has misrepresented a material fact in applying to the Board for such license;*

819 *b. Within the five years immediately preceding the date of the hearing held in accordance with §*
 820 *3.2-4138, has (i) been convicted of a violation of any law, ordinance, or regulation of the*
 821 *Commonwealth or other political subdivision thereof, of any state, or of the United States or other*
 822 *political subdivision thereof applicable to the cultivation, manufacture, sale, or testing of marijuana or*
 823 *marijuana products; (ii) violated any provision of Article 7 (§ 3.2-4164 et seq.); (iii) violated or failed*
 824 *or refused to comply with any regulation or order of the Board; or (iv) failed or refused to comply with*
 825 *any of the conditions or restrictions of the license granted by the Board;*

826 *c. Has been convicted in any court of a felony under the laws of any state or of the Commonwealth*
 827 *after the date of initial licensure;*

828 *d. Is not the legitimate owner of the business conducted under the license granted by the Board, or*
 829 *other persons have ownership interests in the business that have not been disclosed;*

830 *e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business*
 831 *conducted under the license granted by the Board;*

832 *f. Has maintained the licensed premises in an unsanitary condition;*

833 *g. Knowingly employs in the business conducted under such license any person, as agent or*
 834 *employee, who has been convicted in any court of a felony within one and one-half years prior to the*
 835 *commencement of such employment or who has not completed all terms of sentencing and probation*
 836 *resulting from any such felony conviction;*

837 *h. Has allowed any person to consume upon the licensed premises any marijuana or marijuana*
 838 *products except as provided under this chapter; or*

839 *i. Has upon the licensed premises (i) illegally possessed, distributed, sold, or used, or has knowingly*
 840 *allowed any employee or agent, or any other person, to illegally possess, distribute, sell, or use*
 841 *controlled substances, imitation controlled substances, drug paraphernalia, or controlled paraphernalia*
 842 *as those terms are defined in Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-265.1 et seq.) of Chapter 7*
 843 *of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of §*
 844 *18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 1 or 1.1 of*
 845 *Chapter 7 of Title 18.2 or the Drug Control Act. The provisions of this subdivision shall also apply to*
 846 *any conduct related to the operation of the licensed business that facilitates the commission of any of*
 847 *the offenses set forth herein.*

848 *2. The place occupied by the licensee:*

849 *a. Does not conform to the requirements of the governing body of the county, city, or town in which*
 850 *such establishment is located, with respect to sanitation, health, construction, or equipment or to any*
 851 *similar requirements established by the laws of the Commonwealth or by Board regulations; or*

852 *b. Has been adjudicated a common nuisance under § 18.2-258.*

853 **§ 3.2-4140. Grounds for which Board shall suspend or revoke licenses.**

854 *The Board shall suspend or revoke any license if it finds that a licensee has defrauded or attempted*
 855 *to defraud the Board, or any federal, state, or local government or governmental agency or authority,*
 856 *by making or filing any report, document, or tax return required by statute or regulation that is*
 857 *fraudulent or contains a willful or knowing false representation of a material fact or has willfully*
 858 *deceived or attempted to deceive the Board, or any federal, state, or local government or governmental*

859 agency or authority, by making or maintaining business records required by statute or regulation that
860 are false or fraudulent.

861 **§ 3.2-4141. Suspension or revocation of licenses; notice and hearings; imposition of penalties.**

862 A. Before the Board may suspend or revoke any license, reasonable notice of such proposed or
863 contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the
864 Administrative Process Act.

865 Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee,
866 permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the
867 licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or
868 present employee of the licensee to any law-enforcement officer, the existence of which is known by the
869 Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this
870 chapter against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings,
871 or places, or copies or portions thereof, that are within the possession, custody, or control of the Board
872 and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter
873 against the licensee. In addition, any subpoena for the production of documents issued to any person at
874 the request of the licensee or the Board pursuant to § 3.2-4122 shall provide for the production of the
875 documents sought within 10 working days, notwithstanding anything to the contrary in § 3.2-4122.

876 If the Board fails to provide for inspection or copying under this section for the licensee after a
877 written request, the Board shall be prohibited from introducing into evidence any items the licensee
878 would have lawfully been entitled to inspect or copy under this section.

879 The action of the Board in suspending or revoking any license shall be subject to judicial review in
880 accordance with the Administrative Process Act (§ 2.2-4000 et seq.). Such review shall extend to the
881 entire evidential record of the proceedings provided by the Board in accordance with the Administrative
882 Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding
883 § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed, or modified
884 by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie
885 in any such case.

886 B. In suspending any license, the Board may impose, as a condition precedent to the removal of such
887 suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in
888 investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose
889 and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil
890 penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the
891 date of the violation or \$5,000 for a second or subsequent violation occurring within five years
892 immediately preceding the date of the second or subsequent violation. However, if the violation involved
893 selling marijuana or marijuana products to a person prohibited from purchasing marijuana or
894 marijuana products or allowing consumption of marijuana or marijuana products by underage or
895 intoxicated persons, the Board may impose a civil penalty not to exceed \$3,000 for the first violation
896 occurring within five years immediately preceding the date of the violation and \$6,000 for a second or
897 subsequent violation occurring within five years immediately preceding the date of the second or
898 subsequent violation in lieu of such suspension or any portion thereof, or both. Upon making a finding
899 that aggravating circumstances exist, the Board may also impose a requirement that the licensee pay for
900 the cost incurred by the Board not exceeding \$10,000 in investigating the licensee and in holding the
901 proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

902 C. Following notice to (i) the licensee of a hearing that may result in the suspension or revocation
903 of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept
904 a consent agreement as authorized in subdivision 2 of § 3.2-4122. The notice shall advise the licensee
905 or applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive
906 any right to a hearing or an appeal under the Administrative Process Act (§ 2.2-4000 et seq.); and (c)
907 either (1) accept the proposed restrictions for operating under the license, (2) accept the period of
908 suspension of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the
909 period of suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

910 D. The Board shall, by regulation or written order:

911 1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an
912 initial hearing;

913 2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of
914 suspension may be accepted for a first offense occurring within three years immediately preceding the
915 date of the violation;

916 3. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a
917 license and the civil charge acceptable in lieu of such suspension; and

918 4. Establish a schedule of offenses for which any penalty may be waived upon a showing that the
919 licensee has had no prior violations within five years immediately preceding the date of the violation.

920 No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this
921 chapter or Board regulations.

922 **§ 3.2-4142. Marijuana cultivation facility license.**

923 A. The Board may issue any of the following marijuana cultivation facility licenses, which shall
924 authorize the licensee to purchase marijuana plants and seeds from other marijuana cultivation
925 facilities; to cultivate, label, and package retail marijuana on premises approved by the Board; to
926 transfer possession of its retail marijuana to marijuana secure transporters; to sell retail marijuana to
927 marijuana manufacturing facilities, to retail marijuana stores, and to other marijuana cultivation
928 facilities; and to sell marijuana plants and seeds to other marijuana cultivation facilities and immature
929 marijuana plants and seedlings to retail marijuana stores:

930 1. Class A cultivation facility license, which shall authorize the licensee to cultivate not more than
931 100 marijuana plants;

932 2. Class B cultivation facility license, which shall authorize the licensee to cultivate not more than
933 500 marijuana plants; or

934 3. Class C cultivation facility license, which shall authorize the licensee to cultivate not more than
935 2,000 marijuana plants.

936 B. In accordance with the requirements of § 3.2-4127, a marijuana cultivation facility licensee shall
937 track the retail marijuana it cultivates from immature marijuana plant to the point at which the
938 marijuana plant or the marijuana produced by the marijuana plant is delivered or transferred to a
939 marijuana secure transporter, a marijuana manufacturing facility, a marijuana testing facility, a retail
940 marijuana store, or another marijuana cultivation facility, or is disposed of or destroyed.

941 **§ 3.2-4143. Marijuana manufacturing facility license.**

942 A. The Board may issue marijuana manufacturing facility licenses, which shall authorize the licensee
943 to purchase retail marijuana from a marijuana cultivation facility or another marijuana manufacturing
944 facility; to manufacture, label, and package retail marijuana and retail marijuana products on premises
945 approved by the Board; to transfer possession of its retail marijuana and retail marijuana products to
946 marijuana secure transporters; and to sell retail marijuana and retail marijuana products to retail
947 marijuana stores and to other marijuana manufacturing facilities.

948 B. Retail marijuana products shall be prepared on a licensed premises that is used exclusively for
949 the manufacture and preparation of retail marijuana or retail marijuana products and using equipment
950 that is used exclusively for the manufacture and preparation of retail marijuana products.

951 C. All areas within the licensed premises of a marijuana manufacturing facility in which adult-use
952 marijuana and adult-use marijuana products are manufactured shall meet all sanitary standards
953 specified in regulations adopted by the Board.

954 D. In accordance with the requirements of § 3.2-4127, a marijuana manufacturing facility licensee
955 shall track the retail marijuana it uses in its manufacturing processes from the point the retail
956 marijuana is delivered or transferred to the marijuana manufacturing facility by a marijuana cultivation
957 facility to the point the retail marijuana or retail marijuana products produced using the retail
958 marijuana are delivered or transferred to a marijuana secure transporter, another marijuana
959 manufacturing facility, a marijuana testing facility, or a retail marijuana store or are disposed of or
960 destroyed.

961 **§ 3.2-4144. Marijuana secure transporter license.**

962 A. The Board may issue marijuana secure transporter licenses, which shall authorize the licensee to
963 obtain retail marijuana or retail marijuana products from a marijuana establishment and transport such
964 marijuana to another marijuana establishment on behalf of the marijuana establishment.

965 A marijuana secure transporter may not hold title to retail marijuana or retail marijuana products.

966 B. In accordance with the requirements of § 3.2-4127, a marijuana secure transporter licensee shall
967 track the retail marijuana or retail marijuana products that it receives from a marijuana establishment
968 to the point at which such retail marijuana or retail marijuana products are delivered or transferred to
969 the recipient retail marijuana establishment.

970 **§ 3.2-4145. Marijuana testing facility license.**

971 A. The Board may issue marijuana testing facility licenses, which shall authorize the licensee to
972 develop, research, and test retail marijuana, retail marijuana products, and other substances.

973 B. A marijuana testing facility may develop, research, and test retail marijuana and retail marijuana
974 products for (i) that facility, (ii) another licensee, or (iii) a person who intends to use the marijuana or
975 marijuana product for personal use as authorized under § 3.2-4161.

976 C. Neither this chapter nor the regulations adopted pursuant to this chapter shall prevent a
977 marijuana testing facility from developing, researching, or testing substances that are not marijuana or
978 marijuana products for that facility or for another person.

979 D. To obtain licensure from the Board, a marijuana testing facility shall be required to obtain and
980 maintain accreditation pursuant to standard ISO/IEC 17025 of the International Organization for
981 Standardization by a third-party accrediting body.

982 E. In accordance with the requirements of § 3.2-4127, a marijuana testing facility licensee shall
983 track all adult-use marijuana and adult-use marijuana products it receives from a licensee for testing
984 purposes from the point at which the marijuana or marijuana products are delivered or transferred to
985 the marijuana testing facility to the point at which the marijuana or marijuana products are disposed of
986 or destroyed.

987 F. A person that has an interest in a marijuana testing facility license shall not have any interest in
988 a licensed marijuana cultivation facility, a licensed marijuana products manufacturer, a licensed
989 marijuana secure transporter, a licensed retail marijuana store, or a licensed marijuana microbusiness.
990 A person that has an interest in a licensed marijuana cultivation facility, a licensed marijuana products
991 manufacturer, a licensed marijuana secure transporter, a licensed retail marijuana store, or a licensed
992 marijuana microbusiness shall not have an interest in a facility that has a marijuana testing facility
993 license.

994 **§ 3.2-4146. Retail marijuana store license.**

995 A. The Board may issue retail marijuana store licenses, which shall authorize the licensee to
996 purchase retail marijuana, immature marijuana plants, and seedlings from a marijuana cultivation
997 facility; to purchase retail marijuana and retail marijuana products from a marijuana manufacturing
998 facility; to receive possession of retail marijuana and retail marijuana products from marijuana secure
999 transporters; and to sell retail marijuana, retail marijuana products, immature marijuana plants,
1000 flowering marijuana plants, and seedlings to consumers on premises approved by the Board.

1001 B. Retail marijuana stores shall be operated in accordance with the following provisions:

1002 1. A person shall be 21 years of age or older to make a purchase in a retail marijuana store.

1003 2. A retail marijuana store shall be permitted to sell retail marijuana, retail marijuana products,
1004 immature marijuana plants, flowering marijuana plants, and seedlings to consumers only in a direct,
1005 face-to-face exchange. Such store shall not be permitted to sell marijuana, marijuana products,
1006 immature marijuana plants, flowering marijuana plants, and seedlings using:

1007 a. An automated dispensing or vending machine;

1008 b. A drive-through sales window;

1009 c. An Internet-based sales platform; or

1010 d. A delivery service.

1011 3. A retail marijuana store shall not be permitted to sell more than the following during a single
1012 transaction to one person:

1013 a. Two and one-half ounces of retail marijuana;

1014 b. Sixteen ounces of solid marijuana product;

1015 c. Seventy-two ounces of liquid marijuana product;

1016 d. Twelve immature marijuana plants; and

1017 e. Six flowering marijuana plants.

1018 However, a retail marijuana store shall be permitted to sell unlimited seedlings to one person during
1019 a single transaction.

1020 4. A retail marijuana store may sell any other consumable or nonconsumable products that it is
1021 otherwise permitted by law to sell, excluding tobacco or alcohol.

1022 5. A retail marijuana store shall not:

1023 a. Give away any retail marijuana, retail marijuana products, immature marijuana plants, flowering
1024 marijuana plants, or seedlings; or

1025 b. Sell retail marijuana, retail marijuana products, immature marijuana plants, flowering marijuana
1026 plants, or seedlings to any person when at the time of such sale he knows or has reason to believe that
1027 the person to whom the sale is made is intoxicated.

1028 6. In accordance with the requirements of § 3.2-4127, a retail marijuana store licensee shall track
1029 all retail marijuana and retail marijuana products from the point at which the retail marijuana or retail
1030 marijuana products are delivered or transferred to the retail marijuana store by a marijuana secure
1031 transporter, a marijuana cultivation facility, or a marijuana manufacturing facility to the point at which
1032 the retail marijuana or retail marijuana products are sold to a consumer, transferred to a marijuana
1033 secure transporter, delivered or transferred to a marijuana testing facility, or disposed of or destroyed.

1034 **§ 3.2-4147. Marijuana microbusiness license.**

1035 The Board may issue marijuana microbusiness licenses, which shall authorize the licensee to
1036 cultivate not more than 150 marijuana plants on premises approved by the Board; to manufacture,
1037 prepare, and package retail marijuana and retail marijuana products produced from such plants on
1038 such premises; and to sell such retail marijuana and retail marijuana products on such premises.

1039 **§ 3.2-4148. To whom privileges conferred by licenses extend; liability for violations of law.**

1040 The privilege of any licensee to sell marijuana or marijuana products shall extend to such licensee
1041 and to all agents or employees of such licensee for the purpose of selling marijuana or marijuana
1042 products under such license. The licensee may be held liable for any violation of this chapter or any

1043 *Board regulation committed by such agents or employees in connection with their employment.*

1044 **§ 3.2-4149. Use or consumption of marijuana or marijuana products on premises of licensee by**
 1045 **licensee, agent, or employee.**

1046 *No marijuana or marijuana products may be used or consumed on the premises of a licensee by the*
 1047 *licensee or any agent or employee of the licensee, except for certain sampling for quality control*
 1048 *purposes that may be permitted by Board regulation.*

1049 *Article 3.*

1050 *Local Regulation of Marijuana Establishments.*

1051 **§ 3.2-4150. Local regulation of marijuana establishments generally; civil penalty.**

1052 *A. This chapter shall not be interpreted to supersede or limit the authority of a locality to adopt and*
 1053 *enforce local ordinances to regulate businesses licensed under this chapter, including local zoning and*
 1054 *land use requirements and business license requirements, to completely prohibit the establishment or*
 1055 *operation of one or more types of businesses licensed under this chapter within the locality, or to limit*
 1056 *the number of one or more types of businesses licensed under this chapter that may operate within the*
 1057 *locality.*

1058 *B. The qualified voters of a locality may petition for the initiation of an ordinance completely*
 1059 *prohibiting the establishment or operation of one or more types of businesses licensed under this*
 1060 *chapter within the locality or limiting the number of one or more types of businesses licensed under this*
 1061 *chapter that may operate within the locality. The petition shall be signed by qualified voters equal in*
 1062 *number to at least 10 percent of the number registered in the locality on January 1 preceding its filing*
 1063 *or at least 100 qualified voters, whichever is greater.*

1064 *C. If a locality chooses to permit the establishment or operation of one or more types of businesses*
 1065 *licensed under this chapter within the locality, the locality may adopt an ordinance providing licensing*
 1066 *requirements applicable to marijuana establishments within the locality, which may include provisions*
 1067 *establishing a local license fee schedule to defray application, administrative, and enforcement costs*
 1068 *associated with the operation of the marijuana establishment in the locality, provided that no such*
 1069 *license fee shall exceed \$5,000 per year.*

1070 *D. The locality may provide in any ordinance regulating marijuana establishments that if a person*
 1071 *violates any or certain provisions of the ordinance, such person shall be subject to a civil penalty,*
 1072 *provided that no such civil penalty shall exceed \$500 per violation. Such civil penalties are payable to*
 1073 *the Literary Fund.*

1074 **§ 3.2-4151. Use or consumption of marijuana or marijuana products on premises of licensed retail**
 1075 **marijuana store.**

1076 *In accordance with the provisions of § 3.2-4166, a locality may allow for the use or consumption of*
 1077 *marijuana or marijuana products on the premises of a licensed retail marijuana store or at special*
 1078 *events in limited areas and for a limited time if:*

1079 *1. Access to the area where marijuana or marijuana product use or consumption is allowed is*
 1080 *restricted to persons 21 years of age or older;*

1081 *2. Marijuana or marijuana product use or consumption is not visible from any public place or*
 1082 *non-age-restricted area; and*

1083 *3. The sale or consumption of alcohol and tobacco is not permitted on the premises.*

1084 **§ 3.2-4152. Prohibited ordinances.**

1085 *A locality may not adopt a local ordinance that (i) restricts the transportation of retail marijuana or*
 1086 *retail marijuana products through the locality, (ii) conflicts with the provisions of this chapter or*
 1087 *regulations adopted by the Board, or (iii) is unreasonably impracticable.*

1088 *Article 4.*

1089 *Health and Safety Requirements.*

1090 **§ 3.2-4153. Board to establish regulations for marijuana testing.**

1091 *Subject to the requirements of § 3.2-4154, the Board shall establish a testing program for marijuana*
 1092 *and marijuana products. Except as otherwise provided in this article or otherwise provided by law, the*
 1093 *program shall require a licensee, prior to selling or distributing retail marijuana or a retail marijuana*
 1094 *product to a consumer or to another licensee, to submit a representative sample of the retail marijuana*
 1095 *or retail marijuana product, not to exceed 10 percent of the total harvest or batch, to a licensed*
 1096 *marijuana testing facility for testing to ensure that the retail marijuana or retail marijuana product does*
 1097 *not exceed the maximum level of allowable contamination for any contaminant that is injurious to health*
 1098 *and for which testing is required and to ensure correct labeling. The Board shall adopt regulations (i)*
 1099 *establishing a testing program pursuant to this section; (ii) establishing acceptable testing and research*
 1100 *practices, including regulations relating to testing practices, methods, and standards; quality control*
 1101 *analysis; equipment certification and calibration; marijuana testing facility recordkeeping,*
 1102 *documentation, and business practices; disposal of used, unused, and waste retail marijuana and retail*
 1103 *marijuana products; and reporting of test results; (iii) identifying the types of contaminants that are*
 1104 *injurious to health for which retail marijuana and retail marijuana products shall be tested under this*

- 1105 article; and (iv) regarding the maximum level of allowable contamination for each contaminant.
- 1106 **§ 3.2-4154. Mandatory testing; scope; recordkeeping; notification; additional testing not required;**
 1107 **required destruction.**
- 1108 A. A licensee may not sell or distribute retail marijuana or a retail marijuana product to a consumer
 1109 or to another licensee under this chapter unless a representative sample of the retail marijuana or retail
 1110 marijuana product has been tested pursuant to this article and the regulations adopted pursuant to this
 1111 article and that mandatory testing has demonstrated that (i) the retail marijuana or retail marijuana
 1112 product does not exceed the maximum level of allowable contamination for any contaminant that is
 1113 injurious to health and for which testing is required and (ii) the labeling on the retail marijuana or
 1114 retail marijuana product is correct.
- 1115 B. Mandatory testing of retail marijuana and retail marijuana products under this section shall
 1116 include testing for:
- 1117 1. Residual solvents, poisons, and toxins;
 - 1118 2. Harmful chemicals;
 - 1119 3. Dangerous molds and mildew;
 - 1120 4. Harmful microbes, including but not limited to *Escherichia coli* and *Salmonella*;
 - 1121 5. Pesticides, fungicides, and insecticides; and
 - 1122 6. THC potency, homogeneity, and cannabinoid profiles to ensure correct labeling.
- 1123 Testing shall be performed on the final form in which the retail marijuana or retail marijuana
 1124 product will be consumed.
- 1125 C. A licensee shall maintain a record of all mandatory testing that includes a description of the
 1126 retail marijuana or retail marijuana product provided to the marijuana testing facility, the identity of
 1127 the marijuana testing facility, and the results of the mandatory test.
- 1128 D. If the results of a mandatory test conducted pursuant to this section indicate that the tested retail
 1129 marijuana or retail marijuana product exceeds the maximum level of allowable contamination for any
 1130 contaminant that is injurious to health and for which testing is required, the marijuana testing facility
 1131 shall immediately quarantine, document, and properly destroy the retail marijuana or retail marijuana
 1132 product, and within 30 days of completing the test shall notify the Department of the test results.
- 1133 A marijuana testing facility is not required to notify the Department of the results of any test:
- 1134 1. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee
 1135 pursuant to this section that demonstrates that the marijuana or marijuana product does not exceed the
 1136 maximum level of allowable contamination for any contaminant that is injurious to health and for which
 1137 testing is required;
 - 1138 2. Conducted on retail marijuana or a retail marijuana product at the direction of a licensee for
 1139 research and development purposes only, so long as the licensee notifies the marijuana testing facility
 1140 prior to the performance of the test that the testing is for research and development purposes only; or
 - 1141 3. Conducted on retail marijuana or a retail marijuana product at the direction of a person who is
 1142 not a licensee.
- 1143 E. Notwithstanding the foregoing, a licensee may sell or furnish to a consumer or to another licensee
 1144 retail marijuana or a retail marijuana product that the licensee has not submitted for testing in
 1145 accordance with this article and regulations adopted pursuant to this article if the following conditions
 1146 are met:
- 1147 1. The retail marijuana or retail marijuana product has previously undergone testing in accordance
 1148 with this article and regulations adopted pursuant to this article at the direction of another licensee and
 1149 that testing demonstrated that the retail marijuana or retail marijuana product does not exceed the
 1150 maximum level of allowable contamination for any contaminant that is injurious to health and for which
 1151 testing is required;
 - 1152 2. The mandatory testing process and the test results for the retail marijuana or retail marijuana
 1153 product are documented in accordance with the requirements of this article and all applicable
 1154 regulations adopted pursuant to this article;
 - 1155 3. Tracking from immature marijuana plant to the point of retail sale has been maintained for the
 1156 retail marijuana or retail marijuana product and transfers of the retail marijuana or retail marijuana
 1157 product to another licensee or to a consumer can be easily identified; and
 - 1158 4. Since the performance of the prior testing under subsection A, the retail marijuana or retail
 1159 marijuana product has not undergone any further processing, manufacturing, or alteration.
- 1160 F. Licensees shall be required to destroy harvested batches of retail marijuana or batches of retail
 1161 marijuana products whose testing samples indicate noncompliance with the health and safety standards
 1162 required by this article and the regulations adopted by the Board pursuant to this article, unless
 1163 remedial measures can bring the retail marijuana or retail marijuana products into compliance with
 1164 such required health and safety standards.
- 1165 **§ 3.2-4155. Labeling and packaging requirements; prohibitions.**

1166 A. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
 1167 consumer in accordance with the provisions of this chapter shall be labeled with the following
 1168 information:

1169 1. Identification of the type of marijuana or marijuana product and the date of cultivation,
 1170 manufacturing, and packaging;

1171 2. The license numbers of the marijuana cultivation facility, the marijuana manufacturing facility,
 1172 and the retail marijuana store where the retail marijuana or retail marijuana product was cultivated,
 1173 manufactured, and offered for sale, as applicable;

1174 3. A statement of the net weight of the retail marijuana or retail marijuana product;

1175 4. Information concerning (i) pharmacologically active ingredients, including tetrahydrocannabinol
 1176 (THC), cannabidiol (CBD), and other cannabinoid content; (ii) the THC and other cannabinoid amount
 1177 in milligrams per serving, the total servings per package, and the THC and other cannabinoid amount
 1178 in milligrams for the total package; and (iii) the potency of the THC and other cannabinoid content;

1179 5. Information on gases, solvents, and chemicals used in marijuana extraction, if applicable;

1180 6. Instructions on usage;

1181 7. For retail marijuana products, (i) a list of ingredients and possible allergens and (ii) a
 1182 recommended use by date or expiration date;

1183 8. For edible retail marijuana products, a nutritional fact panel;

1184 9. The following statements, prominently displayed in bold print and in a clear and legible fashion:

1185 a. For retail marijuana: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA.
 1186 KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA MAY ONLY BE POSSESSED
 1187 OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER. MARIJUANA USE WHILE
 1188 PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA IMPAIRS
 1189 YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."

1190 b. For retail marijuana products: " GOVERNMENT WARNING: THIS PACKAGE CONTAINS
 1191 MARIJUANA. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA PRODUCTS
 1192 MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER.
 1193 MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION
 1194 OF MARIJUANA IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE
 1195 EXTREME CAUTION."; and

1196 10. Any other information required by Board regulations.

1197 B. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
 1198 consumer in accordance with the provisions of this chapter shall be packaged in the following manner:

1199 1. Retail marijuana and retail marijuana products shall be prepackaged in child-resistant,
 1200 tamper-evident, and resealable packaging that is opaque or shall be placed at the final point of sale to
 1201 a consumer in child-resistant, tamper-evident, and resealable packaging that is opaque;

1202 2. Packaging for multiserving liquid marijuana products shall include an integral measurement
 1203 component; and

1204 3. Packaging shall comply with any other requirements imposed by Board regulations.

1205 C. Retail marijuana and retail marijuana products to be sold or offered for sale by a licensee to a
 1206 consumer in accordance with the provisions of this chapter shall not:

1207 1. Be labeled or packaged in violation of a federal trademark law or regulation;

1208 2. Be labeled or packaged in a manner that is specifically designed to appeal particularly to persons
 1209 under 21 years of age;

1210 3. Be labeled or packaged in a manner that obscures identifying information on the label;

1211 4. Be labeled or packaged using a false or misleading label;

1212 5. Be sold or offered for sale using a label or packaging that depicts a human, an animal, or fruit;
 1213 and

1214 6. Be labeled or packaged in violation of any other labeling or packaging requirements imposed by
 1215 Board regulations.

1216 **§ 3.2-4156. Advertising and marketing restrictions.**

1217 A. As used in this section, unless the context requires a different meaning:

1218 "Advertisement" includes any written or verbal statement, illustration, or depiction that is calculated
 1219 to induce sales of retail marijuana or retail marijuana products, including any written, printed, graphic,
 1220 or other material, billboard, sign, or other outdoor display, publication, or radio or television
 1221 broadcast.

1222 "Health-related statement" means any statement related to health and includes statements of a
 1223 curative or therapeutic nature that, expressly or by implication, suggest a relationship between the
 1224 consumption of retail marijuana or retail marijuana products and health benefits or effects on health.

1225 "Market" or "marketing" means any act or process of promoting or selling retail marijuana or retail
 1226 marijuana products, including point-of-sale advertising, and development of products specifically
 1227 designed to appeal to certain demographics.

1228 *B. No person shall advertise in or send any advertising matter into the Commonwealth about or*
 1229 *concerning retail marijuana or retail marijuana products other than those that may be legally*
 1230 *manufactured in the Commonwealth under this chapter or Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter*
 1231 *34 of Title 54.1.*

1232 *C. Advertising or marketing used by or on behalf of a licensee:*

1233 *1. Shall accurately and legibly identify the licensee responsible for its content by adding, at a*
 1234 *minimum, the licensee's license number;*

1235 *2. Shall not be misleading, deceptive, or false;*

1236 *3. Shall not have a high likelihood of reaching persons under 21 years of age and shall not be*
 1237 *designed to appeal particularly to persons under 21 years of age; and*

1238 *4. Shall comply with any other provisions imposed by Board regulations.*

1239 *D. Any advertising or marketing involving direct, individualized communication or dialogue*
 1240 *controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21*
 1241 *years of age or older before engaging in that communication or dialogue controlled by the licensee. For*
 1242 *purposes of this subsection, that method of age affirmation may include user confirmation, birth date*
 1243 *disclosure, or any other similar registration method.*

1244 *E. A licensee shall not give away any amount of retail marijuana or retail marijuana products, or*
 1245 *any marijuana accessories, as part of a business promotion or other commercial activity.*

1246 *F. A licensee shall not include on the label of any retail marijuana or retail marijuana product or*
 1247 *publish or disseminate advertising or marketing containing any health-related statement that is untrue in*
 1248 *any particular manner or tends to create a misleading impression as to the effects on health of*
 1249 *marijuana consumption.*

1250 *G. All outdoor advertising of retail marijuana or retail marijuana products shall comply with the*
 1251 *following:*

1252 *1. No outdoor retail marijuana or retail marijuana product advertising shall be placed within 1,000*
 1253 *linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of*
 1254 *the sign face upon which the advertisement is placed to the nearest edge of a building or structure*
 1255 *located on the real property of (i) a church, synagogue, mosque, or other place of religious worship;*
 1256 *(ii) a public, private, or parochial school or an institution of higher education; (iii) a public or private*
 1257 *playground or similar recreational facility; or (iv) a dwelling used for residential use. However, if there*
 1258 *is no building or structure on a playground or similar recreational facility, the measurement shall be*
 1259 *from the nearest edge of the sign face upon which the advertisement is placed to the property line of*
 1260 *such playground or similar recreational facility.*

1261 *2. If, at the time the advertisement was displayed, the advertisement was more than 1,000 feet from*
 1262 *(i) a church, synagogue, mosque, or other place of religious worship; (ii) a public, private, or parochial*
 1263 *school or an institution of higher education; (iii) a public or private playground or similar recreational*
 1264 *facility; or (iv) a dwelling used for residential use, but the circumstances changed such that the*
 1265 *advertiser would otherwise be in violation of subdivision 1, the Board shall permit the advertisement to*
 1266 *remain as displayed for the remainder of the term of any written advertising contract, but in no event*
 1267 *more than one year from the date of the change in circumstances.*

1268 *3. The Board may grant a permit authorizing a variance from the distance requirements of this*
 1269 *subsection upon a finding that the placement of retail marijuana and retail marijuana product*
 1270 *advertising on a sign will not unduly expose persons under 21 years of age to marijuana and marijuana*
 1271 *product advertising.*

1272 *4. Provided such signs are in compliance with local ordinances, the distance and zoning*
 1273 *requirements contained in this section shall not apply to signs placed by licensees upon the property on*
 1274 *which the licensed premises is located.*

1275 *5. Nothing in this section shall be construed to authorize billboard signs containing retail marijuana*
 1276 *or retail marijuana product advertising on property zoned agricultural or residential, or on any unzoned*
 1277 *property. Nor shall this section be construed to authorize the erection of new billboard signs containing*
 1278 *retail marijuana or retail marijuana product advertising that would be prohibited under state law or*
 1279 *local ordinance.*

1280 *6. All lawfully erected outdoor retail marijuana or retail marijuana product signs shall comply with*
 1281 *the provisions of this chapter, Board regulations, and Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 and*
 1282 *regulations adopted pursuant thereto by the Commonwealth Transportation Board. Further, any outdoor*
 1283 *retail marijuana or retail marijuana product directional sign located or to be located on highway*
 1284 *rights-of-way shall also be governed by and comply with the Integrated Directional Signing Program*
 1285 *administered by the Virginia Department of Transportation or its agents.*

1286 *H. No licensee may sponsor or cause to be sponsored any athletic, musical, artistic, or other social*
 1287 *or cultural event, or any entry or team in any event, in the brand name, logo, symbol, motto, or any*
 1288 *other indicia of product identification identical or similar to, or identifiable with, those used for any*

1289 *brand of retail marijuana or retail marijuana products.*

1290 *1. The provisions of this section shall not apply to noncommercial speech.*

1291 **§ 3.2-4157. Other health and safety requirements for edible marijuana products; health and safety**
1292 **regulations.**

1293 *A. Requirements and restrictions for edible retail marijuana products. In addition to all other*
1294 *applicable provisions of this article, edible marijuana products to be sold or offered for sale by a*
1295 *licensee to a consumer in accordance with this chapter:*

1296 *1. Shall be manufactured in a manner that results in the cannabinoid content within the product*
1297 *being homogeneous throughout the product or throughout each element of the product that has a*
1298 *cannabinoid content;*

1299 *2. Shall be manufactured in a manner that results in the amount of marijuana concentrate within the*
1300 *product being homogeneous throughout the product or throughout each element of the product that*
1301 *contains marijuana concentrate;*

1302 *3. Shall have a universal symbol stamped or embossed on each serving of the product;*

1303 *4. Shall not contain more than 100 milligrams of tetrahydrocannabinol (THC) per serving of the*
1304 *product and shall not contain more than 100 milligrams of THC per package of the product;*

1305 *5. Shall not contain additives that are:*

1306 *a. Toxic or harmful to human beings;*

1307 *b. Specifically designed to make the product more addictive;*

1308 *c. Misleading to consumers; or*

1309 *d. Specifically designed to make the product appeal particularly to persons under 21 years of age;*
1310 *and*

1311 *6. Shall not involve the addition of marijuana to a trademarked food or drink product, except when*
1312 *the trademarked product is used as a component of or ingredient in the edible retail marijuana product*
1313 *and the edible retail marijuana product is not advertised or described for sale as containing the*
1314 *trademarked product.*

1315 *B. Health and safety regulations. The Board shall adopt any additional labeling, packaging, or other*
1316 *health and safety regulations that it deems necessary for retail marijuana and retail marijuana products*
1317 *to be sold or offered for sale by a licensee to a consumer in accordance with this chapter. Regulations*
1318 *adopted pursuant to this subsection shall establish mandatory health and safety standards applicable to*
1319 *the cultivation of marijuana, the manufacture of retail marijuana products, and the packaging and*
1320 *labeling of retail marijuana and retail marijuana products sold by a licensee to a consumer. Such*
1321 *regulations shall address:*

1322 *1. Requirements for the storage, warehousing, and transportation of retail marijuana and retail*
1323 *marijuana products by licensees;*

1324 *2. Sanitary standards for marijuana establishments, including sanitary standards for the manufacture*
1325 *of retail marijuana and retail marijuana products; and*

1326 *3. Limitations on the display of retail marijuana and retail marijuana products at retail marijuana*
1327 *stores.*

Article 5.

Retail Marijuana Tax.

1330 **§ 3.2-4158. State marijuana tax.**

1331 *A. As used in this article, "nontaxable entity" means a marijuana cultivation facility, a marijuana*
1332 *testing facility, a marijuana manufacturing facility, or a marijuana secure transporter.*

1333 *B. In addition to all other taxes imposed by law, there shall be imposed a tax at a rate of 10 percent*
1334 *on the retail sale, as defined in § 58.1-602, of marijuana and marijuana products from a retail*
1335 *marijuana store or a marijuana microbusiness to any person other than a nontaxable entity.*

1336 *C. If a retail marijuana store or a marijuana microbusiness sells a product taxable under this*
1337 *article, it shall sell such product either separately or only with other products taxable under this article.*

1338 *D. After the Department has funded its costs of implementing, administering, and enforcing this*
1339 *chapter, the first \$20 million of tax revenue collected pursuant to this section in each fiscal year shall*
1340 *accrue to the Veterans Treatment Fund established pursuant to § 3.2-4160. All tax revenue collected*
1341 *pursuant to this section that exceeds such \$20 million shall be distributed as follows:*

1342 *1. Thirty percent to counties and cities where retail marijuana stores and marijuana microbusinesses*
1343 *are located, allocated in proportion to the number of retail marijuana stores and marijuana*
1344 *microbusinesses in such counties and cities;*

1345 *2. Thirty-five percent to the general fund to be used for the state's share of Standards of Quality*
1346 *basic aid payments; and*

1347 *3. Thirty-five percent to the Commonwealth Mass Transit Fund established pursuant to subdivision A*
1348 *4 of § 58.1-638.*

1349 *E. The Department of Taxation shall administer, collect, and distribute the taxes imposed pursuant to*
1350 *this article in the same manner and subject to the same penalties as provided for the retail sales tax*

1351 under Chapter 6 (§ 58.1-600 et seq.) of Title 58.1.

1352 **§ 3.2-4159. County or city marijuana tax.**

1353 A. Any county or city may impose a tax at a rate not to exceed five percent on the retail sale, as
1354 defined in § 58.1-602, of marijuana and marijuana products from a retail marijuana store or a
1355 marijuana microbusiness to any person other than a nontaxable entity.

1356 B. A county or city may impose a tax pursuant to this section only if the tax is approved at
1357 referendum pursuant to § 24.2-684 and initiated either by a resolution of the governing body of the
1358 county or city or on the filing of a petition signed by at least 10 percent of the number of registered
1359 voters in the county or city as of January 1 of the year in which the petition is filed. The clerk of the
1360 circuit court shall publish notice of the referendum in a newspaper of general circulation in the county
1361 or city once a week for three consecutive weeks prior to the referendum. If voters approve the county or
1362 city marijuana tax, it shall be effective at a rate and on such terms as the governing body may by
1363 ordinance prescribe. If the resolution of the governing body or the petition states for what purposes the
1364 revenues from the tax are to be used, then the question on the ballot for the referendum shall include
1365 language stating for what purposes the revenues are to be used.

1366 **§ 3.2-4160. Veterans Treatment Fund.**

1367 A. There is hereby created in the state treasury a special nonreverting fund to be known as the
1368 Veterans Treatment Fund, referred to in this section as "the Fund." The Fund shall be established on
1369 the books of the Comptroller. All funds appropriated for such purpose, all funds accruing to the Fund
1370 pursuant to § 3.2-4158, and any gifts, donations, grants, bequests, and other funds received on its
1371 behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the
1372 Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including
1373 interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in
1374 the Fund. Moneys in the Fund shall be used solely for the purpose of research in the medical treatment
1375 of veterans as specified in subsection B. Expenditures and disbursements from the Fund shall be made
1376 by the State Treasurer on warrants issued by the Comptroller upon written request signed by the
1377 Commissioner or his designee.

1378 B. Moneys in the Fund shall be used by the Department to provide grants to nonprofit organizations
1379 and institutions of higher education to research marijuana's effectiveness in treating the medical
1380 conditions of veterans of the United States Armed Forces and preventing the suicide of such veterans.
1381 The Department shall issue grants only to organizations and institutions that are conducting clinical
1382 trials for such research that have been approved by the U.S. Food and Drug Administration.

1383 Article 6.

1384 Permitted Practices.

1385 **§ 3.2-4161. Possession, etc., of retail marijuana and retail marijuana products by persons 21 years
1386 of age or older lawful; civil penalty.**

1387 A. Except as otherwise provided in this chapter and notwithstanding any other provision of law, a
1388 person 21 years of age or older may lawfully possess not more than two and one-half ounces of retail
1389 marijuana or retail marijuana products on his person, provided that not more than 15 grams of such
1390 marijuana may be in the form of marijuana concentrate.

1391 Any person who violates the provisions of this section is subject to a civil penalty of not more than
1392 \$50, upon a second violation is subject to a civil penalty of not more than \$100, and upon a third or
1393 subsequent violation is subject to a civil penalty of not more than \$250. Such civil penalties are payable
1394 to the Literary Fund.

1395 B. The provisions of this section shall not apply to members of federal, state, county, city, or town
1396 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as
1397 handlers of dogs trained in the detection of controlled substances when possession of marijuana is
1398 necessary for the performance of their duties.

1399 C. It shall be an affirmative defense to prosecution of an individual for the unlawful possession of
1400 retail marijuana or retail marijuana products pursuant to subsection A if:

1401 1. Such individual, in good faith, seeks or obtains emergency medical attention for himself, if he is
1402 experiencing an overdose, or for another individual, if such other individual is experiencing an
1403 overdose, by contemporaneously reporting such overdose to a firefighter, as defined in § 65.2-102,
1404 emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined
1405 in § 9.1-101, or an emergency 911 system;

1406 2. Such individual remains at the scene of the overdose or at any alternative location to which he or
1407 the person requiring emergency medical attention has been transported until a law-enforcement officer
1408 responds to the report of an overdose. If no law-enforcement officer is present at the scene of the
1409 overdose or at the alternative location, then such individual shall cooperate with law enforcement as
1410 otherwise set forth herein;

1411 3. Such individual identifies himself to the law-enforcement officer who responds to the report of the

1412 overdose;

1413 4. If requested by a law-enforcement officer, such individual substantially cooperates in any
1414 investigation of any criminal offense reasonably related to the controlled substance, alcohol, or
1415 combination of such substances that resulted in the overdose; and

1416 5. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a
1417 result of the individual seeking or obtaining emergency medical attention.

1418 No individual may assert the affirmative defense provided for in this subsection if the person sought
1419 or obtained emergency medical attention for himself or another individual during the execution of a
1420 search warrant or during the conduct of a lawful search or a lawful arrest.

1421 For purposes of this subsection, "overdose" means a life-threatening condition resulting from the
1422 consumption or use of a controlled substance, alcohol, or any combination of such substances.

1423 D. Whenever any person who has not previously been convicted of any offense under this article or
1424 under any statute of the United States or of any state relating to narcotic drugs, marijuana, or
1425 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for
1426 violation of such an offense dismissed as provided in this subsection, pleads guilty to or enters a plea of
1427 not guilty to possession of non-retail marijuana or non-retail marijuana products under subsection A,
1428 the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering
1429 a judgment of guilt and with the consent of the accused, may defer further proceedings and place him
1430 on probation upon terms and conditions.

1431 As a term or condition, the court shall require the accused to undergo a substance abuse assessment
1432 pursuant to § 19.2-299.2 and enter treatment or an education program or services, or any combination
1433 thereof, if available, such as, in the opinion of the court, may be best suited to the needs of the accused
1434 based upon consideration of the substance abuse assessment. The program or services may be located in
1435 the judicial district in which the charge is brought or in any other judicial district as the court may
1436 provide. The services shall be provided by (i) a program licensed by the Department of Behavioral
1437 Health and Developmental Services, or a similar program that is made available through the
1438 Department of Corrections, (ii) a local community-based probation services agency established pursuant
1439 to § 9.1-174, or (iii) an alcohol safety action program (ASAP) certified by the Commission on the
1440 Virginia Alcohol Safety Action Program (VASAP).

1441 The court shall require the person entering such program under the provisions of this section to pay
1442 all or part of the costs of the program, including the costs of the screening, assessment, testing, and
1443 treatment, based upon the accused's ability to pay, unless the person is determined by the court to be
1444 indigent.

1445 As a condition of probation, the court shall require the accused (a) to successfully complete
1446 treatment or education programs or services, (b) to remain drug and alcohol free during the period of
1447 probation and submit to such tests during that period as may be necessary and appropriate to determine
1448 if the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain
1449 employment, and (d) to comply with a plan of up to 24 hours of community service. Such testing shall
1450 be conducted by personnel of the supervising probation agency or personnel of any program or agency
1451 approved by the supervising probation agency.

1452 The court shall, unless done at arrest, order the accused to report to the original arresting
1453 law-enforcement agency to submit to fingerprinting.

1454 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
1455 otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person
1456 and dismiss the proceedings against him. Discharge and dismissal under this section shall be without
1457 adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent
1458 proceedings.

1459 When any juvenile is found to have committed a violation of subsection A, the disposition of the case
1460 shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title
1461 16.1.

1462 **§ 3.2-4162. Home cultivation, storage, manufacture, etc., of marijuana by persons 21 years of age
1463 or older lawful; civil penalty.**

1464 A. Except as otherwise provided in this chapter and notwithstanding any other provision of law, a
1465 person 21 years of age or older may lawfully:

1466 1. Cultivate up to 12 marijuana plants for personal use within such person's residence, provided that
1467 no more than 12 total plants shall be cultivated or stored upon such premises at any one time; and

1468 2. Possess, store, and manufacture no more than 10 ounces of retail marijuana and retail marijuana
1469 products within such person's residence, in addition to any marijuana produced by plants cultivated on
1470 the premises pursuant to subdivision 1, provided that amounts in excess of two and one-half ounces
1471 shall be stored in a container or area with locks or other security devices that restrict access to the
1472 container or area. Any person who violates the provisions of this subdivision is subject to a civil penalty
1473 of not more than \$50, upon a second violation is subject to a civil penalty of not more than \$100, and

1474 upon a third or subsequent violation is subject to a civil penalty of not more than \$250. Such civil
1475 penalties are payable to the Literary Fund.

1476 B. It shall be an affirmative defense to prosecution of an individual for the unlawful possession of
1477 retail marijuana or retail marijuana products pursuant to subdivision A 2 if:

1478 1. Such individual, in good faith, seeks or obtains emergency medical attention for himself, if he is
1479 experiencing an overdose, or for another individual, if such other individual is experiencing an
1480 overdose, by contemporaneously reporting such overdose to a firefighter, as defined in § 65.2-102,
1481 emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined
1482 in § 9.1-101, or an emergency 911 system;

1483 2. Such individual remains at the scene of the overdose or at any alternative location to which he or
1484 the person requiring emergency medical attention has been transported until a law-enforcement officer
1485 responds to the report of an overdose. If no law-enforcement officer is present at the scene of the
1486 overdose or at the alternative location, then such individual shall cooperate with law enforcement as
1487 otherwise set forth herein;

1488 3. Such individual identifies himself to the law-enforcement officer who responds to the report of the
1489 overdose;

1490 4. If requested by a law-enforcement officer, such individual substantially cooperates in any
1491 investigation of any criminal offense reasonably related to the controlled substance, alcohol, or
1492 combination of such substances that resulted in the overdose; and

1493 5. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a
1494 result of the individual seeking or obtaining emergency medical attention.

1495 No individual may assert the affirmative defense provided for in this subsection if the person sought
1496 or obtained emergency medical attention for himself or another individual during the execution of a
1497 search warrant or during the conduct of a lawful search or a lawful arrest.

1498 For purposes of this subsection, "overdose" means a life-threatening condition resulting from the
1499 consumption or use of a controlled substance, alcohol, or any combination of such substances.

1500 C. Whenever any person who has not previously been convicted of any offense under this article or
1501 under any statute of the United States or of any state relating to narcotic drugs, marijuana, or
1502 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for
1503 violation of such an offense dismissed as provided in this subsection, pleads guilty to or enters a plea of
1504 not guilty to possession of non-retail marijuana or non-retail marijuana products under subdivision A 2,
1505 the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering
1506 a judgment of guilt and with the consent of the accused, may defer further proceedings and place him
1507 on probation upon terms and conditions.

1508 As a term or condition, the court shall require the accused to undergo a substance abuse assessment
1509 pursuant to § 19.2-299.2 and enter treatment or an education program or services, or any combination
1510 thereof, if available, such as, in the opinion of the court, may be best suited to the needs of the accused
1511 based upon consideration of the substance abuse assessment. The program or services may be located in
1512 the judicial district in which the charge is brought or in any other judicial district as the court may
1513 provide. The services shall be provided by (i) a program licensed by the Department of Behavioral
1514 Health and Developmental Services, or a similar program that is made available through the
1515 Department of Corrections, (ii) a local community-based probation services agency established pursuant
1516 to § 9.1-174, or (iii) an alcohol safety action program (ASAP) certified by the Commission on the
1517 Virginia Alcohol Safety Action Program (VASAP).

1518 The court shall require the person entering such program under the provisions of this section to pay
1519 all or part of the costs of the program, including the costs of the screening, assessment, testing, and
1520 treatment, based upon the accused's ability to pay, unless the person is determined by the court to be
1521 indigent.

1522 As a condition of probation, the court shall require the accused (a) to successfully complete
1523 treatment or education programs or services, (b) to remain drug and alcohol free during the period of
1524 probation and submit to such tests during that period as may be necessary and appropriate to determine
1525 if the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain
1526 employment, and (d) to comply with a plan of up to 24 hours of community service. Such testing shall
1527 be conducted by personnel of the supervising probation agency or personnel of any program or agency
1528 approved by the supervising probation agency.

1529 The court shall, unless done at arrest, order the accused to report to the original arresting
1530 law-enforcement agency to submit to fingerprinting.

1531 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
1532 otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person
1533 and dismiss the proceedings against him. Discharge and dismissal under this section shall be without
1534 adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent

1535 *proceedings.*

1536 *When any juvenile is found to have committed a violation of subdivision A 2, the disposition of the*
 1537 *case shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title*
 1538 *16.1.*

1539 **§ 3.2-4163. Possession, use, manufacture, and sale of marijuana paraphernalia by persons 21**
 1540 **years of age or older lawful.**

1541 *Except as otherwise provided by law and notwithstanding any other provision of law, a person 21*
 1542 *years of age or older may possess, use, or manufacture marijuana paraphernalia. Additionally, such*
 1543 *persons may sell or distribute marijuana paraphernalia to persons 21 years of age or older in*
 1544 *accordance with the provisions of § 3.2-4179.*

1545 *Article 7.*

1546 *Prohibited Practices; Penalties; Procedural Matters.*

1547 **§ 3.2-4164. Possession or cultivation of retail marijuana and retail marijuana products by persons**
 1548 **under 21 years of age prohibited; penalty.**

1549 *A. It is unlawful for any person under 21 years of age to knowingly or intentionally possess retail*
 1550 *marijuana or retail marijuana products.*

1551 *For purposes of this section, ownership or occupancy of the premises or vehicle upon or in which*
 1552 *marijuana was found shall not create a presumption that such person either knowingly or intentionally*
 1553 *possessed such marijuana.*

1554 *Any person who violates this section by possessing two and one-half ounces or less of retail*
 1555 *marijuana or retail marijuana products or 12 or fewer marijuana plants is subject to a civil penalty of*
 1556 *not more than \$100. Any person who violates this section by possessing more than two and one-half*
 1557 *ounces of retail marijuana or retail marijuana products or more than 12 marijuana plants is subject to*
 1558 *a civil penalty of not more than \$500. Such civil penalties are payable to the Literary Fund.*

1559 *B. The provisions of this section shall not apply to members of federal, state, county, city, or town*
 1560 *law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as*
 1561 *handlers of dogs trained in the detection of controlled substances when possession of marijuana is*
 1562 *necessary for the performance of their duties.*

1563 *C. It shall be an affirmative defense to prosecution of an individual for the unlawful possession of*
 1564 *retail marijuana or retail marijuana products pursuant to subsection A if:*

1565 *1. Such individual, in good faith, seeks or obtains emergency medical attention for himself, if he is*
 1566 *experiencing an overdose, or for another individual, if such other individual is experiencing an*
 1567 *overdose, by contemporaneously reporting such overdose to a firefighter, as defined in § 65.2-102,*
 1568 *emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined*
 1569 *in § 9.1-101, or an emergency 911 system;*

1570 *2. Such individual remains at the scene of the overdose or at any alternative location to which he or*
 1571 *the person requiring emergency medical attention has been transported until a law-enforcement officer*
 1572 *responds to the report of an overdose. If no law-enforcement officer is present at the scene of the*
 1573 *overdose or at the alternative location, then such individual shall cooperate with law enforcement as*
 1574 *otherwise set forth herein;*

1575 *3. Such individual identifies himself to the law-enforcement officer who responds to the report of the*
 1576 *overdose; and*

1577 *4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a*
 1578 *result of the individual seeking or obtaining emergency medical attention.*

1579 *No individual may assert the affirmative defense provided for in this subsection if the person sought*
 1580 *or obtained emergency medical attention for himself or another individual during the execution of a*
 1581 *search warrant or during the conduct of a lawful search or a lawful arrest.*

1582 *For purposes of this subsection, "overdose" means a life-threatening condition resulting from the*
 1583 *consumption or use of a controlled substance, alcohol, or any combination of such substances.*

1584 *D. Whenever any person who has not previously been convicted of any offense under this article or*
 1585 *under any statute of the United States or of any state relating to narcotic drugs, marijuana, or*
 1586 *stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for*
 1587 *violation of such an offense dismissed as provided in this subsection, pleads guilty to or enters a plea of*
 1588 *not guilty to possession of non-retail marijuana or non-retail marijuana products under subsection A,*
 1589 *the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering*
 1590 *a judgment of guilt and with the consent of the accused, may defer further proceedings and place him*
 1591 *on probation upon terms and conditions. If the court defers further proceedings, at that time the court*
 1592 *shall determine whether the clerk of court has been provided with the fingerprint identification*
 1593 *information or fingerprints of the person, taken by a law-enforcement officer pursuant to § 19.2-390,*
 1594 *and, if not, shall order that the fingerprints and photograph of the person be taken by a*
 1595 *law-enforcement officer.*

1596 *As a term or condition, the court shall require the accused to undergo a substance abuse assessment*

1597 pursuant to § 19.2-299.2 and enter treatment or an education program or services, or any combination
 1598 thereof, if available, such as, in the opinion of the court, may be best suited to the needs of the accused
 1599 based upon consideration of the substance abuse assessment. The program or services may be located in
 1600 the judicial district in which the charge is brought or in any other judicial district as the court may
 1601 provide. The services shall be provided by (i) a program licensed by the Department of Behavioral
 1602 Health and Developmental Services, or by a similar program that is made available through the
 1603 Department of Corrections, (ii) a local community-based probation services agency established pursuant
 1604 to § 9.1-174, or (iii) an alcohol safety action program (ASAP) certified by the Commission on the
 1605 Virginia Alcohol Safety Action Program (VASAP).

1606 The court shall require the person entering such program under the provisions of this section to pay
 1607 all or part of the costs of the program, including the costs of the screening, assessment, testing, and
 1608 treatment, based upon the accused's ability to pay, unless the person is determined by the court to be
 1609 indigent.

1610 As a condition of probation, the court shall require the accused (a) to successfully complete
 1611 treatment or education programs or services, (b) to remain drug and alcohol free during the period of
 1612 probation and submit to such tests during that period as may be necessary and appropriate to determine
 1613 if the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain
 1614 employment, and (d) to comply with a plan of up to 24 hours of community service. Such testing shall
 1615 be conducted by personnel of the supervising probation agency or personnel of any program or agency
 1616 approved by the supervising probation agency.

1617 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
 1618 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of
 1619 court has been provided with the fingerprint identification information or fingerprints of such person,
 1620 the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal
 1621 under this section shall be without adjudication of guilt and is a conviction only for the purposes of
 1622 applying this section in subsequent proceedings.

1623 When any juvenile is found to have committed a violation of subsection A, the disposition of the case
 1624 shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title
 1625 16.1.

1626 **§ 3.2-4165. Possession of non-retail marijuana and non-retail marijuana products prohibited;**
 1627 **penalty.**

1628 A. It is unlawful for any person to knowingly or intentionally possess non-retail marijuana or
 1629 non-retail marijuana products.

1630 For purposes of this section, ownership or occupancy of the premises or vehicle upon or in which
 1631 marijuana was found shall not create a presumption that such person either knowingly or intentionally
 1632 possessed such marijuana.

1633 Any person who violates this section is guilty of a Class 1 misdemeanor.

1634 B. The provisions of this section shall not apply to members of federal, state, county, city, or town
 1635 law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as
 1636 handlers of dogs trained in the detection of controlled substances when possession of marijuana is
 1637 necessary for the performance of their duties.

1638 C. It shall be an affirmative defense to prosecution of an individual for the unlawful possession of
 1639 non-retail marijuana or non-retail marijuana products pursuant to subsection A if:

1640 1. Such individual, in good faith, seeks or obtains emergency medical attention for himself, if he is
 1641 experiencing an overdose, or for another individual, if such other individual is experiencing an
 1642 overdose, by contemporaneously reporting such overdose to a firefighter, as defined in § 65.2-102,
 1643 emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined
 1644 in § 9.1-101, or an emergency 911 system;

1645 2. Such individual remains at the scene of the overdose or at any alternative location to which he or
 1646 the person requiring emergency medical attention has been transported until a law-enforcement officer
 1647 responds to the report of an overdose. If no law-enforcement officer is present at the scene of the
 1648 overdose or at the alternative location, then such individual shall cooperate with law enforcement as
 1649 otherwise set forth herein;

1650 3. Such individual identifies himself to the law-enforcement officer who responds to the report of the
 1651 overdose; and

1652 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a
 1653 result of the individual seeking or obtaining emergency medical attention.

1654 No individual may assert the affirmative defense provided for in this section if the person sought or
 1655 obtained emergency medical attention for himself or another individual during the execution of a search
 1656 warrant or during the conduct of a lawful search or a lawful arrest.

1657 For purposes of this subsection, "overdose" means a life-threatening condition resulting from the

1658 consumption or use of a controlled substance, alcohol, or any combination of such substances.

1659 D. Whenever any person who has not previously been convicted of any offense under this article or
 1660 under any statute of the United States or of any state relating to narcotic drugs, marijuana, or
 1661 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for
 1662 violation of such an offense dismissed as provided in this section, pleads guilty to or enters a plea of
 1663 not guilty to possession of non-retail marijuana or non-retail marijuana products under subsection A,
 1664 the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering
 1665 a judgment of guilt and with the consent of the accused, may defer further proceedings and place him
 1666 on probation upon terms and conditions. If the court defers further proceedings, at that time the court
 1667 shall determine whether the clerk of court has been provided with the fingerprint identification
 1668 information or fingerprints of the person, taken by a law-enforcement officer pursuant to § 19.2-390,
 1669 and, if not, shall order that the fingerprints and photograph of the person be taken by a
 1670 law-enforcement officer.

1671 As a term or condition, the court shall require the accused to undergo a substance abuse assessment
 1672 pursuant to § 19.2-299.2 and enter treatment or an education program or services, or any combination
 1673 thereof, if available, such as, in the opinion of the court, may be best suited to the needs of the accused
 1674 based upon consideration of the substance abuse assessment. The program or services may be located in
 1675 the judicial district in which the charge is brought or in any other judicial district as the court may
 1676 provide. The services shall be provided by (i) a program licensed by the Department of Behavioral
 1677 Health and Developmental Services, or by a similar program that is made available through the
 1678 Department of Corrections, (ii) a local community-based probation services agency established pursuant
 1679 to § 9.1-174, or (iii) an ASAP program certified by the Commission on the Virginia Alcohol Safety
 1680 Action Program (VASAP).

1681 The court shall require the person entering such program under the provisions of this section to pay
 1682 all or part of the costs of the program, including the costs of the screening, assessment, testing, and
 1683 treatment, based upon the accused's ability to pay, unless the person is determined by the court to be
 1684 indigent.

1685 As a condition of probation, the court shall require the accused (a) to successfully complete
 1686 treatment or an education program or services, (b) to remain drug and alcohol free during the period of
 1687 probation and submit to such tests during that period as may be necessary and appropriate to determine
 1688 if the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain
 1689 employment, and (d) to comply with a plan of up to 24 hours of community service. Such testing shall
 1690 be conducted by personnel of the supervising probation agency or personnel of any program or agency
 1691 approved by the supervising probation agency.

1692 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
 1693 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of
 1694 court has been provided with the fingerprint identification or the fingerprints of such person, the court
 1695 shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this
 1696 section shall be without adjudication of guilt and is a conviction only for the purposes of applying this
 1697 section in subsequent proceedings.

1698 When any juvenile is found to have committed a violation of subsection A, the disposition of the case
 1699 shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title
 1700 16.1.

1701 **§ 3.2-4166. Public consumption prohibited; civil penalty.**

1702 A. Except as otherwise provided in this chapter and notwithstanding any other provision of law, a
 1703 person may use or consume retail marijuana or retail marijuana products only if that person is:

- 1704 1. In a private residence in which the person is domiciled, including the curtilage thereof;
- 1705 2. On private property on which the person is not domiciled, provided that such property is not
 1706 generally accessible by the public and the person is explicitly permitted to use or consume marijuana or
 1707 marijuana products on the property by the owner of the property;
- 1708 3. On the premises of a licensed retail marijuana store if such store has been permitted to allow the
 1709 use or consumption of marijuana or marijuana products in designated areas of the store by a locality
 1710 pursuant to § 3.2-4151; or

- 1711 4. On the premises of special events permitted by a locality pursuant to § 3.2-4151.

1712 B. A person who violates this section is subject to a civil penalty of not more than \$50, upon a
 1713 second violation is subject to a civil penalty of not more than \$100, and upon a third or subsequent
 1714 violation is subject to a civil penalty of not more than \$250. Such civil penalties are payable to the
 1715 Literary Fund.

1716 **§ 3.2-4167. Illegal cultivation or manufacture of marijuana or marijuana products; penalties.**

1717 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) or pursuant to § 3.2-4162, it is
 1718 illegal for any person to cultivate or manufacture, or possess with intent to cultivate or manufacture,
 1719 marijuana or marijuana products without being licensed under this chapter to cultivate or manufacture

1720 marijuana or marijuana products.

1721 B. Any person who violates this section with respect to:

1722 1. More than two and one-half ounces of marijuana or more than 12 marijuana plants but not more
1723 than five ounces of marijuana or 24 marijuana plants is subject to a civil penalty of not more than
1724 \$500, upon a second violation is subject to a civil penalty of not more than \$1,000, and upon a third or
1725 subsequent violation is subject to a civil penalty of not more than \$2,000. Such civil penalties are
1726 payable to the Literary Fund;

1727 2. More than five ounces of marijuana or more than 24 marijuana plants but not more than five
1728 pounds of marijuana or 50 marijuana plants is guilty of a Class 1 misdemeanor;

1729 3. More than five pounds of marijuana or more than 50 marijuana plants is guilty of a Class 6
1730 felony.

1731 **§ 3.2-4168. Conspiracy to violate § 3.2-4167; penalty.**

1732 If two or more persons conspire together to do any act that is in violation of § 3.2-4167, and one or
1733 more of these persons does any act to effect the object of the conspiracy, each of the parties to such
1734 conspiracy is guilty of a Class 6 felony.

1735 **§ 3.2-4169. Illegal sale or distribution of marijuana and marijuana products; illegal possession
1736 with intent to sell or distribute marijuana or marijuana products; penalties.**

1737 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it shall be illegal for any
1738 person to sell or distribute, or possess with the intent to sell or distribute, marijuana or marijuana
1739 products without being licensed under this chapter to cultivate, manufacture, sell, or test retail
1740 marijuana or retail marijuana products.

1741 B. Any person who violates this section with respect to:

1742 1. Not more than two and one-half ounces of marijuana is guilty of a Class 1 misdemeanor;

1743 2. More than two and one-half ounces but not more than five pounds of marijuana is guilty of a
1744 Class 6 felony;

1745 3. More than five pounds of marijuana is guilty of a Class 5 felony.

1746 C. When a person is convicted of a third or subsequent felony offense under this section and it is
1747 alleged in the warrant, indictment, or information that he has been before convicted of two or more
1748 felony offenses under this section or of substantially similar offenses in any other jurisdiction which
1749 offenses would be felonies if committed in the Commonwealth and such prior convictions occurred
1750 before the date of the offense alleged in the warrant, indictment, or information, he is guilty of a Class
1751 4 felony.

1752 **§ 3.2-4170. Illegal gift of marijuana or marijuana products; penalties.**

1753 A. Except as otherwise provided by this chapter or otherwise provided by law, no person shall give
1754 retail or non-retail marijuana or retail or non-retail marijuana products to any person. Any person who
1755 violates this subsection is guilty of a Class 1 misdemeanor.

1756 B. Any person who distributes or possesses marijuana as an accommodation and not with intent to
1757 profit thereby to an inmate of a state or local correctional facility as defined in § 53.1-1, or in the
1758 custody of an employee thereof, is guilty of a Class 5 felony.

1759 C. Notwithstanding the provisions of this section or § 3.2-4163, a non-licensee shall be permitted to
1760 give not more than two and one-half ounces of retail marijuana to a personal friend, as a matter of
1761 normal social intercourse, so long as the gift is in no way a shift or device to evade the restrictions set
1762 forth in this section or § 3.2-4169.

1763 **§ 3.2-4171. Distribution of non-retail marijuana to persons under 18 years of age prohibited;
1764 penalties.**

1765 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it is unlawful for any person
1766 who is at least 18 years of age to knowingly or intentionally (i) distribute non-retail marijuana to any
1767 person under 18 years of age who is at least three years his junior or (ii) cause any person under 18
1768 years of age to assist in such distribution of non-retail marijuana. Any person violating this provision
1769 shall upon conviction be imprisoned in a state correctional facility for a period not less than 10 or
1770 more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a
1771 conviction under this section involving two and one-half ounces or more of marijuana shall be a
1772 mandatory minimum sentence. Two years of the sentence imposed for a conviction under this section
1773 involving less than two and one-half ounces of marijuana shall be a mandatory minimum sentence.

1774 **§ 3.2-4172. Illegal manufacturing, distribution, sale, etc., of a mixture or substance containing a
1775 detectable amount of non-retail marijuana; penalties.**

1776 A. Any person who manufactures, sells, gives, distributes, or possesses with the intent to
1777 manufacture, sell, give, or distribute 100 kilograms or more of a mixture or substance containing a
1778 detectable amount of non-retail marijuana is guilty of a felony punishable by a fine of not more than \$1
1779 million and imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum
1780 sentence. Such mandatory minimum sentence shall not be applicable if the court finds that (i) the person

1781 does not have a prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did
 1782 not use violence or credible threats of violence or possess a firearm or other dangerous weapon in
 1783 connection with the offense or induce another participant in the offense to do so; (iii) the offense did
 1784 not result in death or serious bodily injury to any person; (iv) the person was not an organizer, leader,
 1785 manager, or supervisor of others in the offense and was not engaged in a continuing criminal enterprise
 1786 as defined in subsection I of § 18.2-248; and (v) not later than the time of the sentencing hearing, the
 1787 person has truthfully provided to the Commonwealth all information and evidence the person has
 1788 concerning the offense or offenses that were part of the same course of conduct or of a common scheme
 1789 or plan, but the fact that the person has no relevant or useful other information to provide or that the
 1790 Commonwealth is already aware of the information shall not preclude a determination by the court
 1791 that the defendant has complied with this requirement.

1792 B. Any person who was the principal or one of several principal administrators, organizers, or
 1793 leaders of a continuing criminal enterprise as defined in subsection I of § 18.2-248 is guilty of a felony
 1794 if (i) the enterprise received at least \$100,000 but less than \$250,000 in gross receipts during any
 1795 12-month period of its existence from the manufacture, importation, or distribution of marijuana or (ii)
 1796 the person engaged in the enterprise to manufacture, sell, give, distribute, or possess with the intent to
 1797 manufacture, sell, give, or distribute at least 100 kilograms but less than 250 kilograms of a mixture or
 1798 substance containing a detectable amount of marijuana during any 12-month period of its existence. A
 1799 conviction under this subsection shall be punishable by a fine of not more than \$1 million and
 1800 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

1801 C. Any person who was the principal or one of several principal administrators, organizers, or
 1802 leaders of a continuing criminal enterprise as defined in subsection I of § 18.2-248 if (i) the enterprise
 1803 received \$250,000 or more in gross receipts during any 12-month period of its existence from the
 1804 manufacture, importation, or distribution of marijuana or (ii) the person engaged in the enterprise to
 1805 manufacture, sell, give, distribute, or possess with the intent to manufacture, sell, give, or distribute at
 1806 least 250 kilograms of a mixture or substance containing a detectable amount of marijuana during any
 1807 12-month period of its existence is guilty of a felony punishable by a fine of not more than \$1 million
 1808 and imprisonment for life, which shall be served with no suspension in whole or in part. Such
 1809 punishment shall be made to run consecutively with any other sentence. However, the court may impose
 1810 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated
 1811 with law-enforcement authorities.

1812 **§ 3.2-4173. Manufacturing, distributing, and obtaining marijuana by fraud, deceit, or forgery;**
 1813 **penalties.**

1814 A. It is unlawful for any person to use in the course of the manufacture or distribution of marijuana
 1815 a license number that is fictitious, revoked, suspended, or issued to another person.

1816 B. It is unlawful for any person, for the purpose of obtaining marijuana, to falsely assume the title
 1817 of, or represent himself to be, a cultivator, manufacturer, wholesaler, retailer, tester, pharmacist,
 1818 physician, dentist, veterinarian, or other authorized person.

1819 C. Any person who violates any provision of this section is guilty of a Class 6 felony.

1820 Whenever any person who has not previously been convicted of any offense under this article or
 1821 under any statute of the United States or of any state relating to marijuana, or has not previously had a
 1822 proceeding against him for violation of such an offense dismissed, or reduced as provided in this
 1823 section, pleads guilty to or enters a plea of not guilty to the court for violating this section, upon such
 1824 plea if the facts found by the court would justify a finding of guilt, the court may place him on
 1825 probation upon terms and conditions.

1826 As a term or condition, the court shall require the accused to be evaluated and enter a treatment or
 1827 education program, if available, such as, in the opinion of the court, may be best suited to the needs of
 1828 the accused. This program may be located in the judicial circuit in which the charge is brought or in
 1829 any other judicial circuit as the court may provide. The services shall be provided by a program
 1830 certified or licensed by the Department of Behavioral Health and Developmental Services. The court
 1831 shall require the person entering such program under the provisions of this section to pay all or part of
 1832 the costs of the program, including the costs of the screening, evaluation, testing, and education, based
 1833 upon the person's ability to pay, unless the person is determined by the court to be indigent.

1834 As a condition of supervised probation, the court shall require the accused to remain drug free
 1835 during the period of probation and submit to such tests during that period as may be necessary and
 1836 appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of
 1837 any screening, evaluation, and education program to which the person is referred or by the supervising
 1838 agency.

1839 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to
 1840 report to the original arresting law-enforcement agency to submit to fingerprinting.

1841 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony
 1842 and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court

1843 shall find the defendant guilty of a Class 1 misdemeanor.

1844 **§ 3.2-4174. Prohibition on the sale or manufacture of marijuana or marijuana products on or**
 1845 **near certain properties; penalties.**

1846 A. It is unlawful for any person to manufacture, sell, or distribute or possess with intent to sell, give,
 1847 or distribute marijuana or marijuana products while:

1848 1. Upon the property, including buildings and grounds, of any public or private elementary or
 1849 secondary school, any institution of higher education, or any clearly marked licensed child day center as
 1850 defined in § 63.2-100;

1851 2. Upon public property or any property open to public use within 1,000 feet of the property
 1852 described in subdivision 1;

1853 3. On any school bus as defined in § 46.2-100;

1854 4. Upon a designated school bus stop, or upon either public property or any property open to public
 1855 use that is within 1,000 feet of such school bus stop, during the time when school children are waiting
 1856 to be picked up and transported to or are being dropped off from school or a school-sponsored activity;

1857 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated
 1858 recreation or community center facility or any public library; or

1859 6. Upon the property of any state hospital as defined in § 37.2-100 or upon public property or
 1860 property open to public use within 1,000 feet of such an institution.

1861 It is a violation of the provisions of this section if the person possessed non-retail marijuana or
 1862 non-retail marijuana products on the property described in subdivisions 1 through 6, regardless of
 1863 where the person intended to sell, give, or distribute the non-retail marijuana or non-retail marijuana
 1864 products.

1865 B. A violation of this section shall constitute a separate and distinct felony. Any person violating the
 1866 provisions of this section is guilty of a Class 5 felony. However, if such person proves that he sold
 1867 marijuana or marijuana products only as an accommodation to another individual and not with intent to
 1868 profit thereby from any consideration received or expected nor to induce the recipient or intended
 1869 recipient of the marijuana or marijuana products to use or become addicted to or dependent upon such
 1870 controlled substance or marijuana, he is guilty of a Class 1 misdemeanor.

1871 C. If a person commits an act violating the provisions of this section, and the same act also violates
 1872 another provision of law that provides for penalties greater than those provided for by this section, then
 1873 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of
 1874 law or the imposition of any penalties provided for thereby.

1875 **§ 3.2-4175. Possessing or displaying firearm while illegally manufacturing, etc., possessing with**
 1876 **intent to manufacture, etc., more than one pound of marijuana; penalty.**

1877 It is unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or other
 1878 firearm, or to display such weapon in a threatening manner, while committing or attempting to commit
 1879 the illegal manufacture, sale, or distribution or possessing with the intent to manufacture, sell, or
 1880 distribute more than one pound of marijuana. A violation of this subsection is a Class 6 felony and
 1881 constitutes a separate and distinct felony, and any person convicted hereunder shall be sentenced to a
 1882 mandatory minimum term of imprisonment of five years. Such punishment shall be separate and apart
 1883 from, and shall be made to run consecutively with, any punishment received for the commission of the
 1884 primary felony.

1885 **§ 3.2-4176. Delivery of marijuana to prisoners or committed persons; penalty.**

1886 Notwithstanding the provisions of § 18.2-474, any person who willfully in any manner delivers,
 1887 attempts to deliver, or conspires with another to deliver marijuana to any prisoner confined under
 1888 authority of the Commonwealth, or of any political subdivision thereof, or to any person committed to
 1889 the Department of Juvenile Justice in any juvenile correctional center is guilty of a Class 5 felony.

1890 **§ 3.2-4177. Transporting non-retail marijuana into the Commonwealth; penalty.**

1891 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it is unlawful for any person to
 1892 transport into the Commonwealth by any means with intent to sell or distribute five or more pounds of
 1893 non-retail marijuana. A violation of this section shall constitute a separate and distinct felony. Upon
 1894 conviction, the person shall be sentenced to not less than five years or more than 40 years
 1895 imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not
 1896 to exceed \$1 million. A second or subsequent conviction hereunder shall be punishable by a mandatory
 1897 minimum term of imprisonment of 10 years, which shall be served consecutively with any other sentence.

1898 **§ 3.2-4178. Illegal testing of marijuana and marijuana products; penalty.**

1899 Except as otherwise provided by this chapter or otherwise provided by law, no person shall test
 1900 marijuana or marijuana products without being licensed under this chapter to cultivate or test
 1901 marijuana or marijuana products. A person who violates this section is guilty of a Class 6 felony.

1902 **§ 3.2-4179. Illegal sale or advertisement of marijuana paraphernalia; penalties.**

1903 A. It is unlawful for any person under 21 years of age to possess marijuana paraphernalia. Any

1904 person who violates this section is subject to a civil penalty of not more than \$25. Such civil penalty is
 1905 payable to the Literary Fund.

1906 B. It is unlawful for any person to sell or distribute, or possess with the intent to sell or distribute,
 1907 marijuana paraphernalia to any person under 21 years of age. Any person who violates this subsection
 1908 is guilty of a Class 1 misdemeanor.

1909 C. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication
 1910 any advertisement, knowing or under circumstances where one reasonably should know, that the purpose
 1911 of the advertisement, in whole or in part, is to promote the sale of marijuana paraphernalia to persons
 1912 under 21 years of age. Any person who violates this subsection is guilty of a Class 1 misdemeanor.

1913 D. In determining whether an object is marijuana paraphernalia, the court may consider, in addition
 1914 to all other relevant evidence, the following:

- 1915 1. Constitutionally admissible statements by the accused concerning the use of the object;
- 1916 2. The proximity of the object to marijuana, which proximity is actually known to the accused;
- 1917 3. Instructions, oral or written, provided with the object concerning its use;
- 1918 4. Descriptive materials accompanying the object that explain or depict its use;
- 1919 5. National and local advertising within the actual knowledge of the accused concerning its use;
- 1920 6. The manner in which the object is displayed for sale;
- 1921 7. Whether the accused is a legitimate supplier of like or related items to the community, such as a
 1922 licensed distributor or dealer of tobacco products;

1923 8. Evidence of the ratio of sales of marijuana paraphernalia to the total sales of the business
 1924 enterprise;

1925 9. The existence and scope of legitimate uses for the object in the community;

1926 10. Expert testimony concerning its use or the purpose for which it was designed; and

1927 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should
 1928 reasonably know, are under 21 years of age. The innocence of an owner, or of anyone in control of the
 1929 object, as to a direct violation of this article shall not prevent a finding that the object is intended for
 1930 use or designed for use as drug paraphernalia.

1931 **§ 3.2-4180. Distribution, sale, or display of printed material advertising instruments for use in
 1932 administering marijuana to minors; penalty.**

1933 It is a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale to a
 1934 minor any book, pamphlet, periodical, or other printed matter which he knows advertises for sale any
 1935 instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking,
 1936 administering, preparing, or growing marijuana.

1937 **§ 3.2-4181. Persons to whom retail marijuana or retail marijuana products may not be sold; proof
 1938 of legal age; penalties.**

1939 A. No person shall sell any retail marijuana or retail marijuana products to any person when at the
 1940 time of such sale he knows or has reason to believe that the person to whom the sale is made is (i)
 1941 under 21 years of age or (ii) intoxicated. Any person who violates this subsection is guilty of a Class 1
 1942 misdemeanor.

1943 B. Any person who sells any retail marijuana or retail marijuana products to a person who is under
 1944 21 years of age and at the time of the sale does not require the person to present bona fide evidence of
 1945 legal age indicating that the person is 21 years of age or older is guilty of a violation of this
 1946 subsection. Bona fide evidence of legal age is limited to any evidence that is or reasonably appears to
 1947 be an unexpired driver's license issued by any state of the United States or the District of Columbia,
 1948 military identification card, United States passport or foreign government visa, unexpired special
 1949 identification card issued by the Department of Motor Vehicles, or any other valid government-issued
 1950 identification card bearing the individual's photograph, signature, height, weight, and date of birth, or
 1951 which bears a photograph that reasonably appears to match the appearance of the purchaser. A student
 1952 identification card shall not constitute bona fide evidence of legal age for purposes of this subsection.
 1953 Any person convicted of a violation of this subsection is guilty of a Class 3 misdemeanor.
 1954 Notwithstanding the provisions of § 3.2-4148, the Board shall not take administrative action against a
 1955 licensee for the conduct of his employee who violates this subsection.

1956 C. No person shall be convicted of both subsections A and B for the same sale.

1957 **§ 3.2-4182. Use or attempted use of altered, etc., identification to purchase retail marijuana or
 1958 retail marijuana products; penalty.**

1959 A. No person under 21 years of age shall use or attempt to use any (i) altered, fictitious, facsimile,
 1960 or simulated license to operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document,
 1961 including but not limited to a birth certificate or student identification card; or (iii) motor vehicle
 1962 operator's license, birth certificate, or student identification card of another person in order to establish
 1963 a false identification or false age for himself to use, consume, or purchase or attempt to use, consume,
 1964 or purchase retail marijuana or retail marijuana products. Any person who violates this subsection is
 1965 guilty of a Class 1 misdemeanor.

1966 B. Any retail marijuana store licensee who in good faith promptly notifies the Board or any state or
 1967 local law-enforcement agency of a violation or suspected violation of this section shall be accorded
 1968 immunity from an administrative penalty for a violation of § 3.2-4181.

1969 § 3.2-4183. **Purchasing retail marijuana or retail marijuana products for one to whom they may**
 1970 **not be sold; penalty.**

1971 Any person who (i) purchases retail marijuana or retail marijuana products for another person, and
 1972 at the time of such purchase knows or has reason to believe that the person for whom the retail
 1973 marijuana or retail marijuana products were purchased was intoxicated or (ii) purchases for or
 1974 otherwise gives, provides, or assists in the provision of retail marijuana or retail marijuana products to
 1975 another person when he knows or has reason to know that such person was under 21 years of age is
 1976 guilty of a Class 1 misdemeanor.

1977 § 3.2-4184. **Prohibited practices by licensees; penalty.**

1978 A. No licensee or any agent or employee of such licensee shall:

1979 1. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products,
 1980 as applicable, of a kind other than that which such license or this chapter authorizes him to cultivate,
 1981 manufacture, transport, sell, or test;

1982 2. Cultivate, manufacture, transport, sell, or test any retail marijuana or retail marijuana products,
 1983 as applicable, which such license or this chapter authorizes him to cultivate, manufacture, transport,
 1984 sell, or test, at any place other than such license or this chapter authorizes him to cultivate,
 1985 manufacture, transport, sell, or test or in any place that is not within an enclosed area that is secured
 1986 in a manner that prevents access by persons not permitted by the licensee or any agent or employee of
 1987 such licensee to access such area;

1988 3. Cultivate, manufacture, sell, or test any retail marijuana or retail marijuana products or display
 1989 or sell any marijuana paraphernalia in any place that is visible from a public place outside of the
 1990 marijuana establishment without the use of binoculars, aircraft, or other optical aids;

1991 4. Allow a person under 21 years of age to be employed by or volunteer for such licensee; or

1992 5. Sell retail marijuana or retail marijuana products without ensuring that the tax required by this
 1993 chapter has been paid.

1994 B. No marijuana cultivation facility licensee, marijuana manufacturing facility licensee, retail
 1995 marijuana store, or marijuana microbusiness shall transport more than 15 ounces of retail marijuana or
 1996 more than 60 grams of marijuana concentrate at one time.

1997 C. Any person who violates this section is guilty of a Class 1 misdemeanor.

1998 § 3.2-4185. **Prohibited acts by retail marijuana store licensees; penalty.**

1999 A. In addition to the actions prohibited by § 3.2-4184, no retail marijuana store licensee or any
 2000 agent or employee of such licensee shall:

2001 1. Sell any retail marijuana or retail marijuana product that such license or this chapter authorizes
 2002 him to sell, but in a manner other than such license or this chapter authorizes him to sell;

2003 2. Sell more than the amounts permitted by subdivision B 3 of § 3.2-4146 to be sold during a single
 2004 transaction to one person;

2005 3. Except as permitted by § 3.2-4151, allow at the place described in his license the use or
 2006 consumption of retail marijuana or retail marijuana products in violation of this chapter.

2007 4. Keep at the place described in his license any marijuana or marijuana products other than that
 2008 which he is licensed to sell;

2009 5. Misrepresent any marijuana or marijuana product sold or offered for sale;

2010 6. Remove or obliterate any label or packaging affixed to any retail marijuana or retail marijuana
 2011 products offered for sale;

2012 7. Sell any retail marijuana or retail marijuana products if the label or packaging has been removed
 2013 or obliterated;

2014 8. Consume or allow the consumption by any employee of any retail marijuana or retail marijuana
 2015 product while on duty and in a position that is involved in the selling of retail marijuana or retail
 2016 marijuana products;

2017 9. Be intoxicated while on duty or allow an employee to perform his duties while intoxicated; or

2018 10. Fail or refuse to make samples of any retail marijuana or retail marijuana product available to
 2019 the Board upon request.

2020 B. Any person who violates this section is guilty of a Class 1 misdemeanor.

2021 § 3.2-4186. **Illegal labeling and packaging; penalty.**

2022 Any person who violates the labeling and packaging requirements of § 3.2-4155 or the other health
 2023 and safety requirements of § 3.2-4157 is guilty of a Class 1 misdemeanor.

2024 § 3.2-4187. **Illegal advertising and marketing; penalties.**

2025 A. Except as provided in subsection B, any person who violates the advertising and marketing
 2026 restrictions of § 3.2-4156 is guilty of a Class 1 misdemeanor.

2027 B. For violations of § 3.2-4156 relating to distance and zoning restrictions on outdoor advertising,
 2028 the Board shall give the advertiser written notice to take corrective action to either bring the
 2029 advertisement into compliance with this chapter and Board regulations or to remove such advertisement.
 2030 If corrective action is not taken within 30 days, the advertiser is guilty of a Class 4 misdemeanor.

2031 **§ 3.2-4188. Using or consuming marijuana or marijuana products while operating a motor vehicle**
 2032 **or while being a passenger in a motor vehicle; penalty.**

2033 A. It is unlawful for any person to use or consume marijuana or marijuana products while driving a
 2034 motor vehicle upon a public highway of the Commonwealth or while being a passenger in a motor
 2035 vehicle being driven upon a public highway of the Commonwealth.

2036 B. Any person who violates this section is guilty of a Class 4 misdemeanor.

2037 **§ 3.2-4189. Limitation on carrying marijuana or marijuana products in motor vehicles transporting**
 2038 **passengers for hire; penalty.**

2039 A. The transportation of marijuana or marijuana products in any motor vehicle that is being used, or
 2040 is licensed, for the transportation of passengers for hire is prohibited, except when carried in the
 2041 possession of a passenger who is being transported for compensation at the regular rate and fare
 2042 charged other passengers.

2043 B. Any person who violates this section is guilty of a Class 1 misdemeanor.

2044 **§ 3.2-4190. Using, consuming, or possessing marijuana or marijuana products in or on the**
 2045 **grounds of correctional facilities; penalty.**

2046 A. No person shall use, consume, or possess marijuana or marijuana products in or upon the
 2047 grounds of any state or local correctional facility as defined in § 53.1-1.

2048 B. Any person who violates this section is guilty of a Class 1 misdemeanor.

2049 **§ 3.2-4191. Using, consuming, or possessing marijuana or marijuana products in or on public**
 2050 **school grounds; penalty.**

2051 A. No person shall use, consume, or possess marijuana or marijuana products in or upon the
 2052 grounds of any public elementary or secondary school during or after school hours or school or student
 2053 activities.

2054 B. Any person convicted of a violation of this section is guilty of a Class 2 misdemeanor.

2055 **§ 3.2-4192. Using, consuming, or possessing marijuana or marijuana products while operating a**
 2056 **school bus; penalty.**

2057 Any person who possesses, uses, or consumes marijuana or marijuana products while operating a
 2058 school bus and transporting children is guilty of a Class 1 misdemeanor. For purposes of this section,
 2059 "school bus" has the same meaning as provided in § 46.2-100.

2060 **§ 3.2-4193. Separation of plant resin by butane extraction; penalty.**

2061 A. No person shall separate plant resin by butane extraction or another method that utilizes a
 2062 substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within
 2063 the curtilage of any residential structure.

2064 B. Any person convicted of a violation of this section is guilty of a Class 1 misdemeanor.

2065 **§ 3.2-4194. Certain premises deemed common nuisance; penalties.**

2066 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,
 2067 dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, that with the
 2068 knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or
 2069 tenant thereof, is frequented by persons under the influence of illegally obtained marijuana or for the
 2070 purpose of illegally obtaining possession of, manufacturing, or distributing marijuana, or is used for the
 2071 illegal possession, manufacture, or distribution of marijuana, shall be deemed a common nuisance. Any
 2072 such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant who
 2073 knowingly permits, establishes, keeps, or maintains such a common nuisance is guilty of a Class 1
 2074 misdemeanor and for a second or subsequent offense is guilty of a Class 6 felony.

2075 **§ 3.2-4195. Maintaining a fortified drug house; penalty.**

2076 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,
 2077 dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its
 2078 original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a
 2079 law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing or
 2080 distributing marijuana; and (iii) the object of a valid search warrant shall be considered a fortified drug
 2081 house. Any person who maintains or operates a fortified drug house is guilty of a Class 5 felony.

2082 **§ 3.2-4196. Attempts; aiding or abetting; penalty.**

2083 No person shall attempt to do any of the things prohibited by this chapter or to aid or abet another
 2084 in doing, or attempting to do, any of the things prohibited by this chapter.

2085 On an indictment, information, or warrant for the violation of this chapter, the jury or the court may
 2086 find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as
 2087 if the defendant were solely guilty of such violation.

2088 **§ 3.2-4197. Failure to deliver, keep, and preserve records and accounts, or to allow examination**

2089 *and inspection; penalty.*

2090 A. No licensee shall fail or refuse to (i) deliver, keep, and preserve such records, invoices, and
 2091 accounts as are required by Board regulations or (ii) allow such records, invoices, and accounts or his
 2092 place of business to be examined and inspected in accordance with Board regulations.

2093 B. Any person who violates this section is guilty of a Class 1 misdemeanor.

2094 **§ 3.2-4198. Disobeying subpoena; hindering conduct of hearing; penalty.**

2095 A. No person shall (i) fail or refuse to obey any subpoena issued by the Board or any Board
 2096 member or (ii) hinder the orderly conduct and decorum of any hearing held and conducted by the
 2097 Board or a Board member.

2098 B. Any person who violates this section is guilty of a Class 1 misdemeanor.

2099 **§ 3.2-4199. Search warrants.**

2100 A. If complaint on oath is made that marijuana or marijuana products are being cultivated,
 2101 manufactured, sold, or tested in a particular house, or other place, in violation of law, the judge,
 2102 magistrate, or other person having authority to issue criminal warrants to whom such complaint is
 2103 made, if satisfied that there is a probable cause for such belief, shall issue a warrant to search such
 2104 house or other place for marijuana or marijuana products. Such warrants, except as herein otherwise
 2105 provided, shall be issued, directed, and executed in accordance with the laws of the Commonwealth
 2106 pertaining to search warrants.

2107 B. Warrants issued under this chapter for the search of any automobile, boat, conveyance, or
 2108 vehicle, whether of like kind or not, or for the search of any article of baggage, whether of like kind or
 2109 not, for marijuana or marijuana products may be executed in any part of the Commonwealth where they
 2110 are overtaken and shall be made returnable before any judge within whose jurisdiction such automobile,
 2111 boat, conveyance, vehicle, truck, or article of baggage, or any of them, was transported or attempted to
 2112 be transported contrary to law.

2113 **§ 3.2-4199.1. Punishment for violations of chapter.**

2114 A. The provisions of this chapter shall not prevent the Board from suspending, revoking, or refusing
 2115 to continue the license of any person convicted of a violation of any provision of this chapter.

2116 B. No court shall hear such a case unless the respective attorney for the Commonwealth or his
 2117 assistant has been notified that such a case is pending.

2118 **§ 3.2-4199.2. Certificate of forensic scientist as evidence; requiring forensic scientist to appear.**

2119 The certificate of any forensic scientist employed by the Commonwealth on behalf of the Board or
 2120 the Department of Forensic Science, when signed by him, shall be evidence in all prosecutions for
 2121 violations of this chapter and all controversies in any judicial proceedings touching the mixture
 2122 analyzed by him. On motion of the accused or any party in interest, the court may require the forensic
 2123 scientist making the analysis to appear as a witness and be subject to cross-examination, provided such
 2124 motion is made within a reasonable time prior to the day on which the case is set for trial.

2125 **§ 3.2-4199.3. Suspended sentence conditioned upon substance abuse screening, assessment, testing,
 2126 and treatment or education.**

2127 The trial judge or court trying the case of any person found guilty of violating any law concerning
 2128 the use, in any manner, of marijuana shall condition any suspended sentence by first requiring such
 2129 person to agree to undergo a substance abuse screening and to submit to such periodic substance abuse
 2130 testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by
 2131 the supervising probation agency or by personnel of any program or agency approved by the
 2132 supervising probation agency. The cost of such testing ordered by the court shall be paid by the
 2133 Commonwealth and taxed as a part of the costs of such criminal proceedings. The judge or court shall
 2134 order the person, as a condition of any suspended sentence, to undergo such treatment or education for
 2135 substance abuse, if available, as the judge or court deems appropriate based upon consideration of the
 2136 substance abuse assessment. The treatment or education shall be provided by a program or agency
 2137 licensed by the Department of Behavioral Health and Developmental Services or, if the court imposes a
 2138 sentence of 12 months or less, by a similar program or services available through a local or regional
 2139 jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP
 2140 program certified by the Commission on the Virginia Alcohol Safety Action Program (VASAP).

2141 **§ 3.2-4199.4. Commitment of convicted person for treatment for substance abuse.**

2142 A. Whenever any person who has not previously been convicted of any offense under this article or
 2143 under any statute of the United States or of any state relating to marijuana or has not previously had a
 2144 proceeding against him for violation of such an offense dismissed as provided in § 3.2-4164 or 3.2-4165
 2145 is found guilty of violating any law concerning the use, in any manner, of marijuana, the judge or court
 2146 shall require such person to undergo a substance abuse screening and to submit to such periodic
 2147 substance abuse testing, to include alcohol testing, as may be directed by the court. The cost of such
 2148 testing ordered by the court shall be paid by the Commonwealth and taxed as a part of the costs of the
 2149 criminal proceedings. The judge or court shall also order the person to undergo such treatment or

2150 education for substance abuse, if available, as the judge or court deems appropriate based upon
 2151 consideration of the substance abuse assessment. The treatment or education shall be provided by a
 2152 program or agency licensed by the Department of Behavioral Health and Developmental Services or by
 2153 a similar program or services available through the Department of Corrections if the court imposes a
 2154 sentence of one year or more or, if the court imposes a sentence of 12 months or less, by a similar
 2155 program or services available through a local or regional jail, a local community-based probation
 2156 services agency established pursuant to § 9.1-174, or an ASAP program certified by the Commission on
 2157 the Virginia Alcohol Safety Action Program (VASAP).

2158 B. The court trying the case of any person alleged to have committed any offense designated by this
 2159 article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the
 2160 commission of the offense was motivated by or closely related to the use of drugs and determined by the
 2161 court, pursuant to a substance abuse screening and assessment, to be in need of treatment for the use of
 2162 drugs may commit, based upon a consideration of the substance abuse assessment, such person, upon
 2163 his conviction, to any facility for the treatment of persons with substance abuse licensed by the
 2164 Department of Behavioral Health and Developmental Services, if space is available in such facility, for
 2165 a period of time not in excess of the maximum term of imprisonment specified as the penalty for
 2166 conviction of such offense or, if the sentence was determined by a jury, not in excess of the term of
 2167 imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated
 2168 as confinement in a penal institution and the person so committed may be convicted of escape if he
 2169 leaves the place of commitment without authority. A charge of escape may be prosecuted in either the
 2170 jurisdiction where the treatment facility is located or the jurisdiction where the person was sentenced to
 2171 commitment. The court may revoke such commitment at any time and transfer the person to an
 2172 appropriate state or local correctional facility. Upon presentation of a certified statement from the
 2173 director of the treatment facility to the effect that the confined person has successfully responded to
 2174 treatment, the court may release such confined person prior to the termination of the period of time for
 2175 which such person was confined and may suspend the remainder of the term upon such conditions as
 2176 the court may prescribe.

2177 **§ 3.2-4199.5. Possession or distribution of marijuana for medical purposes permitted.**

2178 Nothing in this article shall be construed to prohibit or penalize:

2179 1. The possession of marijuana or tetrahydrocannabinol when that possession occurs pursuant to a
 2180 valid prescription issued by a medical doctor in the course of his professional practice for treatment or
 2181 to alleviate the symptoms of any diagnosed condition or disease determined by the doctor to benefit
 2182 from the use of such substances;

2183 2. The dispensing or distributing of marijuana or tetrahydrocannabinol for medical purposes by a
 2184 medical doctor when such action occurs in the course of his professional practice for treatment or to
 2185 alleviate the symptoms of any diagnosed condition or disease determined by the doctor to benefit from
 2186 the use of such substances; or

2187 3. The dispensing or distributing of marijuana or tetrahydrocannabinol by a pharmacist to any
 2188 person who holds a valid prescription of a medical doctor for such substance issued in the course of
 2189 such doctor's professional practice for treatment or to alleviate the symptoms of any diagnosed
 2190 condition or disease determined by the doctor to benefit from the use of such substances.

2191 **§ 3.2-4199.6. Interaction with provisions concerning pharmaceutical processing of cannabidiol oil
 2192 and THC-A oil.**

2193 Nothing in this chapter shall be construed to prohibit or penalize any conduct that is permitted by
 2194 Article 4.2 (§ 54.1-3442.5 et seq.) of Chapter 34 of Title 54.1.

2195 **§ 4.1-225. Grounds for which Board may suspend or revoke licenses.**

2196 The Board may suspend or revoke any license other than a brewery license, in which case the Board
 2197 may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

2198 1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an
 2199 association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the
 2200 licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital
 2201 stock, or if the licensee is a limited liability company, any member-manager or any member owning 10
 2202 percent or more of the membership interest of the limited liability company:

2203 a. Has misrepresented a material fact in applying to the Board for such license;

2204 b. Within the five years immediately preceding the date of the hearing held in accordance with
 2205 § 4.1-227, has (i) been convicted of a violation of any law, ordinance or regulation of the
 2206 Commonwealth, of any county, city or town in the Commonwealth, of any state, or of the United States,
 2207 applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages; (ii) violated
 2208 any provision of Chapter 3 (§ 4.1-300 et seq.); (iii) committed a violation of the Wine Franchise Act
 2209 (§ 4.1-400 et seq.) or the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or
 2210 refused to comply with any regulation, rule or order of the Board; or (v) failed or refused to comply
 2211 with any of the conditions or restrictions of the license granted by the Board;

- 2212 c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude
 2213 under the laws of any state, or of the United States;
- 2214 d. Is not the legitimate owner of the business conducted under the license granted by the Board, or
 2215 other persons have ownership interests in the business which have not been disclosed;
- 2216 e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business
 2217 conducted under the license granted by the Board;
- 2218 f. Has been intoxicated or under the influence of some self-administered drug while upon the
 2219 licensed premises;
- 2220 g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to
 2221 become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1
 2222 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;
- 2223 h. Knowingly employs in the business conducted under such license, as agent, servant, or employee,
 2224 other than a busboy, cook or other kitchen help, any person who has been convicted in any court of a
 2225 felony or of any crime or offense involving moral turpitude, or who has violated the laws of the
 2226 Commonwealth, of any other state, or of the United States, applicable to the manufacture, transportation,
 2227 possession, use or sale of alcoholic beverages;
- 2228 i. Subsequent to the granting of his original license, has demonstrated by his police record a lack of
 2229 respect for law and order;
- 2230 j. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person
 2231 whom he knew or had reason to believe was (i) less than under 21 years of age, (ii) interdicted, or (iii)
 2232 intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter
 2233 upon such licensed premises;
- 2234 k. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as
 2235 provided under this title;
- 2236 l. Is physically unable to carry on the business conducted under such license or has been adjudicated
 2237 incapacitated;
- 2238 m. Has allowed any obscene literature, pictures or materials upon the licensed premises;
- 2239 n. Has possessed any illegal gambling apparatus, machine or device upon the licensed premises;
- 2240 o. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has knowingly
 2241 allowed any employee or agent, or any other person, to illegally possess, distribute, sell or use
 2242 marijuana, controlled substances, imitation controlled substances, drug paraphernalia or controlled
 2243 paraphernalia as those terms are defined in *Articles 1 (§ 3.2-4121 et seq.) and 7 (§ 3.2-4164 et seq.) of*
 2244 *Chapter 41.2 of Title 3.2, Articles 1 (§ 18.2-247 et seq.) and 1.1 (§ 18.2-247 18.2-265.1 et seq.) of*
 2245 *Chapter 7 of Title 18.2, and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in*
 2246 *violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Article 7*
 2247 *of Chapter 41.2 of Title 3.2, Articles 1 and 1.1 of Chapter 7 (~~§ 18.2-247 et seq.~~) of Title 18.2, or the*
 2248 *Drug Control Act (~~§ 54.1-3400 et seq.~~). The provisions of this subdivision shall also apply to any*
 2249 *conduct related to the operation of the licensed business which that facilitates the commission of any of*
 2250 *the offenses set forth herein;*
- 2251 p. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises
 2252 immediately adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any
 2253 portion of public property immediately adjacent to the licensed premises from becoming a place where
 2254 patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et
 2255 seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5
 2256 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2
 2257 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-344 et seq.) or 5 (§ 18.2-372 et seq.)
 2258 of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of
 2259 Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to
 2260 reasonably be deemed a continuing threat to the public safety; or
- 2261 q. Has failed to take reasonable measures to prevent an act of violence resulting in death or serious
 2262 bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises
 2263 immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any
 2264 portion of public property immediately adjacent to the licensed premises.
- 2265 2. The place occupied by the licensee:
- 2266 a. Does not conform to the requirements of the governing body of the county, city or town in which
 2267 such establishment is located, with respect to sanitation, health, construction or equipment, or to any
 2268 similar requirements established by the laws of the Commonwealth or by Board regulations;
- 2269 b. Has been adjudicated a common nuisance under the provisions of this title or § 18.2-258; or
- 2270 c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks,
 2271 prostitutes, pimps, panderers or habitual law violators or has become a place where illegal drugs are
 2272 regularly used or distributed. The Board may consider the general reputation in the community of such

2273 establishment in addition to any other competent evidence in making such determination.

2274 3. The licensee or any employee of the licensee discriminated against any member of the armed
2275 forces of the United States by prices charged or otherwise.

2276 4. The licensee, his employees, or any entertainer performing on the licensed premises has been
2277 convicted of a violation of a local public nudity ordinance for conduct occurring on the licensed
2278 premises and the licensee allowed such conduct to occur.

2279 5. Any cause exists for which the Board would have been entitled to refuse to grant such license had
2280 the facts been known.

2281 6. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any
2282 penalties or interest related thereto, lawfully imposed by the locality where the licensed business is
2283 located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality,
2284 unless (i) the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for
2285 correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into
2286 a payment plan approved by the same locality to settle the outstanding liability.

2287 7. Any other cause authorized by this title.

2288 **§ 16.1-69.48:1. Fixed fee for misdemeanors, traffic infractions and other violations in district
2289 court; additional fees to be added.**

2290 A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court
2291 hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court
2292 hearing and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence
2293 resulting in a finding of guilty; (iv) an appearance for court hearing in which the court requires that the
2294 defendant successfully complete traffic school, a mature driver motor vehicle crash prevention course, or
2295 a driver improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to §§
2296 § 3.2-4164, 3.2-4165, 4.1-305, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251, or 19.2-303.2; or (vi) proof
2297 of compliance with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716,
2298 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

2299 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever
2300 a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for
2301 such failure to appear. No defendant with multiple charges arising from a single incident shall be taxed
2302 the applicable fixed fee provided in subsection B, C, or D more than once for a single appearance or
2303 trial in absence related to that incident. However, when a defendant who has multiple charges arising
2304 from the same incident and who has been assessed a fixed fee for one of those charges is later
2305 convicted of another charge that arises from that same incident and that has a higher fixed fee, he shall
2306 be assessed the difference between the fixed fee earlier assessed and the higher fixed fee.

2307 A defendant with charges which arise from separate incidents shall be taxed a fee for each incident
2308 even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

2309 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall
2310 also assess any costs otherwise specifically provided by statute.

2311 B. In misdemeanors tried in district court, except for those proceedings provided for in subsection C,
2312 there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for
2313 the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts
2314 designated:

- 2315 1. Processing fee (General Fund) (.573770);
- 2316 2. Virginia Crime Victim-Witness Fund (.049180);
- 2317 3. Regional Criminal Justice Training Academies Fund (.016393);
- 2318 4. Courthouse Construction/Maintenance Fund (.032787);
- 2319 5. Criminal Injuries Compensation Fund (.098361);
- 2320 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
- 2321 7. Sentencing/supervision fee (General Fund) (.131148); and
- 2322 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

2323 C. In criminal actions and proceedings in district court for a violation of any provision of Article 1
2324 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136.
2325 The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to
2326 the following funds in the fractional amounts designated:

- 2327 1. Processing fee (General Fund) (.257353);
- 2328 2. Virginia Crime Victim-Witness Fund (.022059);
- 2329 3. Regional Criminal Justice Training Academies Fund (.007353);
- 2330 4. Courthouse Construction/Maintenance Fund (.014706);
- 2331 5. Criminal Injuries Compensation Fund (.044118);
- 2332 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
- 2333 7. Drug Offender Assessment and Treatment Fund (.551471);
- 2334 8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and

2335 9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

2336 D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of
2337 \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by
2338 law, to the following funds in the fractional amounts designated:

- 2339 1. Processing fee (General Fund) (.764706);
2340 2. Virginia Crime Victim-Witness Fund (.058824);
2341 3. Regional Criminal Justice Training Academies Fund (.019608);
2342 4. Courthouse Construction/Maintenance Fund (.039216);
2343 5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
2344 6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

2345 **§ 16.1-260. Intake; petition; investigation.**

2346 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of
2347 a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition
2348 shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the
2349 Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests,
2350 and the processing of petitions to initiate a case shall be the responsibility of the intake officer.
2351 However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own
2352 motion with the clerk; (ii) designated nonattorney employees of the Department of Social Services may
2353 complete, sign, and file petitions and motions relating to the establishment, modification, or enforcement
2354 of support on forms approved by the Supreme Court of Virginia with the clerk; (iii) designated
2355 nonattorney employees of a local department of social services may complete, sign, and file with the
2356 clerk, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions
2357 for permanency planning hearings, petitions to establish paternity, motions to establish or modify
2358 support, motions to amend or review an order, and motions for a rule to show cause; and (iv) any
2359 attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject
2360 of the petition is a child alleged to be in need of services, in need of supervision, or delinquent.
2361 Complaints alleging abuse or neglect of a child shall be referred initially to the local department of
2362 social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2.
2363 Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake
2364 officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is
2365 receiving child support services or public assistance. No individual who is receiving support services or
2366 public assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an
2367 order for support of a child. If the petitioner is seeking or receiving child support services or public
2368 assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together
2369 with notice of the court date, to the Division of Child Support Enforcement.

2370 B. The appearance of a child before an intake officer may be by (i) personal appearance before the
2371 intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic
2372 video and audio communication is used, an intake officer may exercise all powers conferred by law. All
2373 communications and proceedings shall be conducted in the same manner as if the appearance were in
2374 person, and any documents filed may be transmitted by facsimile process. The facsimile may be served
2375 or executed by the officer or person to whom sent, and returned in the same manner, and with the same
2376 force, effect, authority, and liability as an original document. All signatures thereon shall be treated as
2377 original signatures. Any two-way electronic video and audio communication system used for an
2378 appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

2379 When the court service unit of any court receives a complaint alleging facts which may be sufficient
2380 to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may
2381 proceed informally to make such adjustment as is practicable without the filing of a petition or may
2382 authorize a petition to be filed by any complainant having sufficient knowledge of the matter to
2383 establish probable cause for the issuance of the petition.

2384 An intake officer may proceed informally on a complaint alleging a child is in need of services, in
2385 need of supervision, or delinquent only if the juvenile (i) (a) is not alleged to have committed a violent
2386 juvenile felony or (ii) (b) has not previously been proceeded against informally or adjudicated delinquent
2387 for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile
2388 committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is
2389 delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if
2390 the juvenile had previously been proceeded against informally by intake or had been adjudicated
2391 delinquent for an offense that would be a felony if committed by an adult.

2392 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and
2393 the attendance officer has provided documentation to the intake officer that the relevant school division
2394 has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the
2395 court. The intake officer may defer filing the complaint for 90 days and proceed informally by

2396 developing a truancy plan, provided that ~~(a)~~ (1) the juvenile has not previously been proceeded against
2397 informally or adjudicated in need of supervision on more than two occasions for failure to comply with
2398 compulsory school attendance as provided in § 22.1-254 and ~~(b)~~ (2) the immediately previous informal
2399 action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile
2400 and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for
2401 the development of a truancy plan. The truancy plan may include requirements that the juvenile and his
2402 parent or parents, guardian, or other person standing in loco parentis participate in such programs,
2403 cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the
2404 juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer
2405 may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan
2406 using an interagency interdisciplinary team approach. The team may include qualified personnel who are
2407 reasonably available from the appropriate department of social services, community services board, local
2408 school division, court service unit, and other appropriate and available public and private agencies and
2409 may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the
2410 90-day period the juvenile has not successfully completed the truancy plan or the truancy program, then
2411 the intake officer shall file the petition.

2412 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child
2413 is in need of services, in need of supervision, or delinquent, the intake officer shall ~~(1)~~ (A) develop a
2414 plan for the juvenile, which may include restitution and the performance of community service, based
2415 upon community resources and the circumstances which resulted in the complaint, ~~(2)~~ (B) create an
2416 official record of the action taken by the intake officer and file such record in the juvenile's case file,
2417 and ~~(3)~~ (C) advise the juvenile and the juvenile's parent, guardian, or other person standing in loco
2418 parentis and the complainant that any subsequent complaint alleging that the child is in need of
2419 supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the
2420 court pursuant to § 16.1-241 will result in the filing of a petition with the court.

2421 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,
2422 visitation, or support of a child is the subject of controversy or requires determination, (ii) a person has
2423 deserted, abandoned, or failed to provide support for any person in violation of law, (iii) a child or such
2424 child's parent, guardian, legal custodian, or other person standing in loco parentis is entitled to treatment,
2425 rehabilitation, or other services which are required by law, (iv) family abuse has occurred and a
2426 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
2427 violence, force, or threat has occurred, a protective order is being sought pursuant to § 19.2-152.8,
2428 19.2-152.9, or 19.2-152.10, and either the alleged victim or the respondent is a juvenile. If any such
2429 complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to
2430 be abused, neglected, in need of services, in need of supervision, or delinquent, if the intake officer
2431 believes that probable cause does not exist, or that the authorization of a petition will not be in the best
2432 interest of the family or juvenile or that the matter may be effectively dealt with by some agency other
2433 than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a
2434 person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written
2435 explanation of the conditions, procedures and time limits applicable to the issuance of protective orders
2436 pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective order pursuant
2437 to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written explanation of the
2438 conditions, procedures, and time limits applicable to the issuance of protective orders pursuant to §
2439 19.2-152.8, 19.2-152.9, or 19.2-152.10.

2440 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall
2441 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be
2442 in need of supervision have utilized or attempted to utilize treatment and services available in the
2443 community and have exhausted all appropriate nonjudicial remedies which are available to them. When
2444 the intake officer determines that the parties have not attempted to utilize available treatment or services
2445 or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the
2446 petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility,
2447 or individual to receive treatment or services, and a petition shall not be filed. Only after the intake
2448 officer determines that the parties have made a reasonable effort to utilize available community
2449 treatment or services may he permit the petition to be filed.

2450 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an
2451 adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in
2452 writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate
2453 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic
2454 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake
2455 officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate
2456 finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the
2457 juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake

2458 officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a
 2459 status offense, or a misdemeanor other than Class 1, his decision is final.

2460 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the
 2461 intake officer shall accept and file a petition founded upon the warrant.

2462 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition
 2463 which alleges facts of an offense which would be a felony if committed by an adult.

2464 G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.), the intake officer shall file a
 2465 report with the division superintendent of the school division in which any student who is the subject of
 2466 a petition alleging that such student who is a juvenile has committed an act, wherever committed, which
 2467 would be a crime if committed by an adult, or that such student who is an adult has committed a crime
 2468 and is alleged to be within the jurisdiction of the court. The report shall notify the division
 2469 superintendent of the filing of the petition and the nature of the offense, if the violation involves:

2470 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299
 2471 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;

2472 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

2473 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
 2474 Title 18.2;

2475 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

2476 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
 2477 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

2478 6. Manufacture, sale or distribution of marijuana pursuant to Article 4 (~~§ 18.2-247 et seq.~~) of Chapter
 2479 ~~7 of Title 18.2~~ 7 (§ 3.2-4164 et seq.) of Chapter 41.2 of Title 3.2;

2480 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

2481 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

2482 9. Robbery pursuant to § 18.2-58;

2483 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

2484 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;

2485 12. An act of violence by a mob pursuant to § 18.2-42.1;

2486 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or

2487 14. A threat pursuant to § 18.2-60.

2488 The failure to provide information regarding the school in which the student who is the subject of
 2489 the petition may be enrolled shall not be grounds for refusing to file a petition.

2490 The information provided to a division superintendent pursuant to this section may be disclosed only
 2491 as provided in § 16.1-305.2.

2492 H. The filing of a petition shall not be necessary:

2493 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and
 2494 other pedestrian offenses, game and fish laws, or a violation of the ordinance of any city regulating
 2495 surfing or any ordinance establishing curfew violations, animal control violations, or littering violations.
 2496 In such cases the court may proceed on a summons issued by the officer investigating the violation in
 2497 the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle
 2498 accident may, at the scene of the accident or at any other location where a juvenile who is involved in
 2499 such an accident may be located, proceed on a summons in lieu of filing a petition.

2500 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H
 2501 of § 16.1-241.

2502 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
 2503 commission of any other alcohol-related offense, *or a violation of § 3.2-4164 or 3.2-4165*, provided *that*
 2504 the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The
 2505 officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the
 2506 juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court
 2507 with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8,
 2508 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,
 2509 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both
 2510 blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the
 2511 provisions of these sections shall be followed except that the magistrate shall authorize execution of the
 2512 warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and
 2513 a copy of the summons shall be forwarded to the court in which the violation is to be tried. When a
 2514 violation of ~~§ 18.2-250.1~~ *3.2-4164 or 3.2-4165* is charged by summons, the juvenile shall be entitled to
 2515 have the charge referred to intake for consideration of informal proceedings pursuant to subsection B,
 2516 provided *that* such right is exercised by written notification to the clerk not later than 10 days prior to
 2517 trial. At the time such summons alleging a violation of ~~§ 18.2-250.1~~ *3.2-4164 or 3.2-4165* is served, the
 2518 officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake

2519 on a form approved by the Supreme Court and make return of such service to the court. If the officer
 2520 fails to make such service or return, the court shall dismiss the summons without prejudice.

2521 4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or
 2522 Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in
 2523 § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as
 2524 provided by law for adults provided that notice of the summons to appear is mailed by the investigating
 2525 officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

2526 I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of
 2527 the jurisdiction granted it in § 16.1-241.

2528 **§ 16.1-273. Court may require investigation of social history and preparation of victim impact**
 2529 **statement.**

2530 A. When a juvenile and domestic relations district court or circuit court has adjudicated any case
 2531 involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a
 2532 violation of the game and fish law, or a violation of any city ordinance regulating surfing or establishing
 2533 curfew violations, the court before final disposition thereof may require an investigation, which (i) shall
 2534 include a drug screening and (ii) may, and for the purposes of subdivision A 14 or A 17 of § 16.1-278.8
 2535 shall, include a social history of the physical, mental, and social conditions, including an assessment of
 2536 any affiliation with a criminal street gang as defined in § 18.2-46.1, and personality of the child and the
 2537 facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated
 2538 delinquent on the basis of an act committed on or after January 1, 2000, which would be a felony if
 2539 committed by an adult, ~~or a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et~~
 2540 ~~seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2~~
 2541 ~~misdemeanor if committed by an adult, or a violation of § 3.2-4164 or 3.2-4165, the court shall order~~
 2542 ~~the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a~~
 2543 ~~substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse~~
 2544 ~~counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally~~
 2545 ~~operated court services unit or by an individual employed by or currently under contract to such~~
 2546 ~~agencies and who is specifically trained to conduct such assessments under the supervision of such~~
 2547 ~~counselor.~~

2548 B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the
 2549 victim, or may in its discretion, require the preparation of a victim impact statement in accordance with
 2550 the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant
 2551 physical, psychological, or economic injury as a result of the violation of law.

2552 **§ 16.1-278.8:01. Juveniles found delinquent of first drug offense; screening; assessment; drug**
 2553 **tests; costs and fees; education or treatment programs.**

2554 Whenever any juvenile who has not previously been found delinquent of any offense under Article 1
 2555 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 *or Article 7 (§ 3.2-4164 et seq.) of Chapter 41.2 of Title*
 2556 *3.2* or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or
 2557 stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for a
 2558 violation of such an offense dismissed as provided in *this section or § 18.2-251*, is found delinquent of
 2559 any offense concerning the use, in any manner, of drugs, controlled substances, narcotics, marijuana,
 2560 noxious chemical substances and like substances, the juvenile court or the circuit court shall require such
 2561 juvenile to undergo a substance abuse screening pursuant to § 16.1-273 and to submit to such periodic
 2562 substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be
 2563 conducted by a court services unit of the Department of Juvenile Justice, or by a locally operated court
 2564 services unit or by personnel of any program or agency approved by the Department. The cost of such
 2565 testing ordered by the court shall be paid by the Commonwealth from funds appropriated to the
 2566 Department for this purpose. The court shall also order the juvenile to undergo such treatment or
 2567 education program for substance abuse, if available, as the court deems appropriate based upon
 2568 consideration of the substance abuse assessment. The treatment or education shall be provided by a
 2569 program licensed by the Department of Behavioral Health and Developmental Services or by a similar
 2570 program available through a facility or program operated by or under contract to the Department of
 2571 Juvenile Justice or a locally operated court services unit or a program funded through the Virginia
 2572 Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.).

2573 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug**
 2574 **offenses; truancy.**

2575 A. If a court has found facts which would justify a finding that a child at least 13 years of age at the
 2576 time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar
 2577 ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii)
 2578 a felony violation of § 3.2-4167, 3.2-4169, 3.2-4170, 3.2-4172, 18.2-248, ~~18.2-248.1~~ or 18.2-250; (iv)
 2579 a misdemeanor violation of § 3.2-4172, 18.2-248, ~~18.2-248.1~~, or 18.2-250 ~~or a violation of~~
 2580 ~~§ 18.2-250.1;~~ (v) the unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305

2581 or the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation
 2582 of § 4.1-309; (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city,
 2583 or town; (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined
 2584 below; or (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it
 2585 may impose as provided by law for the offense, that the child be denied a driver's license. In addition to
 2586 any other penalty authorized by this section, if the offense involves a violation designated under clause
 2587 (i) and the child was transporting a person 17 years of age or younger, the court shall impose the
 2588 additional fine and order community service as provided in § 18.2-270. If the offense involves a
 2589 violation designated under clause (i), (ii), (iii), or (viii), the denial of a driver's license shall be for a
 2590 period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such
 2591 offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a
 2592 second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v),
 2593 or (vi) the denial of driving privileges shall be for a period of six months unless the offense is
 2594 committed by a child under the age of 16 years and three months, in which case the child's ability to
 2595 apply for a driver's license shall be delayed for a period of six months following the date he reaches the
 2596 age of 16 and three months. If the offense involves a first violation designated under clause (v) or (vi),
 2597 the court shall impose the license sanction and may enter a judgment of guilt or, without entering a
 2598 judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes
 2599 of the case pursuant to subsection F of this section. If the offense involves a violation designated under
 2600 clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the delinquency
 2601 charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a violation
 2602 designated under clause (vii), the denial of driving privileges shall be for a period of not less than 30
 2603 days, except when the offense involves possession of a concealed handgun or a striker 12, commonly
 2604 called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension
 2605 drum magazine capable of holding 12 shotgun shells, in which case the denial of driving privileges shall
 2606 be for a period of two years unless the offense is committed by a child under the age of 16 years and
 2607 three months, in which event the child's ability to apply for a driver's license shall be delayed for a
 2608 period of two years following the date he reaches the age of 16 and three months.

2609 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance
 2610 and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's
 2611 driving privileges for a period of not less than 30 days. If such failure to comply involves a child under
 2612 the age of 16 years and three months, the child's ability to apply for a driver's license shall be delayed
 2613 for a period of not less than 30 days following the date he reaches the age of 16 and three months.

2614 If the court finds a second or subsequent such offense, it may order the denial of a driver's license
 2615 for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the
 2616 child's ability to apply for a driver's license for a period of one year following the date he reaches the
 2617 age of 16 and three months, as may be appropriate.

2618 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation
 2619 of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year
 2620 or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period
 2621 of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent
 2622 such offense.

2623 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding
 2624 as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be
 2625 held in the physical custody of the court during any period of license denial.

2626 C. The court shall report any order issued under this section to the Department of Motor Vehicles,
 2627 which shall preserve a record thereof. The report and the record shall include a statement as to whether
 2628 the child was represented by or waived counsel or whether the order was issued pursuant to subsection
 2629 A1 or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the
 2630 provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for
 2631 the Commonwealth and courts. No other record of the proceeding shall be forwarded to the Department
 2632 of Motor Vehicles unless the proceeding results in an adjudication of guilt pursuant to subsection F.

2633 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a
 2634 driver's license until such time as is stipulated in the court order or until notification by the court of
 2635 withdrawal of the order of denial under subsection E.

2636 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of
 2637 subsection A or a violation designated under subsection A2, the child may be referred to a certified
 2638 alcohol safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the
 2639 court may set forth. If the finding as to such child involves a violation designated under clause (iii),
 2640 (iv), (v), (vii) or (viii) of subsection A, such child may be referred to appropriate rehabilitative or
 2641 educational services upon such terms and conditions as the court may set forth.

2642 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a
2643 restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the
2644 offense or at the time of the court's finding as provided in subsection A1 or A2 for any of the purposes
2645 set forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted
2646 license shall be issued for travel to and from home and school when school-provided transportation is
2647 available and no restricted license shall be issued if the finding as to such child involves a violation
2648 designated under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of
2649 any offense designated in subsection A, a second finding by the court of failure to comply with school
2650 attendance and meeting requirements as provided in subsection A1, or a second or subsequent finding by
2651 the court of a refusal to take a blood test as provided in subsection A2. The issuance of the restricted
2652 permit shall be set forth within the court order, a copy of which shall be provided to the child, and shall
2653 specifically enumerate the restrictions imposed and contain such information regarding the child as is
2654 reasonably necessary to identify him. The child may operate a motor vehicle under the court order in
2655 accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions
2656 imposed pursuant to this section is guilty of a violation of § 46.2-301.

2657 E. Upon petition made at least 90 days after issuance of the order, the court may review and
2658 withdraw any order of denial of a driver's license if for a first such offense or finding as provided in
2659 subsection A1 or A2. For a second or subsequent such offense or finding, the order may not be
2660 reviewed and withdrawn until one year after its issuance.

2661 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection
2662 A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's
2663 license has been restored, the court shall or, in the event the violation resulted in the injury or death of
2664 any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of
2665 subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal
2666 under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be
2667 retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill
2668 such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves
2669 a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed
2670 pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or
2671 § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or (vii) of
2672 subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of
2673 under § 16.1-278.8.

2674 **§ 17.1-805. Adoption of initial discretionary sentencing guideline midpoints.**

2675 A. The Commission shall adopt an initial set of discretionary felony sentencing guidelines which
2676 shall become effective on January 1, 1995. The initial recommended sentencing range for each felony
2677 offense shall be determined first, by computing the actual time-served distribution for similarly situated
2678 offenders, in terms of their conviction offense and prior criminal history, released from incarceration
2679 during the base period of calendar years 1988 through 1992, increased by 13.4 percent, and second, by
2680 eliminating from this range the upper and lower quartiles. The midpoint of each initial recommended
2681 sentencing range shall be the median time served for the middle two quartiles and subject to the
2682 following additional enhancements:

2683 1. The midpoint of the initial recommended sentencing range for first degree murder, second degree
2684 murder, rape in violation of § 18.2-61, forcible sodomy, object sexual penetration, and aggravated sexual
2685 battery shall be further increased by (i) 125 percent in cases in which the defendant has no previous
2686 conviction of a violent felony offense; (ii) 300 percent in cases in which the defendant has previously
2687 been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years;
2688 or (iii) 500 percent in cases in which the defendant has previously been convicted of a violent felony
2689 offense punishable by a maximum punishment of 40 years or more, except that the recommended
2690 sentence for a defendant convicted of first degree murder who has previously been convicted of a
2691 violent felony offense punishable by a maximum term of imprisonment of 40 years or more shall be
2692 imprisonment for life;

2693 2. The midpoint of the initial recommended sentencing range for voluntary manslaughter, robbery,
2694 aggravated malicious wounding, malicious wounding, and any burglary of a dwelling house or statutory
2695 burglary of a dwelling house or any burglary committed while armed with a deadly weapon or any
2696 statutory burglary committed while armed with a deadly weapon shall be further increased by (i) 100
2697 percent in cases in which the defendant has no previous conviction of a violent felony offense, (ii) 300
2698 percent in cases in which the defendant has previously been convicted of a violent felony offense
2699 punishable by a maximum term of imprisonment of less than 40 years, or (iii) 500 percent in cases in
2700 which the defendant has previously been convicted of a violent felony offense punishable by a
2701 maximum term of imprisonment of 40 years or more;

2702 3. The midpoint of the initial recommended sentencing range for manufacturing, selling, giving, or
2703 distributing, or possessing with the intent to manufacture, sell, give, or distribute a Schedule I or II

2704 controlled substance, shall be increased by (i) 200 percent in cases in which the defendant has
 2705 previously been convicted of a violent felony offense punishable by a maximum punishment of less than
 2706 40 years or (ii) 400 percent in cases in which the defendant has previously been convicted of a violent
 2707 felony offense punishable by a maximum term of imprisonment of 40 years or more; and

2708 4. The midpoint of the initial recommended sentencing range for felony offenses not specified in
 2709 subdivision 1, 2, or 3 shall be increased by 100 percent in cases in which the defendant has previously
 2710 been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years
 2711 and by 300 percent in cases in which the defendant has previously been convicted of a violent felony
 2712 offense punishable by a maximum term of imprisonment of 40 years or more.

2713 B. For purposes of this chapter, previous convictions shall include prior adult convictions and
 2714 juvenile convictions and adjudications of delinquency based on an offense which would have been at the
 2715 time of conviction a felony if committed by an adult under the laws of any state, the District of
 2716 Columbia, or the United States or its territories.

2717 C. For purposes of this chapter, violent felony offenses shall include any felony violation of
 2718 § 16.1-253.2; solicitation to commit murder under § 18.2-29; any violation of § 18.2-31, 18.2-32,
 2719 18.2-32.1, 18.2-32.2, 18.2-33, or 18.2-35; any violation of subsection B of § 18.2-36.1; any violation of
 2720 § 18.2-40 or 18.2-41; any violation of clause (c) (i) or (ii) of subsection B of § 18.2-46.3; any violation
 2721 of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any Class 5 felony violation of § 18.2-47; any felony violation
 2722 of § 18.2-48, 18.2-48.1, or 18.2-49; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3,
 2723 18.2-51.4, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, or 18.2-55; any
 2724 violation of subsection B of § 18.2-57; any felony violation of § 18.2-57.2; any violation of § 18.2-58
 2725 or 18.2-58.1; any felony violation of § 18.2-60.1, 18.2-60.3, or 18.2-60.4; any violation of § 18.2-61,
 2726 18.2-64.1, 18.2-67.1, 18.2-67.2, former § 18.2-67.2:1, 18.2-67.3, 18.2-67.5, or 18.2-67.5:1 involving a
 2727 third conviction of either sexual battery in violation of § 18.2-67.4 or attempted sexual battery in
 2728 violation of subsection C of § 18.2-67.5; any Class 4 felony violation of § 18.2-63; any violation of
 2729 subsection A of § 18.2-67.4:1; any violation of subsection A of § 18.2-77; any Class 3 felony violation
 2730 of § 18.2-79; any Class 3 felony violation of § 18.2-80; any violation of § 18.2-85, 18.2-89, 18.2-90,
 2731 18.2-91, 18.2-92, or 18.2-93; any felony violation of § 18.2-152.7; any Class 4 felony violation of
 2732 § 18.2-153; any Class 4 felony violation of § 18.2-154; any Class 4 felony violation of § 18.2-155; any
 2733 felony violation of § 18.2-162; any violation of § 18.2-279 involving an occupied dwelling; any felony
 2734 violation of subsection A or B of § 18.2-280; any violation of § 18.2-281; any felony violation of
 2735 subsection A of § 18.2-282; any felony violation of § 18.2-282.1; any violation of § 18.2-286.1,
 2736 18.2-287.2, 18.2-289, or 18.2-290; any violation of subsection A of § 18.2-300; any felony violation of
 2737 subsection C of § 18.2-308.1 or § 18.2-308.2; any violation of § 18.2-308.2:1 or subsection M or N of
 2738 § 18.2-308.2:2; any violation of § 18.2-308.3 or 18.2-312; any felony violation of § 18.2-346, 18.2-348,
 2739 or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of former
 2740 § 18.2-358; any violation of subsection B of § 18.2-361; any violation of subsection B of § 18.2-366;
 2741 any violation of § 18.2-368, 18.2-370, or 18.2-370.1; any violation of subsection A of § 18.2-371.1; any
 2742 felony violation of § 18.2-369 resulting in serious bodily injury or disease; any violation of § 18.2-374.1;
 2743 any felony violation of § 18.2-374.1:1; any violation of § 18.2-374.3 or 18.2-374.4; any second or
 2744 subsequent offense under §§ 18.2-379 and 18.2-381; any felony violation of § 18.2-405 or 18.2-406; any
 2745 violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or
 2746 18.2-433.2; any felony violation of § 3.2-4176, 18.2-460, 18.2-474.1, or 18.2-477.1; any violation of
 2747 § 18.2-477, 18.2-478, 18.2-480, 18.2-481, or 18.2-485; any violation of § 37.2-917; any violation of
 2748 § 52-48; any violation of § 53.1-203; any conspiracy or attempt to commit any offense specified in this
 2749 subsection, or any substantially similar offense under the laws of any state, the District of Columbia, or
 2750 the United States or its territories.

2751 **§ 18.2-46.1. Definitions.**

2752 As used in this article unless the context requires otherwise or it is otherwise provided:

2753 "Act of violence" means those felony offenses described in subsection A of § 19.2-297.1.

2754 "Criminal street gang" means any ongoing organization, association, or group of three or more
 2755 persons, whether formal or informal, (i) which has as one of its primary objectives or activities the
 2756 commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or
 2757 symbol; and (iii) whose members individually or collectively have engaged in the commission of,
 2758 attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least
 2759 one of which is an act of violence, provided such acts were not part of a common act or transaction.

2760 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 3.2-4171, 3.2-4174,
 2761 3.2-4175, 3.2-4177, 18.2-31, 18.2-42, 18.2-46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6,
 2762 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-55, 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89,
 2763 18.2-90, 18.2-95, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147,
 2764 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289,

2765 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, 18.2-355, 18.2-356, 18.2-357, or
 2766 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346, 18.2-348, or 18.2-349; (iv) a felony
 2767 violation of § 3.2-4167, 3.2-4169, 3.2-4170, 3.2-4172, or 18.2-248 or of 18.2-248.1 or a conspiracy to
 2768 commit a felony violation of § 3.2-4167, 3.2-4169, 3.2-4170, 3.2-4172, or 18.2-248 or 18.2-248.1; (v)
 2769 any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar
 2770 offense under the laws of another state or territory of the United States, the District of Columbia, or the
 2771 United States.

2772 § 18.2-247. Use of terms "controlled substances," "Schedules I, II, III, IV, V and VI,"
 2773 "imitation controlled substance" and "counterfeit controlled substance" in Title 18.2.

2774 A. Wherever the terms "controlled substances" and "Schedules I, II, III, IV, V and VI" are used in
 2775 Title 18.2, such terms refer to those terms as they are used or defined in the Drug Control Act
 2776 (§ 54.1-3400 et seq.).

2777 B. The term "imitation controlled substance" when used in this article means (i) a counterfeit
 2778 controlled substance or (ii) a pill, capsule, tablet, or substance in any form whatsoever which is not a
 2779 controlled substance subject to abuse, and:

2780 1. Which by overall dosage unit appearance, including color, shape, size, marking and packaging or
 2781 by representations made, would cause the likelihood that such a pill, capsule, tablet, or substance in any
 2782 other form whatsoever will be mistaken for a controlled substance unless such substance was introduced
 2783 into commerce prior to the initial introduction into commerce of the controlled substance which it is
 2784 alleged to imitate; or

2785 2. Which by express or implied representations purports to act like a controlled substance as a
 2786 stimulant or depressant of the central nervous system and which is not commonly used or recognized for
 2787 use in that particular formulation for any purpose other than for such stimulant or depressant effect,
 2788 unless marketed, promoted, or sold as permitted by the United States Food and Drug Administration.

2789 C. In determining whether a pill, capsule, tablet, or substance in any other form whatsoever, is an
 2790 "imitation controlled substance," there shall be considered, in addition to all other relevant factors,
 2791 comparisons with accepted methods of marketing for legitimate nonprescription drugs for medicinal
 2792 purposes rather than for drug abuse or any similar nonmedicinal use, including consideration of the
 2793 packaging of the drug and its appearance in overall finished dosage form, promotional materials or
 2794 representations, oral or written, concerning the drug, and the methods of distribution of the drug and
 2795 where and how it is sold to the public.

2796 D. The term "marijuana" when used in this article means any part of a plant of the genus *Cannabis*,
 2797 whether growing or not, its seeds or resin; and every compound, manufacture, salt, derivative, mixture,
 2798 or preparation of such plant, its seeds, or its resin. Marijuana shall not include any oily extract
 2799 containing one or more cannabinoids unless such extract contains less than 12 percent of
 2800 tetrahydrocannabinol by weight, or the mature stalks of such plant, fiber produced from such stalk, oil
 2801 or cake made from the seed of such plant, unless such stalks, fiber, oil or cake is combined with other
 2802 parts of plants of the genus *Cannabis*. Marijuana shall not include (i) industrial hemp, as defined in
 2803 § 3.2-4112, that is possessed by a person registered pursuant to subsection A of § 3.2-4115 or his agent
 2804 or (ii) a hemp product, as defined in § 3.2-4112, containing a tetrahydrocannabinol concentration of no
 2805 greater than 0.3 percent that is derived from industrial hemp, as defined in § 3.2-4112, that is grown,
 2806 dealt, or processed in compliance with state or federal law.

2807 E. The term "counterfeit controlled substance" means a controlled substance that, without
 2808 authorization, bears, is packaged in a container or wrapper that bears, or is otherwise labeled to bear, the
 2809 trademark, trade name, or other identifying mark, imprint or device or any likeness thereof, of a drug
 2810 manufacturer, processor, packer, or distributor other than the manufacturer, processor, packer, or
 2811 distributor who did in fact so manufacture, process, pack or distribute such drug.

2812 § 18.2-248. Manufacturing, selling, giving, distributing, or possessing with intent to
 2813 manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance
 2814 prohibited; penalties.

2815 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it shall be unlawful for any
 2816 person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute
 2817 a controlled substance or an imitation controlled substance.

2818 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation
 2819 controlled substance, the court may consider, in addition to all other relevant evidence, whether any
 2820 distribution or attempted distribution of such pill, capsule, tablet or substance in any other form
 2821 whatsoever included an exchange of or a demand for money or other property as consideration, and, if
 2822 so, whether the amount of such consideration was substantially greater than the reasonable value of such
 2823 pill, capsule, tablet or substance in any other form whatsoever, considering the actual chemical
 2824 composition of such pill, capsule, tablet or substance in any other form whatsoever and, where
 2825 applicable, the price at which over-the-counter substances of like chemical composition sell.

2826 C. Except as provided in subsection C1, any person who violates this section with respect to a

2827 controlled substance classified in Schedule I or II shall upon conviction be imprisoned for not less than
 2828 five nor more than 40 years and fined not more than \$500,000. Upon a second conviction of such a
 2829 violation, and it is alleged in the warrant, indictment, or information that the person has been before
 2830 convicted of such an offense or of a substantially similar offense in any other jurisdiction, which offense
 2831 would be a felony if committed in the Commonwealth, and such prior conviction occurred before the
 2832 date of the offense alleged in the warrant, indictment, or information, any such person may, in the
 2833 discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life or for any
 2834 period not less than five years, three years of which shall be a mandatory minimum term of
 2835 imprisonment to be served consecutively with any other sentence, and he shall be fined not more than
 2836 \$500,000.

2837 When a person is convicted of a third or subsequent offense under this subsection and it is alleged in
 2838 the warrant, indictment or information that he has been before convicted of two or more such offenses
 2839 or of substantially similar offenses in any other jurisdiction which offenses would be felonies if
 2840 committed in the Commonwealth and such prior convictions occurred before the date of the offense
 2841 alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for a
 2842 period of not less than 10 years, 10 years of which shall be a mandatory minimum term of
 2843 imprisonment to be served consecutively with any other sentence, and he shall be fined not more than
 2844 \$500,000.

2845 Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture,
 2846 sell, give, or distribute the following is guilty of a felony punishable by a fine of not more than \$1
 2847 million and imprisonment for five years to life, five years of which shall be a mandatory minimum term
 2848 of imprisonment to be served consecutively with any other sentence:

- 2849 1. 100 grams or more of a mixture or substance containing a detectable amount of heroin;
- 2850 2. 500 grams or more of a mixture or substance containing a detectable amount of:
 - 2851 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 - 2852 derivatives of ecgonine or their salts have been removed;
 - 2853 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 2854 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - 2855 d. Any compound, mixture, or preparation that contains any quantity of any of the substances
 - 2856 referred to in subdivisions 2a through 2c;
- 2857 3. 250 grams or more of a mixture or substance described in subdivisions 2a through 2d that contain
- 2858 cocaine base; or
- 2859 4. 10 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 20 grams or
- 2860 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,
- 2861 or salts of its isomers.

2862 The mandatory minimum term of imprisonment to be imposed for a violation of this subsection shall
 2863 not be applicable if the court finds that:

- 2864 a. The person does not have a prior conviction for an offense listed in subsection C of § 17.1-805;
- 2865 b. The person did not use violence or credible threats of violence or possess a firearm or other
 2866 dangerous weapon in connection with the offense or induce another participant in the offense to do so;
- 2867 c. The offense did not result in death or serious bodily injury to any person;
- 2868 d. The person was not an organizer, leader, manager, or supervisor of others in the offense, and was
 2869 not engaged in a continuing criminal enterprise as defined in subsection I; and
- 2870 e. Not later than the time of the sentencing hearing, the person has truthfully provided to the
 2871 Commonwealth all information and evidence the person has concerning the offense or offenses that were
 2872 part of the same course of conduct or of a common scheme or plan, but the fact that the person has no
 2873 relevant or useful other information to provide or that the Commonwealth already is aware of the
 2874 information shall not preclude a determination by the court that the defendant has complied with this
 2875 requirement.

2876 C1. Any person who violates this section with respect to the manufacturing of methamphetamine, its
 2877 salts, isomers, or salts of its isomers or less than 200 grams of a mixture or substance containing a
 2878 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers shall, upon conviction,
 2879 be imprisoned for not less than 10 nor more than 40 years and fined not more than \$500,000. Upon a
 2880 second conviction of such a violation, any such person may, in the discretion of the court or jury
 2881 imposing the sentence, be sentenced to imprisonment for life or for any period not less than 10 years,
 2882 and be fined not more than \$500,000. When a person is convicted of a third or subsequent offense
 2883 under this subsection and it is alleged in the warrant, indictment, or information that he has been
 2884 previously convicted of two or more such offenses or of substantially similar offenses in any other
 2885 jurisdiction, which offenses would be felonies if committed in the Commonwealth and such prior
 2886 convictions occurred before the date of the offense alleged in the warrant, indictment, or information, he
 2887 shall be sentenced to imprisonment for life or for a period not less than 10 years, three years of which

2888 shall be a mandatory minimum term of imprisonment to be served consecutively with any other sentence
 2889 and he shall be fined not more than \$500,000.

2890 Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be
 2891 ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner
 2892 whose property is damaged, destroyed, or otherwise rendered unusable as a result of such
 2893 methamphetamine production. This restitution shall include the person's or his estate's estimated or actual
 2894 expenses associated with cleanup, removal, or repair of the affected property. If the property that is
 2895 damaged, destroyed, or otherwise rendered unusable as a result of such methamphetamine production is
 2896 property owned in whole or in part by the person convicted, the court shall order the person to pay to
 2897 the Methamphetamine Cleanup Fund authorized in § 18.2-248.04 the reasonable estimated or actual
 2898 expenses associated with cleanup, removal, or repair of the affected property or, if actual or estimated
 2899 expenses cannot be determined, the sum of \$10,000. The convicted person shall also pay the cost of
 2900 certifying that any building that is cleaned up or repaired pursuant to this section is safe for human
 2901 occupancy according to the guidelines established pursuant to § 32.1-11.7.

2902 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a
 2903 controlled substance classified in Schedule I or II only as an accommodation to another individual who
 2904 is not an inmate in a community correctional facility, local correctional facility or state correctional
 2905 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit
 2906 thereby from any consideration received or expected nor to induce the recipient or intended recipient of
 2907 the controlled substance to use or become addicted to or dependent upon such controlled substance, he
 2908 shall be is guilty of a Class 5 felony.

2909 E. If the violation of the provisions of this article consists of the filling by a pharmacist of the
 2910 prescription of a person authorized under this article to issue the same, which prescription has not been
 2911 received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact
 2912 received by the pharmacist within one week of the time of filling the same, or if such violation consists
 2913 of a request by such authorized person for the filling by a pharmacist of a prescription which has not
 2914 been received in writing by the pharmacist and such prescription is, in fact, written at the time of such
 2915 request and delivered to the pharmacist within one week thereof, either such offense shall constitute a
 2916 Class 4 misdemeanor.

2917 E1. Any person who violates this section with respect to a controlled substance classified in Schedule
 2918 III except for an anabolic steroid classified in Schedule III, constituting a violation of § 18.2-248.5, shall
 2919 be is guilty of a Class 5 felony.

2920 E2. Any person who violates this section with respect to a controlled substance classified in Schedule
 2921 IV shall be is guilty of a Class 6 felony.

2922 E3. Any person who proves that he gave, distributed or possessed with the intent to give or distribute
 2923 a controlled substance classified in Schedule III or IV, except for an anabolic steroid classified in
 2924 Schedule III, constituting a violation of § 18.2-248.5, only as an accommodation to another individual
 2925 who is not an inmate in a community correctional facility, local correctional facility or state correctional
 2926 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with the intent to profit
 2927 thereby from any consideration received or expected nor to induce the recipient or intended recipient of
 2928 the controlled substance to use or become addicted to or dependent upon such controlled substance, is
 2929 guilty of a Class 1 misdemeanor.

2930 F. Any person who violates this section with respect to a controlled substance classified in Schedule
 2931 V or Schedule VI or an imitation controlled substance which that imitates a controlled substance
 2932 classified in Schedule V or Schedule VI, shall be is guilty of a Class 1 misdemeanor.

2933 G. Any person who violates this section with respect to an imitation controlled substance which that
 2934 imitates a controlled substance classified in Schedule I, II, III, or IV shall be is guilty of a Class 6
 2935 felony. In any prosecution brought under this subsection, it is not a defense to a violation of this
 2936 subsection that the defendant believed the imitation controlled substance to actually be a controlled
 2937 substance.

2938 H. Any person who manufactures, sells, gives, distributes or possesses with the intent to manufacture,
 2939 sell, give or distribute the following:

2940 1. 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;

2941 2. 5.0 kilograms or more of a mixture or substance containing a detectable amount of:

2942 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 2943 derivatives of ecgonine or their salts have been removed;

2944 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

2945 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

2946 d. Any compound, mixture, or preparation which contains any quantity of any of the substances
 2947 referred to in subdivisions a through c;

2948 3. 2.5 kilograms or more of a mixture or substance described in subdivision 2 which contains
 2949 cocaine base; or

2950 4. ~~100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or~~
2951 5. 100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams or
2952 more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers,
2953 or salts of its isomers ~~shall be~~ *is* guilty of a felony punishable by a fine of not more than \$1 million and
2954 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence. Such
2955 mandatory minimum sentence shall not be applicable if the court finds that (i) the person does not have
2956 a prior conviction for an offense listed in subsection C of § 17.1-805; (ii) the person did not use
2957 violence or credible threats of violence or possess a firearm or other dangerous weapon in connection
2958 with the offense or induce another participant in the offense to do so; (iii) the offense did not result in
2959 death or serious bodily injury to any person; (iv) the person was not an organizer, leader, manager, or
2960 supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined
2961 in subsection I of this section; and (v) not later than the time of the sentencing hearing, the person has
2962 truthfully provided to the Commonwealth all information and evidence the person has concerning the
2963 offense or offenses that were part of the same course of conduct or of a common scheme or plan, but
2964 the fact that the person has no relevant or useful other information to provide or that the Commonwealth
2965 already is aware of the information shall not preclude a determination by the court that the defendant
2966 has complied with this requirement.

2967 H1. Any person who was the principal or one of several principal administrators, organizers or
2968 leaders of a continuing criminal enterprise ~~shall be~~ *is* guilty of a felony if (i) the enterprise received at
2969 least \$100,000 but less than \$250,000 in gross receipts during any 12-month period of its existence from
2970 the manufacture, importation, or distribution of heroin or cocaine or ecgonine or methamphetamine or
2971 the derivatives, salts, isomers, or salts of isomers thereof ~~or marijuana~~ or (ii) the person engaged in the
2972 enterprise to manufacture, sell, give, distribute or possess with the intent to manufacture, sell, give or
2973 distribute the following during any 12-month period of its existence:

2974 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a
2975 detectable amount of heroin;

2976 2. At least 5.0 kilograms but less than 10 kilograms of a mixture or substance containing a detectable
2977 amount of:

2978 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
2979 derivatives of ecgonine or their salts have been removed;

2980 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

2981 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

2982 d. Any compound, mixture, or preparation which contains any quantity of any of the substances
2983 referred to in subdivisions a through c;

2984 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in
2985 subdivision 2 which contains cocaine base; *or*

2986 4. ~~At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a~~
2987 ~~detectable amount of marijuana; or~~

2988 5. ~~At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its~~
2989 ~~isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a~~
2990 ~~detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.~~

2991 A conviction under this section shall be punishable by a fine of not more than \$1 million and
2992 imprisonment for 20 years to life, 20 years of which shall be a mandatory minimum sentence.

2993 H2. Any person who was the principal or one of several principal administrators, organizers or
2994 leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross
2995 receipts during any 12-month period of its existence from the manufacture, importation, or distribution
2996 of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or salts of
2997 isomers thereof ~~or marijuana~~ or (ii) the person engaged in the enterprise to manufacture, sell, give,
2998 distribute or possess with the intent to manufacture, sell, give or distribute the following during any
2999 12-month period of its existence:

3000 1. At least 5.0 kilograms of a mixture or substance containing a detectable amount of heroin;

3001 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

3002 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
3003 derivatives of ecgonine or their salts have been removed;

3004 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

3005 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

3006 d. Any compound, mixture, or preparation ~~which~~ *that* contains any quantity of any of the substances
3007 referred to in subdivisions a through c;

3008 3. At least 5.0 kilograms of a mixture or substance described in subdivision 2 which contains cocaine
3009 base; *or*

3010 4. ~~At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or~~

3011 5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0
 3012 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts,
 3013 isomers, or salts of its isomers shall be is guilty of a felony punishable by a fine of not more than \$1
 3014 million and imprisonment for life, which shall be served with no suspension in whole or in part. Such
 3015 punishment shall be made to run consecutively with any other sentence. However, the court may impose
 3016 a mandatory minimum sentence of 40 years if the court finds that the defendant substantially cooperated
 3017 with law-enforcement authorities.

3018 I. For purposes of this section, a person is engaged in a continuing criminal enterprise if (i) he
 3019 violates any provision of this section, the punishment for which is a felony and either (ii) such violation
 3020 is a part of a continuing series of violations of this section which are undertaken by such person in
 3021 concert with five or more other persons with respect to whom such person occupies a position of
 3022 organizer, a supervisory position, or any other position of management, and from which such person
 3023 obtains substantial income or resources or (iii) such violation is committed, with respect to
 3024 methamphetamine or other controlled substance classified in Schedule I or II, for the benefit of, at the
 3025 direction of, or in association with any criminal street gang as defined in § 18.2-46.1.

3026 J. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), any person who possesses any
 3027 two or more different substances listed below with the intent to manufacture methamphetamine,
 3028 methcathinone, or amphetamine is guilty of a Class 6 felony: ~~liquified~~ liquefied ammonia gas,
 3029 ammonium nitrate, ether, hypophosphorus acid solutions, hypophosphite salts, hydrochloric acid, iodine
 3030 crystals or tincture of iodine, phenylacetone, phenylacetic acid, red phosphorus, methylamine, methyl
 3031 formamide, lithium, sodium metal, sulfuric acid, sodium hydroxide, potassium dichromate, sodium
 3032 dichromate, potassium permanganate, chromium trioxide, methylbenzene, methamphetamine precursor
 3033 drugs, trichloroethane, or 2-propanone.

3034 K. The term "methamphetamine precursor drug," when used in this article, means a drug or product
 3035 containing ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or
 3036 salts of optical isomers.

3037 **§ 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.**

3038 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it is unlawful for any person to
 3039 transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of
 3040 cocaine, coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II
 3041 of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance ~~or five~~
 3042 ~~or more pounds of marijuana~~. A violation of this section shall constitute a separate and distinct felony.
 3043 Upon conviction, the person shall be sentenced to not less than five years nor more than 40 years
 3044 imprisonment, three years of which shall be a mandatory minimum term of imprisonment, and a fine not
 3045 to exceed ~~\$1,000,000~~ \$1 million. A second or subsequent conviction hereunder shall be punishable by a
 3046 mandatory minimum term of imprisonment of 10 years, which shall be served consecutively with any
 3047 other sentence.

3048 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions;**
 3049 **substance abuse screening, assessment treatment and education programs or services; drug tests;**
 3050 **costs and fees; violations; discharge.**

3051 Whenever any person who has not previously been convicted of any offense under this article or
 3052 under any statute of the United States or of any state relating to narcotic ~~drugs, marijuana, or~~ stimulant,
 3053 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of
 3054 such an offense dismissed as provided in this section, pleads guilty to or enters a plea of not guilty to
 3055 possession of a controlled substance under § 18.2-250 ~~or to possession of marijuana under § 18.2-250.1,~~
 3056 the court, upon such plea if the facts found by the court would justify a finding of guilt, without
 3057 entering a judgment of guilt and with the consent of the accused, may defer further proceedings and
 3058 place him on probation upon terms and conditions. If the court defers further proceedings, at that time
 3059 the court shall determine whether the clerk of court has been provided with the fingerprint identification
 3060 information or fingerprints of the person, taken by a law-enforcement officer pursuant to § 19.2-390,
 3061 and, if not, shall order that the fingerprints and photograph of the person be taken by a law-enforcement
 3062 officer.

3063 As a term or condition, the court shall require the accused to undergo a substance abuse assessment
 3064 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment ~~and/or~~ or an education
 3065 program or services, *or any combination thereof*, if available, such as, in the opinion of the court, may
 3066 be best suited to the needs of the accused based upon consideration of the substance abuse assessment.
 3067 The program or services may be located in the judicial district in which the charge is brought or in any
 3068 other judicial district as the court may provide. The services shall be provided by (i) a program licensed
 3069 by the Department of Behavioral Health and Developmental Services, *or* by a similar program ~~which~~
 3070 *that* is made available through the Department of Corrections, (ii) a local community-based probation
 3071 services agency established pursuant to § 9.1-174, or (iii) an ASAP program certified by the
 3072 Commission on VASAP.

3073 The court shall require the person entering such program under the provisions of this section to pay
 3074 all or part of the costs of the program, including the costs of the screening, assessment, testing, and
 3075 treatment, based upon the accused's ability to pay, unless the person is determined by the court to be
 3076 indigent.

3077 As a condition of probation, the court shall require the accused (a) to successfully complete treatment
 3078 or an education program or services, (b) to remain drug and alcohol free during the period of probation
 3079 and submit to such tests during that period as may be necessary and appropriate to determine if the
 3080 accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment, and
 3081 (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours of
 3082 community service for a misdemeanor. ~~In addition to any community service required by the court~~
 3083 ~~pursuant to clause (d), if the court does not suspend or revoke the accused's license as a term or~~
 3084 ~~condition of probation for a violation of § 18.2-250.1, the court shall require the accused to comply~~
 3085 ~~with a plan of 50 hours of community service.~~ Such testing shall be conducted by personnel of the
 3086 supervising probation agency or personnel of any program or agency approved by the supervising
 3087 probation agency.

3088 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
 3089 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of
 3090 court has been provided with the fingerprint identification information or fingerprints of such person, the
 3091 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under
 3092 this section shall be without adjudication of guilt and is a conviction only for the purposes of applying
 3093 this section in subsequent proceedings.

3094 Notwithstanding any other provision of this section, whenever a court places an individual on
 3095 probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction
 3096 for purposes of §§ 18.2-259.1, 22.1-315, and 46.2-390.1, and the driver's license forfeiture provisions of
 3097 those sections shall be imposed. ~~However, if the court places an individual on probation upon terms and~~
 3098 ~~conditions for a violation of § 18.2-250.1, such action shall not be treated as a conviction for purposes~~
 3099 ~~of § 18.2-259.1 or 46.2-390.1, provided that a court (1) may suspend or revoke an individual's driver's~~
 3100 ~~license as a term or condition of probation and (2) shall suspend or revoke an individual's driver's~~
 3101 ~~license as a term or condition of probation for a period of six months if the violation of § 18.2-250.1~~
 3102 ~~was committed while such person was in operation of a motor vehicle.~~ The provisions of this paragraph
 3103 shall not be applicable to any offense for which a juvenile has had his license suspended or denied
 3104 pursuant to § 16.1-278.9 for the same offense.

3105 **§ 18.2-251.03. Safe reporting of overdoses.**

3106 A. For purposes of this section, "overdose" means a life-threatening condition resulting from the
 3107 consumption or use of a controlled substance, alcohol, or any combination of such substances.

3108 B. It shall be an affirmative defense to prosecution of an individual for the unlawful purchase,
 3109 possession, or consumption of alcohol pursuant to § 4.1-305, possession of a controlled substance
 3110 pursuant to § 18.2-250, ~~possession of marijuana pursuant to § 18.2-250.1,~~ intoxication in public
 3111 pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:

3112 1. Such individual, in good faith, seeks or obtains emergency medical attention for himself, if he is
 3113 experiencing an overdose, or for another individual, if such other individual is experiencing an overdose,
 3114 by contemporaneously reporting such overdose to a firefighter, as defined in § 65.2-102, emergency
 3115 medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as defined in
 3116 § 9.1-101, or an emergency 911 system;

3117 2. Such individual remains at the scene of the overdose or at any alternative location to which he or
 3118 the person requiring emergency medical attention has been transported until a law-enforcement officer
 3119 responds to the report of an overdose. If no law-enforcement officer is present at the scene of the
 3120 overdose or at the alternative location, then such individual shall cooperate with law enforcement as
 3121 otherwise set forth herein;

3122 3. Such individual identifies himself to the law-enforcement officer who responds to the report of the
 3123 overdose; and

3124 4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a
 3125 result of the individual seeking or obtaining emergency medical attention.

3126 C. No individual may assert the affirmative defense provided for in this section if the person sought
 3127 or obtained emergency medical attention for himself or another individual during the execution of a
 3128 search warrant or during the conduct of a lawful search or a lawful arrest.

3129 D. This section does not establish an affirmative defense for any individual or offense other than
 3130 those listed in subsection B.

3131 **§ 18.2-251.1:1. Possession or distribution of cannabidiol oil or THC-A oil; public schools.**

3132 No school nurse employed by a local school board, person employed by a local health department
 3133 who is assigned to the public school pursuant to an agreement between the local health department and

3134 the school board, or other person employed by or contracted with a local school board to deliver
3135 health-related services shall be prosecuted under § 3.2-4164, 3.2-4165, 3.2-4167, 3.2-4169, 3.2-4170,
3136 3.2-4171, 3.2-4172, 18.2-248, ~~18.2-248.1~~, 18.2-250, ~~18.2-250.1~~, or 18.2-255 for the possession or
3137 distribution of cannabidiol oil or THC-A oil for storing, dispensing, or administering cannabidiol oil or
3138 THC-A oil, in accordance with a policy adopted by the local school board, to a student who has been
3139 issued a valid written certification for the use of cannabidiol oil or THC-A oil in accordance with
3140 subsection B of § 54.1-3408.3.

3141 **§ 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing,**
3142 **and treatment or education.**

3143 The trial judge or court trying the case of any person found guilty of violating any law concerning
3144 the use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical
3145 substances, and like substances; shall condition any suspended sentence by first requiring such person to
3146 agree to undergo a substance abuse screening pursuant to § 18.2-251.01 and to submit to such periodic
3147 substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be
3148 conducted by the supervising probation agency or by personnel of any program or agency approved by
3149 the supervising probation agency. The cost of such testing ordered by the court shall be paid by the
3150 Commonwealth and taxed as a part of the costs of such criminal proceedings. The judge or court shall
3151 order the person, as a condition of any suspended sentence, to undergo such treatment or education for
3152 substance abuse, if available, as the judge or court deems appropriate based upon consideration of the
3153 substance abuse assessment. The treatment or education shall be provided by a program or agency
3154 licensed by the Department of Behavioral Health and Developmental Services, by a similar program or
3155 services available through the Department of Corrections if the court imposes a sentence of one year or
3156 more or, if the court imposes a sentence of 12 months or less, by a similar program or services available
3157 through a local or regional jail, a local community-based probation services agency established pursuant
3158 to § 9.1-174, or an ASAP program certified by the Commission on VASAP.

3159 **§ 18.2-254. Commitment of convicted person for treatment for substance abuse.**

3160 A. Whenever any person who has not previously been convicted of any offense under this article or
3161 under any statute of the United States or of any state relating to narcotic ~~drugs~~, ~~marijuana~~, stimulant,
3162 depressant, or hallucinogenic drugs or has not previously had a proceeding against him for violation of
3163 such an offense dismissed as provided in § 18.2-251 is found guilty of violating any law concerning the
3164 use, in any manner, of drugs, controlled substances, narcotics, ~~marijuana~~, noxious chemical substances,
3165 and like substances, the judge or court shall require such person to undergo a substance abuse screening
3166 pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol
3167 testing, as may be directed by the court. The cost of such testing ordered by the court shall be paid by
3168 the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or court shall
3169 also order the person to undergo such treatment or education for substance abuse, if available, as the
3170 judge or court deems appropriate based upon consideration of the substance abuse assessment. The
3171 treatment or education shall be provided by a program or agency licensed by the Department of
3172 Behavioral Health and Developmental Services or by a similar program or services available through the
3173 Department of Corrections if the court imposes a sentence of one year or more or, if the court imposes
3174 a sentence of 12 months or less, by a similar program or services available through a local or regional
3175 jail, a local community-based probation services agency established pursuant to § 9.1-174, or an ASAP
3176 program certified by the Commission on VASAP.

3177 B. The court trying the case of any person alleged to have committed any offense designated by this
3178 article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the
3179 commission of the offense was motivated by or closely related to the use of drugs and determined by
3180 the court, pursuant to a substance abuse screening and assessment, to be in need of treatment for the use
3181 of drugs may commit, based upon a consideration of the substance abuse assessment, such person, upon
3182 his conviction, to any facility for the treatment of persons with substance abuse, licensed by the
3183 Department of Behavioral Health and Developmental Services, if space is available in such facility, for a
3184 period of time not in excess of the maximum term of imprisonment specified as the penalty for
3185 conviction of such offense or, if sentence was determined by a jury, not in excess of the term of
3186 imprisonment as set by such jury. Confinement under such commitment shall be, in all regards, treated
3187 as confinement in a penal institution and the person so committed may be convicted of escape if he
3188 leaves the place of commitment without authority. A charge of escape may be prosecuted in either the
3189 jurisdiction where the treatment facility is located or the jurisdiction where the person was sentenced to
3190 commitment. The court may revoke such commitment at any time and transfer the person to an
3191 appropriate state or local correctional facility. Upon presentation of a certified statement from the
3192 director of the treatment facility to the effect that the confined person has successfully responded to
3193 treatment, the court may release such confined person prior to the termination of the period of time for
3194 which such person was confined and may suspend the remainder of the term upon such conditions as
3195 the court may prescribe.

3196 C. The court trying a case in which commission of the offense was related to the defendant's habitual
 3197 abuse of alcohol and in which the court determines, pursuant to a substance abuse screening and
 3198 assessment, that such defendant is in need of treatment, may commit, based upon a consideration of the
 3199 substance abuse assessment, such person, upon his conviction, to any facility for the treatment of
 3200 persons with substance abuse licensed by the Department of Behavioral Health and Developmental
 3201 Services, if space is available in such facility, for a period of time not in excess of the maximum term
 3202 of imprisonment specified as the penalty for conviction. Confinement under such commitment shall be,
 3203 in all regards, treated as confinement in a penal institution and the person so committed may be
 3204 convicted of escape if he leaves the place of commitment without authority. The court may revoke such
 3205 commitment at any time and transfer the person to an appropriate state or local correctional facility.
 3206 Upon presentation of a certified statement from the director of the treatment facility to the effect that the
 3207 confined person has successfully responded to treatment, the court may release such confined person
 3208 prior to the termination of the period of time for which such person was confined and may suspend the
 3209 remainder of the term upon such conditions as the court may prescribe.

3210 **§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.**

3211 A. Except as authorized in the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1, it
 3212 shall be ~~is~~ unlawful for any person who is at least 18 years of age to knowingly or intentionally (i)
 3213 distribute any drug classified in Schedule I, II, III, or IV ~~or marijuana~~ to any person under 18 years of
 3214 age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such
 3215 distribution of any drug classified in Schedule I, II, III, or IV ~~or marijuana~~. Any person violating this
 3216 provision shall upon conviction be imprisoned in a state correctional facility for a period not less than
 3217 10 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a
 3218 conviction under this section involving a Schedule I or II controlled substance ~~or one ounce or more of~~
 3219 ~~marijuana~~ shall be a mandatory minimum sentence. ~~Two years of the sentence imposed for a conviction~~
 3220 ~~under this section involving less than one ounce of marijuana shall be a mandatory minimum sentence.~~

3221 B. It shall be ~~is~~ unlawful for any person who is at least 18 years of age to knowingly or intentionally
 3222 (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three
 3223 years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any
 3224 imitation controlled substance. Any person violating this provision shall be ~~is~~ guilty of a Class 6 felony.

3225 **§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use in**
 3226 **administering controlled substances to minors; penalty.**

3227 It shall be ~~is~~ a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale
 3228 to a minor any book, pamphlet, periodical, or other printed matter ~~which~~ *that* he knows advertises for
 3229 sale any instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking,
 3230 administering, preparing, or growing ~~marijuana~~ ~~or~~ a controlled substance.

3231 **§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties;**
 3232 **penalty.**

3233 A. It shall be ~~is~~ unlawful for any person to manufacture, sell or distribute or possess with intent to
 3234 sell, give, or distribute any controlled substance; ~~or~~ imitation controlled substance; ~~or~~ ~~marijuana~~ while:

3235 1. Upon the property, including buildings and grounds, of any public or private elementary or
 3236 secondary school, any institution of higher education, or any clearly marked licensed child day center as
 3237 defined in § 63.2-100;

3238 2. Upon public property or any property open to public use within 1,000 feet of the property
 3239 described in subdivision 1;

3240 3. On any school bus as defined in § 46.2-100;

3241 4. Upon a designated school bus stop, or upon either public property or any property open to public
 3242 use which is within 1,000 feet of such school bus stop, during the time when school children are
 3243 waiting to be picked up and transported to or are being dropped off from school or a school-sponsored
 3244 activity;

3245 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated
 3246 recreation or community center facility or any public library; or

3247 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or
 3248 property open to public use within 1,000 feet of such an institution. It is a violation of the provisions of
 3249 this section if the person possessed the controlled substance; ~~or~~ imitation controlled substance; ~~or~~
 3250 ~~marijuana~~ on the property described in subdivisions 1 through 6, regardless of where the person intended
 3251 to sell, give, or distribute the controlled substance; ~~or~~ imitation controlled substance; ~~or~~ ~~marijuana~~.
 3252 Nothing in this section shall prohibit the authorized distribution of controlled substances.

3253 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the
 3254 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor
 3255 more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder
 3256 for an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control

3257 Act (§ 54.1-3400 et seq.) ~~or more than one-half ounce of marijuana~~ shall be punished by a mandatory
 3258 minimum term of imprisonment of one year to be served consecutively with any other sentence.
 3259 However, if such person proves that he sold such controlled substance ~~or marijuana~~ only as an
 3260 accommodation to another individual and not with intent to profit thereby from any consideration
 3261 received or expected nor to induce the recipient or intended recipient of the controlled substance ~~or~~
 3262 ~~marijuana~~ to use or become addicted to or dependent upon such controlled substance ~~or marijuana~~, he is
 3263 guilty of a Class 1 misdemeanor.

3264 C. If a person commits an act violating the provisions of this section, and the same act also violates
 3265 another provision of law that provides for penalties greater than those provided for by this section, then
 3266 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of
 3267 law or the imposition of any penalties provided for thereby.

3268 **§ 18.2-258. Certain premises deemed common nuisance; penalty.**

3269 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,
 3270 dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the
 3271 knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or
 3272 tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances ~~or~~
 3273 ~~marijuana~~, as defined in § 54.1-3401, or for the purpose of illegally obtaining possession of,
 3274 manufacturing, or distributing controlled substances ~~or marijuana~~, or is used for the illegal possession,
 3275 manufacture, or distribution of controlled substances ~~or marijuana~~ shall be deemed a common nuisance.
 3276 Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant
 3277 who knowingly permits, establishes, keeps or maintains such a common nuisance is guilty of a Class 1
 3278 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

3279 **§ 18.2-258.02. Maintaining a fortified drug house; penalty.**

3280 Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse,
 3281 dwelling house, apartment, or building or structure of any kind ~~which that~~ is (i) substantially altered
 3282 from its original status by means of reinforcement with the intent to impede, deter, or delay lawful entry
 3283 by a law-enforcement officer into such structure; (ii) being used for the purpose of manufacturing or
 3284 distributing controlled substances ~~or marijuana~~; and (iii) the object of a valid search warrant; shall be
 3285 considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty
 3286 of a Class 5 felony.

3287 **§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud,**
 3288 **deceit, or forgery.**

3289 A. It ~~shall be~~ *is* unlawful for any person to obtain or attempt to obtain any drug or procure or
 3290 attempt to procure the administration of any controlled substance ~~or marijuana~~: (i) by fraud, deceit,
 3291 misrepresentation, embezzlement, or subterfuge; (ii) by the forgery or alteration of a prescription or of
 3292 any written order; (iii) by the concealment of a material fact; or (iv) by the use of a false name or the
 3293 giving of a false address.

3294 B. It ~~shall be~~ *is* unlawful for any person to furnish false or fraudulent information in or omit any
 3295 information from, or willfully make a false statement in, any prescription, order, report, record, or other
 3296 document required by ~~Chapter 34 the Drug Control Act~~ (§ 54.1-3400 et seq.) of Title 54.1.

3297 C. It ~~shall be~~ *is* unlawful for any person to use in the course of the manufacture or distribution of a
 3298 controlled substance ~~or marijuana~~ a license number ~~which that~~ is fictitious, revoked, suspended, or
 3299 issued to another person.

3300 D. It ~~shall be~~ *is* unlawful for any person, for the purpose of obtaining any controlled substance ~~or~~
 3301 ~~marijuana~~ to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler,
 3302 pharmacist, physician, dentist, veterinarian, or other authorized person.

3303 E. It ~~shall be~~ *is* unlawful for any person to make or utter any false or forged prescription or false or
 3304 forged written order.

3305 F. It ~~shall be~~ *is* unlawful for any person to affix any false or forged label to a package or receptacle
 3306 containing any controlled substance.

3307 G. This section shall not apply to officers and employees of the United States, of this
 3308 Commonwealth, or of a political subdivision of this Commonwealth acting in the course of their
 3309 employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or
 3310 duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for
 3311 investigative, research or analytical purposes and who are acting in the course of their employment;
 3312 provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and
 3313 Cosmetic Act; and provided, further, that such pharmaceutical manufacturer, its agents and duly
 3314 authorized representatives file with the Board such information as the Board may deem appropriate.

3315 H. Except as otherwise provided in this subsection, any person who ~~shall violate~~ *violates* any
 3316 provision herein ~~shall be~~ *is* guilty of a Class 6 felony.

3317 Whenever any person who has not previously been convicted of any offense under this article or
 3318 under any statute of the United States or of any state relating to narcotic ~~drugs, marijuana, or~~ stimulant,

3319 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of
3320 such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not
3321 guilty to the court for violating this section, upon such plea if the facts found by the court would justify
3322 a finding of guilt, the court may place him on probation upon terms and conditions.

3323 As a term or condition, the court shall require the accused to be evaluated and enter a treatment
3324 ~~and/or~~ *or an education program, or any combination thereof*, if available, such as, in the opinion of the
3325 court, may be best suited to the needs of the accused. This program may be located in the judicial
3326 circuit in which the charge is brought or in any other judicial circuit as the court may provide. The
3327 services shall be provided by a program certified or licensed by the Department of Behavioral Health
3328 and Developmental Services. The court shall require the person entering such program under the
3329 provisions of this section to pay all or part of the costs of the program, including the costs of the
3330 screening, evaluation, testing, and education, based upon the person's ability to pay, unless the person is
3331 determined by the court to be indigent.

3332 As a condition of supervised probation, the court shall require the accused to remain drug free during
3333 the period of probation and submit to such tests during that period as may be necessary and appropriate
3334 to determine if the accused is drug free. Such testing may be conducted by the personnel of any
3335 screening, evaluation, and education program to which the person is referred or by the supervising
3336 agency.

3337 Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report
3338 to the original arresting law-enforcement agency to submit to fingerprinting.

3339 Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony
3340 and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court
3341 shall find the defendant guilty of a Class 1 misdemeanor.

3342 **§ 18.2-259.1. Forfeiture of driver's license for violations of article.**

3343 A. In addition to any other sanction or penalty imposed for a violation of this article, the (i)
3344 judgment of conviction under this article or (ii) placement on probation following deferral of further
3345 proceedings under § 18.2-251, ~~except if the proceeding was for possession of marijuana pursuant to~~
3346 ~~§ 18.2-250.1, or subsection H of § 18.2-258.1~~ for any such offense shall of itself operate to deprive the
3347 person so convicted or placed on probation after deferral of proceedings under § 18.2-251 or subsection
3348 H of § 18.2-258.1 of the privilege to drive or operate a motor vehicle, engine, or train in the
3349 Commonwealth for a period of six months from the date of such judgment or placement on probation.
3350 Such license forfeiture shall be in addition to and shall run consecutively with any other license
3351 suspension, revocation, or forfeiture in effect or imposed upon the person so convicted or placed on
3352 probation. However, a juvenile who has had his license suspended or denied pursuant to § 16.1-278.9
3353 shall not have his license forfeited pursuant to this section for the same offense.

3354 B. The court trying the case shall order any person so convicted or placed on probation to surrender
3355 his driver's license to be disposed of in accordance with the provisions of § 46.2-398 and shall notify the
3356 Department of Motor Vehicles of any such conviction entered and of the license forfeiture to be
3357 imposed.

3358 C. In those cases where the court determines there are compelling circumstances warranting an
3359 exception, the court may provide that any individual be issued a restricted license to operate a motor
3360 vehicle for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license issued
3361 pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in
3362 the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall order the surrender
3363 of such person's license in accordance with the provisions of subsection B and shall forward to the
3364 Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this
3365 subsection. This order shall specifically enumerate the restrictions imposed and contain such information
3366 regarding the person to whom such a permit is issued as is reasonably necessary to identify such person.
3367 The court shall also provide a copy of its order to such person who may operate a motor vehicle on the
3368 order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license,
3369 but only if the order provides for a restricted license for that period. A copy of the order and, after
3370 receipt thereof, the restricted license shall be carried at all times by such person while operating a motor
3371 vehicle. The court may require a person issued a restricted permit under the provisions of this subsection
3372 to be monitored by an alcohol safety action program during the period of license suspension. Any
3373 violation of the terms of the restricted license or of any condition set forth by the court related thereto,
3374 or any failure to remain drug-free during such period shall be reported forthwith to the court by such
3375 program. Any person who operates a motor vehicle in violation of any restriction imposed pursuant to
3376 this section shall be guilty of a violation of § 46.2-301.

3377 D. Any person who has been convicted under the laws of another state or the United States of a
3378 violation substantially similar to a violation of this article and whose privilege to operate a motor
3379 vehicle in the Commonwealth is subject to revocation under the provisions of § 46.2-390.1 may petition

3380 the general district court of the county or city in which he resides for restricted driving privileges.
 3381 Subject to the limitations provided in subsection C, if the court determines that there are compelling
 3382 circumstances warranting an exception, the court may provide that any such person be issued a restricted
 3383 license to operate a motor vehicle for any of the purposes set forth in subsection E of § 18.2-271.1.

3384 **§ 18.2-265.1. Definition.**

3385 As used in this article, the term "drug paraphernalia" means all equipment, products, and materials of
 3386 any kind ~~which that~~ are either designed for use or ~~which that~~ are intended by the person charged with
 3387 violating § 18.2-265.3 for use in planting, propagating, cultivating, growing, harvesting, manufacturing,
 3388 compounding, converting, producing, processing, preparing, strength testing, analyzing, packaging,
 3389 repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into
 3390 the human body ~~marijuana~~ or a controlled substance. It includes; but is not limited to:

3391 1. Kits intended for use or designed for use in planting, propagating, cultivating, growing, or
 3392 harvesting of ~~marijuana~~ or any species of plant ~~which that~~ is a controlled substance or from which a
 3393 controlled substance can be derived;

3394 2. Kits intended for use or designed for use in manufacturing, compounding, converting, producing,
 3395 processing, or preparing ~~marijuana~~ or controlled substances;

3396 3. Isomerization devices intended for use or designed for use in increasing the potency of ~~marijuana~~
 3397 or any species of plant ~~which that~~ is a controlled substance;

3398 4. Testing equipment intended for use or designed for use in identifying or in analyzing the strength
 3399 or effectiveness of ~~marijuana~~ or controlled substances, other than narcotic testing products used to
 3400 determine whether a controlled substance contains fentanyl or a fentanyl analog;

3401 5. Scales and balances intended for use or designed for use in weighing or measuring ~~marijuana~~ or
 3402 controlled substances;

3403 6. Diluents and adulterants, such as quinine hydrochloride, mannitol, or mannite, intended for use or
 3404 designed for use in cutting controlled substances;

3405 7. ~~Separation gins and sifters intended for use or designed for use in removing twigs and seeds from,~~
 3406 ~~or in otherwise cleaning or refining, marijuana;~~

3407 8. Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in
 3408 compounding controlled substances;

3409 9. 8. Capsules, balloons, envelopes, and other containers intended for use or designed for use in
 3410 packaging small quantities of ~~marijuana~~ or controlled substances;

3411 ~~10.~~ 9. Containers and other objects intended for use or designed for use in storing or concealing
 3412 ~~marijuana~~ or controlled substances;

3413 ~~11.~~ 10. Hypodermic syringes, needles, and other objects intended for use or designed for use in
 3414 parenterally injecting controlled substances into the human body;

3415 ~~12.~~ 11. Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing
 3416 ~~marijuana~~, cocaine, hashish, or hashish oil into the human body, such as:

3417 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent
 3418 screens, hashish heads, or punctured metal bowls;

3419 b. Water pipes;

3420 c. Carburetion tubes and devices;

3421 d. Smoking and carburetion masks;

3422 e. Roach clips, meaning objects used to hold burning material, ~~such as a marijuana cigarette~~, that has
 3423 become too small or too short to be held in the hand;

3424 f. Miniature cocaine spoons, and cocaine vials;

3425 g. Chamber pipes;

3426 h. Carburetor pipes;

3427 i. Electric pipes;

3428 j. Air-driven pipes;

3429 k. Chillums;

3430 l. Bongs;

3431 m. Ice pipes or chillers.

3432 **§ 18.2-265.2. Evidence to be considered in cases under this article.**

3433 In determining whether an object is drug paraphernalia, the court may consider, in addition to all
 3434 other relevant evidence, the following:

3435 1. Constitutionally admissible statements by the accused concerning the use of the object;

3436 2. The proximity of the object to ~~marijuana~~ or controlled substances, which proximity is actually
 3437 known to the accused;

3438 3. Instructions, oral or written, provided with the object concerning its use;

3439 4. Descriptive materials accompanying the object ~~which that~~ explain or depict its use;

3440 5. National and local advertising within the actual knowledge of the accused concerning its use;

3441 6. The manner in which the object is displayed for sale;

3442 7. Whether the accused is a legitimate supplier of like or related items to the community, such as a
3443 licensed distributor or dealer of tobacco products;

3444 8. Evidence of the ratio of sales of the objects defined in § 18.2-265.1 to the total sales of the
3445 business enterprise;

3446 9. The existence and scope of legitimate uses for the object in the community;

3447 10. Expert testimony concerning its use or the purpose for which it was designed;

3448 11. Relevant evidence of the intent of the accused to deliver it to persons who he knows, or should
3449 reasonably know, intend to use the object with an illegal drug. The innocence of an owner, or of anyone
3450 in control of the object, as to a direct violation of this article shall not prevent a finding that the object
3451 is intended for use or designed for use as drug paraphernalia.

3452 **§ 18.2-265.3. Penalties for sale, etc., of drug paraphernalia.**

3453 A. Any person who sells or possesses with intent to sell drug paraphernalia, knowing, or under
3454 circumstances where one reasonably should know, that it is either designed for use or intended by such
3455 person for use to illegally plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
3456 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or
3457 otherwise introduce into the human body ~~marijuana~~ or a controlled substance, ~~shall be~~ *is* guilty of a
3458 Class 1 misdemeanor.

3459 B. Any person ~~eighteen~~ 18 years of age or older who violates subsection A ~~hereof~~ by selling drug
3460 paraphernalia to a minor who is at least three years junior to the accused in age ~~shall be~~ *is* guilty of a
3461 Class 6 felony.

3462 C. Any person ~~eighteen~~ 18 years of age or older who distributes drug paraphernalia to a minor ~~shall~~
3463 *be is* guilty of a Class 1 misdemeanor.

3464 **§ 18.2-287.2. Wearing of body armor while committing a crime; penalty.**

3465 Any person who, while committing a crime of violence as defined in § 18.2-288 (2) ~~or, a violation~~
3466 *of § 3.2-4172, a felony violation of § 18.2-248, or a violation of subdivision (a) 2 or 3 of § 18.2-248.1 B*
3467 *2 or 3 of § 3.2-4169*, has in his possession a firearm or knife and is wearing body armor designed to
3468 diminish the effect of the impact of a bullet or projectile ~~shall be~~ *is* guilty of a Class 4 felony.

3469 **§ 18.2-308.09. Disqualifications for a concealed handgun permit.**

3470 The following persons shall be deemed disqualified from obtaining a permit:

3471 1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2, or
3472 18.2-308.1:3 or the substantially similar law of any other state or of the United States.

3473 2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was
3474 discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before
3475 the date of his application for a concealed handgun permit.

3476 3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose
3477 competency or capacity was restored pursuant to § 64.2-2012 less than five years before the date of his
3478 application for a concealed handgun permit.

3479 4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released
3480 from commitment less than five years before the date of this application for a concealed handgun
3481 permit.

3482 5. An individual who is subject to a restraining order, or to a protective order and prohibited by
3483 § 18.2-308.1:4 from purchasing, possessing, or transporting a firearm.

3484 6. (Effective until January 1, 2021) An individual who is prohibited by § 18.2-308.2 from possessing
3485 or transporting a firearm, except that a permit may be obtained in accordance with subsection C of that
3486 section.

3487 6. (Effective January 1, 2021) An individual who is prohibited by § 18.2-308.2 from possessing or
3488 transporting a firearm, except that a restoration order may be obtained in accordance with subsection C
3489 of that section.

3490 7. An individual who has been convicted of two or more misdemeanors within the five-year period
3491 immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the
3492 judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1.
3493 Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this
3494 disqualification.

3495 8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic
3496 cannabinoids, or any controlled substance.

3497 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local
3498 ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other
3499 state, the District of Columbia, the United States, or its territories within the three-year period
3500 immediately preceding the application, or who is a habitual drunkard as determined pursuant to
3501 § 4.1-333.

3502 10. An alien other than an alien lawfully admitted for permanent residence in the United States.

3503 11. An individual who has been discharged from the armed forces of the United States under
3504 dishonorable conditions.

3505 12. An individual who is a fugitive from justice.

3506 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by
3507 the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief
3508 of police, or attorney for the Commonwealth may submit to the court a sworn, written statement
3509 indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based
3510 upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is
3511 likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief
3512 of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such
3513 individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the
3514 specific acts, or upon a written statement made under oath before a notary public of a competent person
3515 having personal knowledge of the specific acts.

3516 14. An individual who has been convicted of any assault, assault and battery, sexual battery,
3517 discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in
3518 violation of § 18.2-282 within the three-year period immediately preceding the application.

3519 15. An individual who has been convicted of stalking.

3520 16. An individual whose previous convictions or adjudications of delinquency were based on an
3521 offense that would have been at the time of conviction a felony if committed by an adult under the laws
3522 of any state, the District of Columbia, the United States or its territories. For purposes of this
3523 disqualifier, only convictions occurring within 16 years following the later of the date of (i) the
3524 conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or
3525 adjudication shall be deemed to be "previous convictions." Disqualification under this subdivision shall
3526 not apply to an individual with previous adjudications of delinquency who has completed a term of
3527 service of no less than two years in the Armed Forces of the United States and, if such person has been
3528 discharged from the Armed Forces of the United States, received an honorable discharge.

3529 17. An individual who has a felony charge pending or a charge pending for an offense listed in
3530 subdivision 14 or 15.

3531 18. An individual who has received mental health treatment or substance abuse treatment in a
3532 residential setting within five years prior to the date of his application for a concealed handgun permit.

3533 19. An individual not otherwise ineligible pursuant to this article, who, within the three-year period
3534 immediately preceding the application for the permit, was found guilty of any criminal offense set forth
3535 in Article 1 (§ 18.2-247 et seq.) ~~or~~, former § 18.2-248.1:1, *or Article 7 (§ 3.2-4164 et seq.) of Chapter*
3536 *41.2 of Title 3.2*, or of a criminal offense of illegal possession or distribution of marijuana, synthetic
3537 cannabinoids, or any controlled substance, under the laws of any state, the District of Columbia, or the
3538 United States or its territories.

3539 20. An individual, not otherwise ineligible pursuant to this article, with respect to whom, within the
3540 three-year period immediately preceding the application, upon a charge of any criminal offense set forth
3541 in Article 1 (§ 18.2-247 et seq.) ~~or~~, former § 18.2-248.1:1, *or Article 7 (§ 3.2-4164 et seq.) of Chapter*
3542 *41.2 of Title 3.2*, or upon a charge of illegal possession or distribution of marijuana, synthetic
3543 cannabinoids, or any controlled substance under the laws of any state, the District of Columbia, or the
3544 United States or its territories, the trial court found that the facts of the case were sufficient for a
3545 finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially similar law of any
3546 other state, the District of Columbia, or the United States or its territories.

3547 **§ 18.2-308.1:5. Purchase or transportation of firearm by persons convicted of certain drug**
3548 **offenses prohibited.**

3549 Any person who, within a 36-consecutive-month period, has been convicted of two misdemeanor
3550 offenses under § *3.2-4164 or 3.2-4165*, subsection B of former § 18.2-248.1:1, *or* § 18.2-250 ~~or~~
3551 ~~18.2-250.1~~ shall be ineligible to purchase or transport a handgun. However, upon expiration of a period
3552 of five years from the date of the second conviction and provided the person has not been convicted of
3553 any such offense within that period, the ineligibility shall be removed.

3554 **§ 18.2-308.4. Possession of firearms while in possession of certain substances.**

3555 A. It shall be unlawful for any person unlawfully in possession of a controlled substance classified in
3556 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) ~~of Title 54.1~~ to simultaneously with
3557 knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and
3558 constitutes a separate and distinct felony.

3559 B. It shall be unlawful for any person unlawfully in possession of a controlled substance classified in
3560 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and
3561 intent possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and
3562 constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a
3563 mandatory minimum term of imprisonment of two years. Such punishment shall be separate and apart
3564 from, and shall be made to run consecutively with, any punishment received for the commission of the

3565 primary felony.

3566 C. It shall be unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or
 3567 other firearm or display such weapon in a threatening manner while committing or attempting to commit
 3568 the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or
 3569 distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act
 3570 (§ 54.1-3400 et seq.) ~~or more than one pound of marijuana~~. A violation of this subsection is a Class 6
 3571 felony, and constitutes a separate and distinct felony and any person convicted hereunder shall be
 3572 sentenced to a mandatory minimum term of imprisonment of five years. Such punishment shall be
 3573 separate and apart from, and shall be made to run consecutively with, any punishment received for the
 3574 commission of the primary felony.

3575 **§ 18.2-460. Obstructing justice; resisting arrest; fleeing from a law-enforcement officer;**
 3576 **penalties.**

3577 A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney
 3578 for the Commonwealth, witness, any law-enforcement officer, or animal control officer employed
 3579 pursuant to § 3.2-6555 in the performance of his duties as such or fails or refuses without just cause to
 3580 cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the
 3581 Commonwealth, witness, law-enforcement officer, or animal control officer employed pursuant to §
 3582 3.2-6555, he is guilty of a Class 1 misdemeanor.

3583 B. Except as provided in subsection C, any person who, by threats or force, knowingly attempts to
 3584 intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any
 3585 law-enforcement officer, or an animal control officer employed pursuant to § 3.2-6555 lawfully engaged
 3586 in his duties as such, or to obstruct or impede the administration of justice in any court, is guilty of a
 3587 Class 1 misdemeanor.

3588 C. If any person by threats of bodily harm or force knowingly attempts to intimidate or impede a
 3589 judge, magistrate, justice, juror, attorney for the Commonwealth, witness, any law-enforcement officer,
 3590 lawfully engaged in the discharge of his duty, or to obstruct or impede the administration of justice in
 3591 any court relating to a violation of or conspiracy to violate ~~§ 18.2-248 or subdivision (a)(3), (b) or (c)~~
 3592 ~~of § 18.2-248.1 3.2-4167, subdivision B 3 of § 3.2-4169, subsection B of § 3.2-4170, or § 3.2-4172,~~
 3593 ~~18.2-46.2 or §, 18.2-46.3, or 18.2-248~~ or relating to the violation of or conspiracy to violate any violent
 3594 felony offense listed in subsection C of § 17.1-805, he is guilty of a Class 5 felony.

3595 D. Any person who knowingly and willfully makes any materially false statement or representation
 3596 to a law-enforcement officer or an animal control officer employed pursuant to § 3.2-6555 who is in the
 3597 course of conducting an investigation of a crime by another is guilty of a Class 1 misdemeanor.

3598 E. Any person who intentionally prevents or attempts to prevent a law-enforcement officer from
 3599 lawfully arresting him, with or without a warrant, is guilty of a Class 1 misdemeanor. For purposes of
 3600 this subsection, intentionally preventing or attempting to prevent a lawful arrest means fleeing from a
 3601 law-enforcement officer when (i) the officer applies physical force to the person; or (ii) the officer
 3602 communicates to the person that he is under arrest and (a) the officer has the legal authority and the
 3603 immediate physical ability to place the person under arrest; and (b) a reasonable person who receives
 3604 such communication knows or should know that he is not free to leave.

3605 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

3606 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver,
 3607 attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the
 3608 Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the
 3609 Department of Juvenile Justice in any juvenile correctional center, any drug which is a controlled
 3610 substance regulated by the Drug Control Act in ~~Chapter 34~~ (§ 54.1-3400 et seq.) ~~of Title 54.1 or~~
 3611 ~~marijuana~~ is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or
 3612 attempt to deliver or conspire to deliver to any such prisoner or confined or committed person, firearms,
 3613 ammunition, or explosives of any nature is guilty of a Class 3 felony.

3614 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

3615 **§ 19.2-11.2. Crime victim's right to nondisclosure of certain information; exceptions; testimonial**
 3616 **privilege.**

3617 Upon request of any witness in a criminal prosecution under § 3.2-4172, 18.2-46.2, 18.2-46.3, or
 3618 18.2-248 or of any violent felony as defined by subsection C of § 17.1-805, or any crime victim,
 3619 neither a law-enforcement agency, the attorney for the Commonwealth, the counsel for a defendant, a
 3620 court nor the Department of Corrections, nor any employee of any of them, may disclose, except among
 3621 themselves, the residential address, any telephone number, email address, or place of employment of the
 3622 witness or victim or a member of the witness' or victim's family, except to the extent that disclosure is
 3623 (i) of the site of the crime, (ii) required by law or Rules of the Supreme Court, (iii) necessary for
 3624 law-enforcement purposes or preparation for court proceedings, or (iv) permitted by the court for good
 3625 cause.

3626 Except with the written consent of the victim of any crime involving any sexual assault, sexual
 3627 abuse, or family abuse or the victim's next of kin if the victim is a minor and the victim's death results
 3628 from any crime, a law-enforcement agency may not disclose to the public information that directly or
 3629 indirectly identifies the victim of such crime except to the extent that disclosure is (a) of the site of the
 3630 crime, (b) required by law, (c) necessary for law-enforcement purposes, or (d) permitted by the court for
 3631 good cause. In addition, at the request of the victim to the Court of Appeals of Virginia or the Supreme
 3632 Court of Virginia hearing, on or after July 1, 2007, the case of a crime involving any sexual assault or
 3633 sexual abuse, no appellate decision shall contain the first or last name of the victim.

3634 Nothing herein shall limit the right to examine witnesses in a court of law or otherwise affect the
 3635 conduct of any criminal proceeding.

3636 **§ 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order**
 3637 **authorizing interception of communications.**

3638 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in
 3639 writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a
 3640 request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to
 3641 a judge of competent jurisdiction for an order authorizing the interception of wire, electronic or oral
 3642 communications by the Department of State Police, when such interception may reasonably be expected
 3643 to provide evidence of the commission of a felonious offense of extortion, bribery, kidnapping, murder,
 3644 any felony violation of § 3.2-4167, 3.2-4169, 3.2-4170, 3.2-4172, or 18.2-248 or ~~18.2-248.1~~, any felony
 3645 violation of Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, any felony violation of Article 2 (§ 18.2-38 et
 3646 seq.), Article 2.1 (§ 18.2-46.1 et seq.), Article 2.2 (§ 18.2-46.4 et seq.), Article 5 (§ 18.2-58 et seq.),
 3647 Article 6 (§ 18.2-59 et seq.) or any felonies that are not Class 6 felonies in Article 7 (§ 18.2-61 et
 3648 seq.) of Chapter 4 of Title 18.2, or any conspiracy to commit any of the foregoing offenses. The
 3649 Attorney General or Chief Deputy Attorney General may apply for authorization for the observation or
 3650 monitoring of the interception by a police department of a county or city, by a sheriff's office, or by
 3651 law-enforcement officers of the United States. Such application shall be made, and such order may be
 3652 granted, in conformity with the provisions of § 19.2-68.

3653 B. The application for an order under subsection B of § 19.2-68 shall be made as follows:

3654 1. In the case of an application for a wire or electronic interception, a judge of competent jurisdiction
 3655 shall have the authority to issue an order under subsection B of § 19.2-68 if there is probable cause to
 3656 believe that an offense was committed, is being committed, or will be committed or the person or
 3657 persons whose communications are to be intercepted live, work, subscribe to a wire or electronic
 3658 communication system, maintain an address or a post office box, or are making the communication
 3659 within the territorial jurisdiction of the court.

3660 2. In the case of an application for an oral intercept, a judge of competent jurisdiction shall have the
 3661 authority to issue an order under subsection B of § 19.2-68 if there is probable cause to believe that an
 3662 offense was committed, is being committed, or will be committed or the physical location of the oral
 3663 communication to be intercepted is within the territorial jurisdiction of the court.

3664 C. For the purposes of an order entered pursuant to subsection B of § 19.2-68 for the interception of
 3665 a wire or electronic communication, such communication shall be deemed to be intercepted in the
 3666 jurisdiction where the order is entered, regardless of the physical location or the method by which the
 3667 communication is captured or routed to the monitoring location.

3668 **§ 19.2-81.1. Arrest without warrant by correctional officers in certain cases.**

3669 Any correctional officer, as defined in § 53.1-1, may arrest, in the same manner as provided in
 3670 § 19.2-81, persons for crimes involving:

- 3671 (a) 1. The escape of an inmate from a correctional institution, as defined in § 53.1-1;
- 3672 (b) 2. Assisting an inmate to escape from a correctional institution, as defined in § 53.1-1;
- 3673 (c) 3. The delivery of contraband to an inmate in violation of § 3.2-4176, 18.2-474, or § 18.2-474.1;

3674 and
 3675 (d) 4. Any other criminal offense ~~which~~ *that* may contribute to the disruption of the safety, welfare,
 3676 or security of the population of a correctional institution.

3677 **§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.**

3678 A. Every state official or agency and every sheriff, police officer, or other local law-enforcement
 3679 officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who
 3680 is known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary
 3681 teacher or other employee in any public school division in this Commonwealth for a felony or a Class 1
 3682 misdemeanor or an equivalent offense in another state shall file a report of such arrest with the division
 3683 superintendent of the employing division as soon as practicable. The contents of the report required
 3684 pursuant to this section shall be utilized by the local school division solely to implement the provisions
 3685 of subsection B of § 22.1-296.2 and § 22.1-315.

3686 B. Every state official or agency and every sheriff, police officer, or other local law-enforcement
 3687 officer or conservator of the peace having the power to arrest for a felony, shall file a report, as soon as

3688 practicable, with the division superintendent of the school division in which the student is enrolled upon
 3689 arresting a person who is known or discovered by the arresting official to be a student age 18 or older
 3690 in any public school division in this Commonwealth for:

3691 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299
 3692 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;

3693 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

3694 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
 3695 Title 18.2;

3696 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

3697 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
 3698 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

3699 6. Manufacture, sale or distribution of marijuana pursuant to Article 4 (~~§ 18.2-247 et seq.~~) of Chapter
 3700 ~~7 of Title 18.2~~ 7 (§ 3.2-4164 et seq.) of Chapter 41.2 of Title 3.2;

3701 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

3702 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

3703 9. Robbery pursuant to § 18.2-58;

3704 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

3705 11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3;

3706 12. An act of violence by a mob pursuant to § 18.2-42.1; or

3707 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48.

3708 **§ 19.2-120. Admission to bail.**

3709 Prior to conducting any hearing on the issue of bail, release or detention, the judicial officer shall, to
 3710 the extent feasible, obtain the person's criminal history.

3711 A. A person who is held in custody pending trial or hearing for an offense, civil or criminal
 3712 contempt, or otherwise shall be admitted to bail by a judicial officer, unless there is probable cause to
 3713 believe that:

3714 1. He will not appear for trial or hearing or at such other time and place as may be directed, or

3715 2. His liberty will constitute an unreasonable danger to himself or the public.

3716 B. The judicial officer shall presume, subject to rebuttal, that no condition or combination of
 3717 conditions will reasonably assure the appearance of the person or the safety of the public if the person is
 3718 currently charged with:

3719 1. An act of violence as defined in § 19.2-297.1;

3720 2. An offense for which the maximum sentence is life imprisonment or death;

3721 3. A violation of § 18.2-248, 18.2-248.01, 18.2-255, or 18.2-255.2 involving a Schedule I or II
 3722 controlled substance if (i) the maximum term of imprisonment is 10 years or more and the person was
 3723 previously convicted of a like offense or (ii) the person was previously convicted as a "drug kingpin" as
 3724 defined in § 18.2-248;

3725 4. A violation of § 3.2-4175, 18.2-308.1, 18.2-308.2, or 18.2-308.4 and which relates to a firearm
 3726 and provides for a mandatory minimum sentence;

3727 5. Any felony, if the person has been convicted of two or more offenses described in subdivision 1
 3728 or 2, whether under the laws of the Commonwealth or substantially similar laws of the United States;

3729 6. Any felony committed while the person is on release pending trial for a prior felony under federal
 3730 or state law or on release pending imposition or execution of sentence or appeal of sentence or
 3731 conviction;

3732 7. An offense listed in subsection B of § 18.2-67.5:2 and the person had previously been convicted
 3733 of an offense listed in § 18.2-67.5:2 or a substantially similar offense under the laws of any state or the
 3734 United States and the judicial officer finds probable cause to believe that the person who is currently
 3735 charged with one of these offenses committed the offense charged;

3736 8. A violation of § 18.2-374.1 or 18.2-374.3 where the offender has reason to believe that the
 3737 solicited person is under 15 years of age and the offender is at least five years older than the solicited
 3738 person;

3739 9. A violation of § 18.2-46.2, 18.2-46.3, 18.2-46.5, or 18.2-46.7;

3740 10. A violation of § 18.2-36.1, 18.2-51.4, 18.2-266, or 46.2-341.24 and the person has, within the
 3741 past five years of the instant offense, been convicted three times on different dates of a violation of any
 3742 combination of these Code sections, or any ordinance of any county, city, or town or the laws of any
 3743 other state or of the United States substantially similar thereto, and has been at liberty between each
 3744 conviction;

3745 11. A second or subsequent violation of § 16.1-253.2 or 18.2-60.4 or a substantially similar offense
 3746 under the laws of any state or the United States;

3747 12. A violation of subsection B of § 18.2-57.2;

3748 13. A violation of subsection C of § 18.2-460 charging the use of threats of bodily harm or force to

3749 knowingly attempt to intimidate or impede a witness;

3750 14. A violation of § 18.2-51.6 if the alleged victim is a family or household member as defined in
3751 § 16.1-228; or

3752 15. A violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1.

3753 C. The judicial officer shall presume, subject to rebuttal, that no condition or combination of
3754 conditions will reasonably assure the appearance of the person or the safety of the public if the person is
3755 being arrested pursuant to § 19.2-81.6.

3756 D. A judicial officer who is a magistrate, clerk, or deputy clerk of a district court or circuit court
3757 may not admit to bail, that is not set by a judge, any person who is charged with an offense giving rise
3758 to a rebuttable presumption against bail as set out in subsection B or C without the concurrence of an
3759 attorney for the Commonwealth. For a person who is charged with an offense giving rise to a rebuttable
3760 presumption against bail, any judge may set or admit such person to bail in accordance with this section
3761 after notice and an opportunity to be heard has been provided to the attorney for the Commonwealth.

3762 E. The court shall consider the following factors and such others as it deems appropriate in
3763 determining, for the purpose of rebuttal of the presumption against bail described in subsection B,
3764 whether there are conditions of release that will reasonably assure the appearance of the person as
3765 required and the safety of the public:

3766 1. The nature and circumstances of the offense charged;

3767 2. The history and characteristics of the person, including his character, physical and mental
3768 condition, family ties, employment, financial resources, length of residence in the community,
3769 community ties, past conduct, history relating to drug or alcohol abuse, criminal history, membership in
3770 a criminal street gang as defined in § 18.2-46.1, and record concerning appearance at court proceedings;
3771 and

3772 3. The nature and seriousness of the danger to any person or the community that would be posed by
3773 the person's release.

3774 F. The judicial officer shall inform the person of his right to appeal from the order denying bail or
3775 fixing terms of bond or recognizance consistent with § 19.2-124.

3776 G. If the judicial officer sets a secured bond and the person engages the services of a licensed bail
3777 bondsman, the magistrate executing recognizance for the accused shall provide the bondsman, upon
3778 request, with a copy of the person's Virginia criminal history record, if readily available, to be used by
3779 the bondsman only to determine appropriate reporting requirements to impose upon the accused upon his
3780 release. The bondsman shall pay a \$15 fee payable to the state treasury to be credited to the Literary
3781 Fund, upon requesting the defendant's Virginia criminal history record issued pursuant to § 19.2-389.
3782 The bondsman shall review the record on the premises and promptly return the record to the magistrate
3783 after reviewing it.

3784 **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

3785 A. In any preliminary hearing on a violation of Article 7 (§ 3.2-4164 et seq.) of Chapter 41.2 of Title
3786 3.2, a violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or a violation of subdivision
3787 6 of § 53.1-203, any law-enforcement officer shall be permitted to testify as to the results of field tests
3788 that have been approved by the Department of Forensic Science pursuant to regulations adopted in
3789 accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any
3790 substance the identity of which is at issue in such hearing is a controlled substance, imitation controlled
3791 substance, or marijuana, as defined in §§ 3.2-4121 and 18.2-247.

3792 B. In any trial for a violation of § ~~18.2-250.1~~ 3.2-4164 or 3.2-4165, any law-enforcement officer
3793 shall be permitted to testify as to the results of any marijuana field test approved as accurate and
3794 reliable by the Department of Forensic Science pursuant to regulations adopted in accordance with the
3795 Administrative Process Act (§ 2.2-4000 et seq.), regarding whether or not any plant material, the identity
3796 of which is at issue, is marijuana provided the defendant has been given written notice of his right to
3797 request a full chemical analysis. Such notice shall be on a form approved by the Supreme Court and
3798 shall be provided to the defendant prior to trial.

3799 In any case in which the person accused of a violation of § ~~18.2-250.1~~ 3.2-4164 or 3.2-4165, or the
3800 attorney of record for the accused, desires a full chemical analysis of the alleged plant material, he may,
3801 by motion prior to trial before the court in which the charge is pending, request such a chemical
3802 analysis. Upon such motion, the court shall order that the analysis be performed by the Department of
3803 Forensic Science and shall prescribe in its order the method of custody, transfer, and return of evidence
3804 submitted for chemical analysis.

3805 **§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.**

3806 Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the
3807 Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of
3808 the final judgment order, provided substantial assistance in investigating or prosecuting another person
3809 for (i) an act of violence as defined in § 19.2-297.1 or any violation of § 3.2-4167 or 3.2-4169,
3810 subsection B of § 3.2-4170, or § 3.2-4171, 3.2-4172, 3.2-4174, 18.2-248, 18.2-248.01, 18.2-248.02,

3811 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258,
 3812 18.2-258.02, 18.2-258.1, or 18.2-258.2, or any substantially similar offense in any other jurisdiction,
 3813 which offense would be a felony if committed in the Commonwealth; (ii) a conspiracy to commit any of
 3814 the offenses listed in clause (i); or (iii) violations as a principal in the second degree or accessory before
 3815 the fact of any of the offenses listed in clause (i). In determining whether the defendant has provided
 3816 substantial assistance pursuant to the provisions of this section, the court shall consider (a) the court's
 3817 evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the
 3818 Commonwealth's evaluation of the assistance rendered; (b) the truthfulness, completeness, and reliability
 3819 of any information or testimony provided by the defendant; (c) the nature and extent of the defendant's
 3820 assistance; (d) any injury suffered or any danger or risk of injury to the defendant or his family resulting
 3821 from his assistance; and (e) the timeliness of the defendant's assistance. If the motion is made more than
 3822 one year after entry of the final judgment order, the court may reduce a sentence only if the defendant's
 3823 substantial assistance involved (1) information not known to the defendant until more than one year after
 3824 entry of the final judgment order, (2) information provided by the defendant within one year of entry of
 3825 the final judgment order but that did not become useful to the Commonwealth until more than one year
 3826 after entry of the final judgment order, or (3) information the usefulness of which could not reasonably
 3827 have been anticipated by the defendant until more than one year after entry of the final judgment order
 3828 and which was promptly provided to the Commonwealth by the defendant after its usefulness was
 3829 reasonably apparent.

3830 **§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug**
 3831 **transactions.**

3832 A. The following property shall be subject to lawful seizure by any officer charged with enforcing
 3833 the provisions of *Article 7 (§ 3.2-4164 et seq.) of Chapter 41.2 of Title 3.2 or Article 1 (§ 18.2-247 et*
 3834 *seq.) of Chapter 7 of Title 18.2:* (i) all money, medical equipment, office equipment, laboratory
 3835 equipment, motor vehicles, and all other personal and real property of any kind or character, used in
 3836 substantial connection with (a) the illegal manufacture, sale or distribution of controlled substances or
 3837 possession with intent to sell or distribute controlled substances in violation of § 18.2-248, (b) the sale
 3838 or distribution of marijuana or possession with intent to distribute marijuana in violation of subdivisions
 3839 ~~(a)(2), (a)(3) and (e) of § 18.2-248.1~~ *§ 3.2-4167 or subdivisions B 2 and 3 of § 3.2-4169*, or (c) a
 3840 drug-related offense in violation of § 18.2-474.1; (ii) everything of value furnished, or intended to be
 3841 furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in violation
 3842 of ~~§ 18.2-248.1~~ *3.2-4169* or for a controlled substance ~~or marijuana~~ in violation of § 18.2-474.1; and
 3843 (iii) all moneys or other property, real or personal, traceable to such an exchange, together with any
 3844 interest or profits derived from the investment of such money or other property. Under the provisions of
 3845 clause (i), real property shall not be subject to lawful seizure unless the minimum prescribed punishment
 3846 for the violation is a term of not less than five years.

3847 B. All seizures and forfeitures under this section shall be governed by the procedures contained in
 3848 Chapter 22.1 (§ 19.2-386.1 et seq.).

3849 **§ 19.2-386.23. Disposal of seized controlled substances, marijuana, and paraphernalia.**

3850 A. All controlled substances, imitation controlled substances, marijuana, or paraphernalia, the lawful
 3851 possession of which is not established or the title to which cannot be ascertained, which have come into
 3852 the custody of a peace officer or have been seized in connection with violations of *Article 7 (§ 3.2-4164*
 3853 *et seq.) of Chapter 41.2 of Title 3.2 or Chapter 7 (§ 18.2-247 et seq.) of Title 18.2*, shall be forfeited
 3854 and disposed of as follows:

3855 1. Upon written application by (i) the Department of Forensic Science, (ii) the Department of State
 3856 Police, or (iii) any police department or sheriff's office in a locality, the court may order the forfeiture
 3857 of any such substance or paraphernalia to the Department of Forensic Science, the Department of State
 3858 Police, or to such police department or sheriff's office for research and training purposes and for
 3859 destruction pursuant to regulations of the United States Department of Justice Drug Enforcement
 3860 Administration and of the Board of Pharmacy once these purposes have been fulfilled.

3861 2. In the event no application is made under subdivision 1, the court shall order the destruction of all
 3862 such substances or paraphernalia, which order shall state the existence and nature of the substance or
 3863 paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the
 3864 substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed.
 3865 However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be
 3866 destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need
 3867 for the property and an ability to put the property to a lawful and publicly beneficial use. A return under
 3868 oath, reporting the time, place, and manner of destruction, shall be made to the court by the officer to
 3869 whom the order is directed. A copy of the order and affidavit shall be made a part of the record of any
 3870 criminal prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter,
 3871 be prima facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is

3872 given, or otherwise comes into possession of any such substances or paraphernalia that are not evidence
3873 in a trial in the Commonwealth, the chief law-enforcement officer of the agency or his designee may,
3874 with the written consent of the appropriate attorney for the Commonwealth, order destruction of same;
3875 provided that a statement under oath, reporting a description of the substances and paraphernalia
3876 destroyed and the time, place and manner of destruction, is made to the chief law-enforcement officer
3877 by the officer to whom the order is directed.

3878 B. No such substance or paraphernalia used or to be used in a criminal prosecution under *Article 7*
3879 (*§ 3.2-4164 et seq.*) of *Chapter 41.2 of Title 3.2* or *Chapter 7 (§ 18.2-247 et seq.)* of *Title 18.2* shall be
3880 disposed of as provided by this section until all rights of appeal have been exhausted, except as
3881 provided in *§ 19.2-386.24*.

3882 C. The amount of any specific controlled substance, or imitation controlled substance, retained by
3883 any law-enforcement agency pursuant to a court order issued under this section shall not exceed five
3884 pounds, or 25 pounds in the case of marijuana. Any written application to the court for controlled
3885 substances, imitation controlled substances, or marijuana, shall certify that the amount requested shall
3886 not result in the requesting agency's exceeding the limits allowed by this subsection.

3887 D. A law-enforcement agency that retains any controlled substance, imitation controlled substance, or
3888 marijuana, pursuant to a court order issued under this section shall (i) be required to conduct an
3889 inventory of such substance on a monthly basis, which shall include a description and weight of the
3890 substance, and (ii) destroy such substance pursuant to subdivision A 1 when no longer needed for
3891 research and training purposes. A written report outlining the details of the inventory shall be made to
3892 the chief law-enforcement officer of the agency within 10 days of the completion of the inventory, and
3893 the agency shall detail the substances that were used for research and training pursuant to a court order
3894 in the immediately preceding fiscal year. Destruction of such substance shall be certified to the court
3895 along with a statement prepared under oath, reporting a description of the substance destroyed, and the
3896 time, place, and manner of destruction.

3897 **§ 19.2-386.24. Destruction of seized controlled substances or marijuana prior to trial.**

3898 Where seizures of controlled substances or marijuana are made in excess of 10 pounds in connection
3899 with any prosecution or investigation under *Article 7 (§ 3.2-4164 et seq.) of Chapter 41.2 of Title 3.2* or
3900 *Chapter 7 (§ 18.2-247 et seq.)* of *Title 18.2*, the appropriate law-enforcement agency may retain 10
3901 pounds of the substance randomly selected from the seized substance for representative purposes as
3902 evidence and destroy the remainder of the seized substance.

3903 Before any destruction is carried out under this section, the law-enforcement agency shall cause the
3904 material seized to be photographed with identification case numbers or other means of identification and
3905 shall prepare a report identifying the seized material. It shall also notify the accused, or other interested
3906 party, if known, or his attorney, at least five days in advance that the photography will take place and
3907 that they may be present. Prior to any destruction under this section, the law-enforcement agency shall
3908 also notify the accused or other interested party, if known, and his attorney at least seven days prior to
3909 the destruction of the time and place the destruction will occur. Any notice required under the
3910 provisions of this section shall be by first-class mail to the last known address of the person required to
3911 be notified. In addition to the substance retained for representative purposes as evidence, all photographs
3912 and records made under this section and properly identified shall be admissible in any court proceeding
3913 for any purposes for which the seized substance itself would have been admissible.

3914 **§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled**
3915 **substances, etc.**

3916 Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to
3917 take into its custody or to maintain custody of substantial quantities of any controlled substances,
3918 imitation controlled substances, chemicals, marijuana, or paraphernalia used or to be used in a criminal
3919 prosecution under *Article 7 (§ 3.2-4164 et seq.) of Chapter 41.2 of Title 3.2* or *Chapter 7 (§ 18.2-247 et*
3920 *seq.)* of *Title 18.2*. The court in its order may make provision for ensuring integrity of these items until
3921 further order of the court.

3922 **§ 19.2-386.28. Forfeiture of weapons that are concealed, possessed, transported, or carried in**
3923 **violation of law.**

3924 Any firearm, any stun weapon as defined by *§ 18.2-308.1*, or any weapon concealed, possessed,
3925 transported, or carried in violation of *§ 3.2-4175*, *18.2-283.1*, *18.2-287.01*, *18.2-287.4*, *18.2-308.1:2*,
3926 *18.2-308.1:3*, *18.2-308.1:4*, *18.2-308.2*, *18.2-308.2:01*, *18.2-308.2:1*, *18.2-308.4*, *18.2-308.5*, *18.2-308.7*,
3927 or *18.2-308.8* shall be forfeited to the Commonwealth and disposed of as provided in *§ 19.2-386.29*.

3928 **§ 19.2-389. (Effective until January 1, 2021) Dissemination of criminal history record**
3929 **information.**

3930 A. Criminal history record information shall be disseminated, whether directly or through an
3931 intermediary, only to:

3932 1. Authorized officers or employees of criminal justice agencies, as defined by *§ 9.1-101*, for
3933 purposes of the administration of criminal justice and the screening of an employment application or

3934 review of employment by a criminal justice agency with respect to its own employees or applicants, and
 3935 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
 3936 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
 3937 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
 3938 purposes of this subdivision, criminal history record information includes information sent to the Central
 3939 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
 3940 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
 3941 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
 3942 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
 3943 Commonwealth for the purposes of the administration of criminal justice;

3944 2. Such other individuals and agencies that require criminal history record information to implement
 3945 a state or federal statute or executive order of the President of the United States or Governor that
 3946 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such
 3947 conduct, except that information concerning the arrest of an individual may not be disseminated to a
 3948 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the
 3949 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is
 3950 pending;

3951 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
 3952 services required for the administration of criminal justice pursuant to that agreement which shall
 3953 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
 3954 security and confidentiality of the data;

3955 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
 3956 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
 3957 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
 3958 security of the data;

3959 5. Agencies of state or federal government that are authorized by state or federal statute or executive
 3960 order of the President of the United States or Governor to conduct investigations determining
 3961 employment suitability or eligibility for security clearances allowing access to classified information;

3962 6. Individuals and agencies where authorized by court order or court rule;

3963 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
 3964 owned, operated or controlled by any political subdivision, and any public service corporation that
 3965 operates a public transit system owned by a local government for the conduct of investigations of
 3966 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
 3967 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
 3968 conviction record would be compatible with the nature of the employment, permit, or license under
 3969 consideration;

3970 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
 3971 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
 3972 position of employment whenever, in the interest of public welfare or safety and as authorized in the
 3973 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
 3974 with a conviction record would be compatible with the nature of the employment under consideration;

3975 8. Public or private agencies when authorized or required by federal or state law or interstate
 3976 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
 3977 adult members of that individual's household, with whom the agency is considering placing a child or
 3978 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,
 3979 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that
 3980 the data shall not be further disseminated to any party other than a federal or state authority or court as
 3981 may be required to comply with an express requirement of law;

3982 9. To the extent permitted by federal law or regulation, public service companies as defined in
 3983 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
 3984 personal contact with the public or when past criminal conduct of an applicant would be incompatible
 3985 with the nature of the employment under consideration;

3986 10. The appropriate authority for purposes of granting citizenship and for purposes of international
 3987 travel, including, but not limited to, issuing visas and passports;

3988 11. A person requesting a copy of his own criminal history record information as defined in
 3989 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
 3990 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
 3991 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
 3992 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
 3993 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
 3994 Solvers or Crime Line program as defined in § 15.2-1713.1;

3995 12. Administrators and board presidents of and applicants for licensure or registration as a child
3996 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
3997 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
3998 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved
3999 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,
4000 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction
4001 that the data shall not be further disseminated by the facility or agency to any party other than the data
4002 subject, the Commissioner of Social Services' representative or a federal or state authority or court as
4003 may be required to comply with an express requirement of law for such further dissemination;

4004 13. The school boards of the Commonwealth for the purpose of screening individuals who are
4005 offered or who accept public school employment and those current school board employees for whom a
4006 report of arrest has been made pursuant to § 19.2-83.1;

4007 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
4008 (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of
4009 investigations as set forth in *Article 1 (§ 3.2-4121 et seq.) of Chapter 41.2 of Title 3.2 and Article 1.1:1*
4010 (*§ 18.2-340.15 et seq.*) of Chapter 8 of Title 18.2;

4011 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations
4012 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
4013 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject
4014 to the limitations set out in subsection E;

4015 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
4016 investigations of applicants for compensated employment in licensed assisted living facilities and
4017 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

4018 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
4019 in § 4.1-103.1;

4020 18. The State Board of Elections and authorized officers and employees thereof and general registrars
4021 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
4022 voter registration, limited to any record of felony convictions;

4023 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
4024 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
4025 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

4026 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
4027 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
4028 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

4029 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
4030 Department of Education, or the Department of Behavioral Health and Developmental Services for the
4031 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
4032 services;

4033 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
4034 Department for the purpose of determining an individual's fitness for employment pursuant to
4035 departmental instructions;

4036 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
4037 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
4038 records information on behalf of such governing boards or administrators pursuant to a written
4039 agreement with the Department of State Police;

4040 24. Public institutions of higher education and nonprofit private institutions of higher education for
4041 the purpose of screening individuals who are offered or accept employment;

4042 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
4043 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
4044 higher education, for the purpose of assessing or intervening with an individual whose behavior may
4045 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
4046 history record information obtained pursuant to this section or otherwise use any record of an individual
4047 beyond the purpose that such disclosure was made to the threat assessment team;

4048 26. Executive directors of community services boards or the personnel director serving the
4049 community services board for the purpose of determining an individual's fitness for employment,
4050 approval as a sponsored residential service provider, or permission to enter into a shared living
4051 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
4052 §§ 37.2-506 and 37.2-607;

4053 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
4054 determining an individual's fitness for employment, approval as a sponsored residential service provider,
4055 or permission to enter into a shared living arrangement with a person receiving medical assistance
4056 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

4057 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
 4058 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
 4059 name, address, demographics and social security number of the data subject shall be released;

4060 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
 4061 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
 4062 purpose of determining if any applicant who accepts employment in any direct care position or requests
 4063 approval as a sponsored residential service provider or permission to enter into a shared living
 4064 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
 4065 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
 4066 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
 4067 37.2-607;

4068 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
 4069 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
 4070 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

4071 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
 4072 for the purpose of determining if any person being considered for election to any judgeship has been
 4073 convicted of a crime;

4074 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
 4075 determining an individual's fitness for employment in positions designated as sensitive under Department
 4076 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

4077 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
 4078 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
 4079 Violent Predators Act (§ 37.2-900 et seq.);

4080 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
 4081 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
 4082 companies, for the conduct of investigations of applications for employment or for access to facilities,
 4083 by contractors, leased laborers, and other visitors;

4084 35. Any employer of individuals whose employment requires that they enter the homes of others, for
 4085 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

4086 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
 4087 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
 4088 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
 4089 subject to the restriction that the data shall not be further disseminated by the agency to any party other
 4090 than a federal or state authority or court as may be required to comply with an express requirement of
 4091 law for such further dissemination, subject to limitations set out in subsection G;

4092 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
 4093 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
 4094 or have accepted a position related to the provision of transportation services to enrollees in the
 4095 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other
 4096 program administered by the Department of Medical Assistance Services;

4097 38. The State Corporation Commission for the purpose of investigating individuals who are current
 4098 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
 4099 Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any
 4100 other provision of law, if an application is denied based in whole or in part on information obtained
 4101 from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the
 4102 Commissioner of Financial Institutions or his designee may disclose such information to the applicant or
 4103 its designee;

4104 39. The Department of Professional and Occupational Regulation for the purpose of investigating
 4105 individuals for initial licensure pursuant to § 54.1-2106.1;

4106 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
 4107 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
 4108 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
 4109 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

4110 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

4111 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
 4112 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

4113 43. The Department of Social Services and directors of local departments of social services for the
 4114 purpose of screening individuals seeking to enter into a contract with the Department of Social Services
 4115 or a local department of social services for the provision of child care services for which child care
 4116 subsidy payments may be provided;

4117 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of

4118 a juvenile's household when completing a predispositional or postdispositional report required by §
4119 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233; and

4120 45. Other entities as otherwise provided by law.

4121 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
4122 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
4123 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
4124 designated in the order on whom a report has been made under the provisions of this chapter.

4125 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
4126 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
4127 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
4128 copy of conviction data covering the person named in the request to the person making the request;
4129 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
4130 making of such request. A person receiving a copy of his own conviction data may utilize or further
4131 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
4132 subject, the person making the request shall be furnished at his cost a certification to that effect.

4133 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
4134 section shall be limited to the purposes for which it was given and may not be disseminated further.

4135 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
4136 history record information for employment or licensing inquiries except as provided by law.

4137 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
4138 Exchange prior to dissemination of any criminal history record information on offenses required to be
4139 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
4140 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
4141 where time is of the essence and the normal response time of the Exchange would exceed the necessary
4142 time period. A criminal justice agency to whom a request has been made for the dissemination of
4143 criminal history record information that is required to be reported to the Central Criminal Records
4144 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
4145 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
4146 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

4147 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
4148 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
4149 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

4150 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
4151 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
4152 for any offense specified in § 63.2-1720.

4153 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
4154 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
4155 definition of barrier crime in § 19.2-392.02.

4156 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
4157 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
4158 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
4159 the request to the employer or prospective employer making the request, provided that the person on
4160 whom the data is being obtained has consented in writing to the making of such request and has
4161 presented a photo-identification to the employer or prospective employer. In the event no conviction data
4162 is maintained on the person named in the request, the requesting employer or prospective employer shall
4163 be furnished at his cost a certification to that effect. The criminal history record search shall be
4164 conducted on forms provided by the Exchange.

4165 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
4166 information pursuant to the rules of court for obtaining discovery or for review by the court.

4167 **§ 19.2-389. (Effective January 1, 2021) Dissemination of criminal history record information.**

4168 A. Criminal history record information shall be disseminated, whether directly or through an
4169 intermediary, only to:

4170 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
4171 purposes of the administration of criminal justice and the screening of an employment application or
4172 review of employment by a criminal justice agency with respect to its own employees or applicants, and
4173 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
4174 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
4175 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
4176 purposes of this subdivision, criminal history record information includes information sent to the Central
4177 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
4178 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
4179 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the

4180 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
4181 Commonwealth for the purposes of the administration of criminal justice;

4182 2. Such other individuals and agencies that require criminal history record information to implement
4183 a state or federal statute or executive order of the President of the United States or Governor that
4184 expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such
4185 conduct, except that information concerning the arrest of an individual may not be disseminated to a
4186 noncriminal justice agency or individual if an interval of one year has elapsed from the date of the
4187 arrest and no disposition of the charge has been recorded and no active prosecution of the charge is
4188 pending;

4189 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide
4190 services required for the administration of criminal justice pursuant to that agreement which shall
4191 specifically authorize access to data, limit the use of data to purposes for which given, and ensure the
4192 security and confidentiality of the data;

4193 4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities
4194 pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data,
4195 limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and
4196 security of the data;

4197 5. Agencies of state or federal government that are authorized by state or federal statute or executive
4198 order of the President of the United States or Governor to conduct investigations determining
4199 employment suitability or eligibility for security clearances allowing access to classified information;

4200 6. Individuals and agencies where authorized by court order or court rule;

4201 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
4202 owned, operated or controlled by any political subdivision, and any public service corporation that
4203 operates a public transit system owned by a local government for the conduct of investigations of
4204 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
4205 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
4206 conviction record would be compatible with the nature of the employment, permit, or license under
4207 consideration;

4208 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
4209 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
4210 position of employment whenever, in the interest of public welfare or safety and as authorized in the
4211 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
4212 with a conviction record would be compatible with the nature of the employment under consideration;

4213 8. Public or private agencies when authorized or required by federal or state law or interstate
4214 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
4215 adult members of that individual's household, with whom the agency is considering placing a child or
4216 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,
4217 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that
4218 the data shall not be further disseminated to any party other than a federal or state authority or court as
4219 may be required to comply with an express requirement of law;

4220 9. To the extent permitted by federal law or regulation, public service companies as defined in
4221 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
4222 personal contact with the public or when past criminal conduct of an applicant would be incompatible
4223 with the nature of the employment under consideration;

4224 10. The appropriate authority for purposes of granting citizenship and for purposes of international
4225 travel, including, but not limited to, issuing visas and passports;

4226 11. A person requesting a copy of his own criminal history record information as defined in
4227 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
4228 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
4229 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
4230 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
4231 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
4232 Solvers or Crime Line program as defined in § 15.2-1713.1;

4233 12. Administrators and board presidents of and applicants for licensure or registration as a child
4234 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
4235 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
4236 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved
4237 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,
4238 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction
4239 that the data shall not be further disseminated by the facility or agency to any party other than the data
4240 subject, the Commissioner of Social Services' representative or a federal or state authority or court as

- 4241 may be required to comply with an express requirement of law for such further dissemination;
4242 13. The school boards of the Commonwealth for the purpose of screening individuals who are
4243 offered or who accept public school employment and those current school board employees for whom a
4244 report of arrest has been made pursuant to § 19.2-83.1;
- 4245 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
4246 (§ 58.1-4000 et seq.), and the Department of Agriculture and Consumer Services for the conduct of
4247 investigations as set forth in *Article 1 (§ 3.2-4121 et seq.) of Chapter 41.2 of Title 3.2 and Article 1.1:1*
4248 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;
- 4249 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations
4250 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
4251 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject
4252 to the limitations set out in subsection E;
- 4253 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
4254 investigations of applicants for compensated employment in licensed assisted living facilities and
4255 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;
- 4256 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
4257 in § 4.1-103.1;
- 4258 18. The State Board of Elections and authorized officers and employees thereof and general registrars
4259 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
4260 voter registration, limited to any record of felony convictions;
- 4261 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
4262 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
4263 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement evaluation, and treatment planning;
- 4264 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
4265 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
4266 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;
- 4267 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
4268 Department of Education, or the Department of Behavioral Health and Developmental Services for the
4269 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
4270 services;
- 4271 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
4272 Department for the purpose of determining an individual's fitness for employment pursuant to
4273 departmental instructions;
- 4274 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
4275 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
4276 records information on behalf of such governing boards or administrators pursuant to a written
4277 agreement with the Department of State Police;
- 4278 24. Public institutions of higher education and nonprofit private institutions of higher education for
4279 the purpose of screening individuals who are offered or accept employment;
- 4280 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
4281 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
4282 higher education, for the purpose of assessing or intervening with an individual whose behavior may
4283 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
4284 history record information obtained pursuant to this section or otherwise use any record of an individual
4285 beyond the purpose that such disclosure was made to the threat assessment team;
- 4286 26. Executive directors of community services boards or the personnel director serving the
4287 community services board for the purpose of determining an individual's fitness for employment,
4288 approval as a sponsored residential service provider, or permission to enter into a shared living
4289 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
4290 §§ 37.2-506 and 37.2-607;
- 4291 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
4292 determining an individual's fitness for employment, approval as a sponsored residential service provider,
4293 or permission to enter into a shared living arrangement with a person receiving medical assistance
4294 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;
- 4295 28. The Commissioner of Social Services for the purpose of locating persons who owe child support
4296 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the
4297 name, address, demographics and social security number of the data subject shall be released;
- 4298 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
4299 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
4300 purpose of determining if any applicant who accepts employment in any direct care position or requests
4301 approval as a sponsored residential service provider or permission to enter into a shared living
4302 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted

4303 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
 4304 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
 4305 37.2-607;

4306 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
 4307 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
 4308 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

4309 31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates
 4310 for the purpose of determining if any person being considered for election to any judgeship has been
 4311 convicted of a crime;

4312 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
 4313 determining an individual's fitness for employment in positions designated as sensitive under Department
 4314 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

4315 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
 4316 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
 4317 Violent Predators Act (§ 37.2-900 et seq.);

4318 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
 4319 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
 4320 companies, for the conduct of investigations of applications for employment or for access to facilities,
 4321 by contractors, leased laborers, and other visitors;

4322 35. Any employer of individuals whose employment requires that they enter the homes of others, for
 4323 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

4324 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
 4325 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
 4326 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
 4327 subject to the restriction that the data shall not be further disseminated by the agency to any party other
 4328 than a federal or state authority or court as may be required to comply with an express requirement of
 4329 law for such further dissemination, subject to limitations set out in subsection G;

4330 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
 4331 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
 4332 or have accepted a position related to the provision of transportation services to enrollees in the
 4333 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other
 4334 program administered by the Department of Medical Assistance Services;

4335 38. The State Corporation Commission for the purpose of investigating individuals who are current
 4336 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
 4337 Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any
 4338 other provision of law, if an application is denied based in whole or in part on information obtained
 4339 from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the
 4340 Commissioner of Financial Institutions or his designee may disclose such information to the applicant or
 4341 its designee;

4342 39. The Department of Professional and Occupational Regulation for the purpose of investigating
 4343 individuals for initial licensure pursuant to § 54.1-2106.1;

4344 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
 4345 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
 4346 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
 4347 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

4348 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

4349 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
 4350 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

4351 43. The Department of Social Services and directors of local departments of social services for the
 4352 purpose of screening individuals seeking to enter into a contract with the Department of Social Services
 4353 or a local department of social services for the provision of child care services for which child care
 4354 subsidy payments may be provided;

4355 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
 4356 a juvenile's household when completing a predispositional or postdispositional report required by §
 4357 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

4358 45. The State Corporation Commission, for the purpose of screening applicants for insurance
 4359 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

4360 46. Other entities as otherwise provided by law.

4361 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
 4362 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
 4363 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons

4364 designated in the order on whom a report has been made under the provisions of this chapter.

4365 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
 4366 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
 4367 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
 4368 copy of conviction data covering the person named in the request to the person making the request;
 4369 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
 4370 making of such request. A person receiving a copy of his own conviction data may utilize or further
 4371 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
 4372 subject, the person making the request shall be furnished at his cost a certification to that effect.

4373 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
 4374 section shall be limited to the purposes for which it was given and may not be disseminated further.

4375 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
 4376 history record information for employment or licensing inquiries except as provided by law.

4377 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
 4378 Exchange prior to dissemination of any criminal history record information on offenses required to be
 4379 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
 4380 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
 4381 where time is of the essence and the normal response time of the Exchange would exceed the necessary
 4382 time period. A criminal justice agency to whom a request has been made for the dissemination of
 4383 criminal history record information that is required to be reported to the Central Criminal Records
 4384 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
 4385 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
 4386 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

4387 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
 4388 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
 4389 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

4390 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
 4391 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
 4392 for any offense specified in § 63.2-1720.

4393 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
 4394 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
 4395 definition of barrier crime in § 19.2-392.02.

4396 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
 4397 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
 4398 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
 4399 the request to the employer or prospective employer making the request, provided that the person on
 4400 whom the data is being obtained has consented in writing to the making of such request and has
 4401 presented a photo-identification to the employer or prospective employer. In the event no conviction data
 4402 is maintained on the person named in the request, the requesting employer or prospective employer shall
 4403 be furnished at his cost a certification to that effect. The criminal history record search shall be
 4404 conducted on forms provided by the Exchange.

4405 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
 4406 information pursuant to the rules of court for obtaining discovery or for review by the court.

4407 **§ 19.2-392.02. National criminal background checks by businesses and organizations regarding**
 4408 **employees or volunteers providing care to children or the elderly or disabled.**

4409 A. For purposes of this section:

4410 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,
 4411 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony
 4412 violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6,
 4413 or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or
 4414 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6,
 4415 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1,
 4416 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1;
 4417 any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1,
 4418 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1,
 4419 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86,
 4420 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282,
 4421 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 3.2-4175, 18.2-289, 18.2-290, 18.2-300,
 4422 18.2-308.4, or 18.2-314; any felony violation of § 18.2-346, 18.2-348, or 18.2-349; any violation of
 4423 § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation
 4424 of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5,
 4425 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or

4426 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 3.2-4176, 18.2-408,
 4427 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1,
 4428 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917,
 4429 or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation
 4430 of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under
 4431 the laws of another jurisdiction; (iii) any felony violation of § 3.2-4167, 3.2-4169, 3.2-4170, 3.2-4171,
 4432 3.2-4172, 3.2-4174, 3.2-4177, 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, ~~18.2-248.1~~, 18.2-248.5,
 4433 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any
 4434 substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of
 4435 § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set
 4436 forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes
 4437 Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by
 4438 reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set
 4439 forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes
 4440 Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of
 4441 another jurisdiction; or any offense for which registration in a sex offender and crimes against minors
 4442 registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other
 4443 felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of
 4444 the conviction.

4445 "Barrier crime information" means the following facts concerning a person who has been arrested for,
 4446 or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the
 4447 time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief
 4448 description of the barrier crime or offenses for which the person has been arrested or has been
 4449 convicted, the disposition of the charge, and any other information that may be useful in identifying
 4450 persons arrested for or convicted of a barrier crime.

4451 "Care" means the provision of care, treatment, education, training, instruction, supervision, or
 4452 recreation to children or the elderly or disabled.

4453 "Department" means the Department of State Police.

4454 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or
 4455 seeks to volunteer for a qualified entity.

4456 "Identification document" means a document made or issued by or under the authority of the United
 4457 States government, a state, a political subdivision of a state, a foreign government, political subdivision
 4458 of a foreign government, an international governmental or an international quasi-governmental
 4459 organization that, when completed with information concerning a particular individual, is of a type
 4460 intended or commonly accepted for the purpose of identification of individuals.

4461 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may
 4462 have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity
 4463 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised
 4464 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or
 4465 operate a qualified entity.

4466 "Qualified entity" means a business or organization that provides care to children or the elderly or
 4467 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt
 4468 pursuant to subdivision A 7 of § 63.2-1715.

4469 B. A qualified entity may request the Department of State Police to conduct a national criminal
 4470 background check on any provider who is employed by such entity. No qualified entity may request a
 4471 national criminal background check on a provider until such provider has:

4472 1. Been fingerprinted; and

4473 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and
 4474 date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the
 4475 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or
 4476 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime
 4477 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a
 4478 background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background
 4479 check report, to challenge the accuracy and completeness of any information contained in any such
 4480 report, and to obtain a prompt determination as to the validity of such challenge before a final
 4481 determination is made by the Department; and (v) a notice to the provider that prior to the completion
 4482 of the background check the qualified entity may choose to deny the provider unsupervised access to
 4483 children or the elderly or disabled for whom the qualified entity provides care.

4484 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a
 4485 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in
 4486 subsection B, the Department shall make a determination whether the provider has been convicted of or

4487 is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier
4488 crime information, the Department shall access the national criminal history background check system,
4489 which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other
4490 methods of identification, and shall access the Central Criminal Records Exchange maintained by the
4491 Department. If the Department receives a background report lacking disposition data, the Department
4492 shall conduct research in whatever state and local recordkeeping systems are available in order to obtain
4493 complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry
4494 within 15 business days.

4495 D. Any background check conducted pursuant to this section for a provider employed by a private
4496 entity shall be screened by the Department of State Police. If the provider has been convicted of or is
4497 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not
4498 qualified to work or volunteer in a position that involves unsupervised access to children or the elderly
4499 or disabled.

4500 E. Any background check conducted pursuant to this section for a provider employed by a
4501 governmental entity shall be provided to that entity.

4502 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a
4503 national criminal background check, the Department and the Federal Bureau of Investigation may each
4504 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted
4505 with the fingerprints.

4506 G. The failure to request a criminal background check pursuant to subsection B shall not be
4507 considered negligence per se in any civil action.

4508 H. (Expires July 1, 2020) Notwithstanding any provisions in this section to the contrary, a spouse of
4509 a birth parent or parent by adoption who is not the birth parent of a child and has filed a petition for
4510 adoption of such child in circuit court may request the Department of State Police to conduct a national
4511 criminal background check on such prospective adoptive parent at his cost for purposes of § 63.2-1242.
4512 Such background checks shall otherwise be conducted in accordance with the provisions of this section.

4513 **§ 22.1-277.08. Expulsion of students for certain drug offenses.**

4514 A. School boards shall expel from school attendance any student whom such school board has
4515 determined, in accordance with the procedures set forth in this article, to have brought a controlled
4516 substance, imitation controlled substance, or marijuana as defined in § ~~18.2-247~~ 3.2-4121 onto school
4517 property or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a
4518 school board may, however, determine, based on the facts of a particular situation, that special
4519 circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion
4520 is appropriate. A school board may, by regulation, authorize the division superintendent or his designee
4521 to conduct a preliminary review of such cases to determine whether a disciplinary action other than
4522 expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another
4523 disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance
4524 with the procedures set forth in this article. Nothing in this section shall be construed to require a
4525 student's expulsion regardless of the facts of the particular situation.

4526 B. Each school board shall revise its standards of student conduct to incorporate the requirements of
4527 this section no later than three months after the date on which this act becomes effective.

4528 **§ 24.2-233. Removal of elected and certain appointed officers by courts.**

4529 Upon petition, a circuit court may remove from office any elected officer or officer who has been
4530 appointed to fill an elective office, residing within the jurisdiction of the court:

4531 1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that
4532 neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse
4533 effect upon the conduct of the office;

4534 2. Upon conviction of a misdemeanor pursuant to *Article 7* (§ 3.2-4164 *et seq.*) of *Chapter 41.2 of*
4535 *Title 3.2 or Article 1* (§ 18.2-247 *et seq.*) or ~~Article 1.1~~ (§ 18.2-265.1 *et seq.*) of *Chapter 7 of Title 18.2*
4536 and after all rights of appeal have terminated involving the:

4537 a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or
4538 distribute a controlled substance or marijuana;

4539 b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug
4540 paraphernalia; or

4541 c. Possession of any controlled substance or marijuana and such conviction under subdivision a, b, or
4542 c has a material adverse effect upon the conduct of such office;

4543 3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a
4544 "hate crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon
4545 the conduct of such office; or

4546 4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of
4547 § 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into
4548 dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of

4549 age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to expose
 4550 himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the conduct
 4551 of such office.

4552 The petition must be signed by a number of registered voters who reside within the jurisdiction of
 4553 the officer equal to ~~ten~~ 10 percent of the total number of votes cast at the last election for the office that
 4554 the officer holds.

4555 Any person removed from office under the provisions of subdivision 2, 3, or 4 may not be
 4556 subsequently subject to the provisions of this section for the same criminal offense.

4557 **§ 37.2-416. Background checks required.**

4558 A. As used in this section:

4559 "Direct care position" means any position that includes responsibility for (i) treatment, case
 4560 management, health, safety, development, or well-being of an individual receiving services or (ii)
 4561 immediately supervising a person in a position with this responsibility.

4562 "Hire for compensated employment" does not include (i) a promotion from one adult substance abuse
 4563 or adult mental health treatment position to another such position within the same licensee licensed
 4564 pursuant to this article or (ii) new employment in an adult substance abuse or adult mental health
 4565 treatment position in another office or program licensed pursuant to this article if the person employed
 4566 prior to July 1, 1999, in a licensed program had no convictions in the five years prior to the application
 4567 date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an
 4568 adult substance abuse treatment position to any mental health or developmental services direct care
 4569 position within the same licensee licensed pursuant to this article or (b) new employment in any mental
 4570 health or developmental services direct care position in another office or program of the same licensee
 4571 licensed pursuant to this article for which the person has previously worked in an adult substance abuse
 4572 treatment position.

4573 "Shared living" means an arrangement in which the Commonwealth's program of medical assistance
 4574 pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and
 4575 providing companionship, support, and other limited, basic assistance to a person with developmental
 4576 disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal
 4577 responsibility.

4578 B. Every provider licensed pursuant to this article shall require (i) any applicant who accepts
 4579 employment in any direct care position, (ii) any applicant for approval as a sponsored residential service
 4580 provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential
 4581 service provider, (iv) any person employed by a sponsored residential service provider to provide
 4582 services in the home, and (v) any person who enters into a shared living arrangement with a person
 4583 receiving medical assistance services pursuant to a waiver to submit to fingerprinting and provide
 4584 personal descriptive information to be forwarded through the Central Criminal Records Exchange to the
 4585 Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record
 4586 information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no provider
 4587 licensed pursuant to this article shall:

4588 1. Hire for compensated employment any person who has been convicted of (i) any offense set forth
 4589 in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth
 4590 in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the
 4591 application date for employment or (b) such person continues on probation or parole or has failed to pay
 4592 required court costs for such offense set forth in clause (iv) of the definition of barrier crime in
 4593 § 19.2-392.02;

4594 2. Approve an applicant as a sponsored residential service provider if the applicant, any adult
 4595 residing in the home of the applicant, or any person employed by the applicant has been convicted of (i)
 4596 any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii)
 4597 any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five
 4598 years prior to the application date to be a sponsored residential service provider or (b) such applicant
 4599 continues on probation or parole or has failed to pay required court costs for such offense set forth in
 4600 clause (iv) of the definition of barrier crime in § 19.2-392.02; or

4601 3. Permit to enter into a shared living arrangement with a person receiving medical assistance
 4602 services pursuant to a waiver any person who has been convicted of (i) any offense set forth in clause
 4603 (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause
 4604 (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to entering into a
 4605 shared living arrangement or (b) such person continues on probation or parole or has failed to pay
 4606 required court costs for such offense set forth in clause (iv) of the definition of barrier crime in
 4607 § 19.2-392.02.

4608 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no
 4609 record exists, shall submit a report to the requesting authorized officer or director of a provider licensed

4610 pursuant to this article. If any applicant is denied employment because of information appearing on the
4611 criminal history record and the applicant disputes the information upon which the denial was based, the
4612 Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures
4613 for obtaining a copy of the criminal history record from the FBI. The information provided to the
4614 authorized officer or director of a provider licensed pursuant to this article shall not be disseminated
4615 except as provided in this section.

4616 C. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment
4617 at adult substance abuse or adult mental health treatment facilities a person who was convicted of any
4618 violation of § 18.2-51.3; a misdemeanor violation of § 18.2-56 or 18.2-56.1 or subsection A of
4619 § 18.2-57; any violation of § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any offense set forth in clause (iii)
4620 of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to *subsections B and C*
4621 *of § 3.2-4172* or subsections H1 and H2 of § 18.2-248; or any substantially similar offense under the
4622 laws of another jurisdiction, if the hiring provider determines, based upon a screening assessment, that
4623 the criminal behavior was substantially related to the applicant's substance abuse or mental illness and
4624 that the person has been successfully rehabilitated and is not a risk to individuals receiving services
4625 based on his criminal history background and his substance abuse or mental illness history.

4626 D. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment
4627 at adult substance abuse treatment facilities a person who has been convicted of not more than one
4628 offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another
4629 jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in
4630 Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more
4631 than 10 years have elapsed since the conviction; and (iii) the hiring provider determines, based upon a
4632 screening assessment, that the criminal behavior was substantially related to the applicant's substance
4633 abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving
4634 services based on his criminal history background and his substance abuse history.

4635 E. The hiring provider and a screening contractor designated by the Department shall screen
4636 applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have
4637 been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal
4638 history backgrounds and substance abuse or mental illness histories. To be eligible for such screening,
4639 the applicant shall have completed all prison or jail terms, shall not be under probation or parole
4640 supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court
4641 costs for any prior convictions, and shall have been free of parole or probation for at least five years for
4642 all convictions. In addition to any supplementary information the provider or screening contractor may
4643 require or the applicant may wish to present, the applicant shall provide to the screening contractor a
4644 statement from his most recent probation or parole officer, if any, outlining his period of supervision
4645 and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The
4646 cost of this screening shall be paid by the applicant, unless the licensed provider decides to pay the cost.

4647 F. Notwithstanding the provisions of subsection B, a provider may (i) hire for compensated
4648 employment, (ii) approve as a sponsored residential service provider, or (iii) permit to enter into a
4649 shared living arrangement persons who have been convicted of not more than one misdemeanor offense
4650 under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction,
4651 if 10 years have elapsed following the conviction, unless the person committed the offense while
4652 employed in a direct care position. A provider may also approve a person as a sponsored residential
4653 service provider if (a) any adult living in the home of an applicant or (b) any person employed by the
4654 applicant to provide services in the home in which sponsored residential services are provided has been
4655 convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially
4656 similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction,
4657 unless the person committed the offense while employed in a direct care position.

4658 G. Providers licensed pursuant to this article also shall require, as a condition of employment,
4659 approval as a sponsored residential service provider, or permission to enter into a shared living
4660 arrangement with a person receiving medical assistance services pursuant to a waiver, written consent
4661 and personal information necessary to obtain a search of the registry of founded complaints of child
4662 abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

4663 H. The cost of obtaining the criminal history record and search of the child abuse and neglect
4664 registry record shall be borne by the applicant, unless the provider licensed pursuant to this article
4665 decides to pay the cost.

4666 I. A person who complies in good faith with the provisions of this section shall not be liable for any
4667 civil damages for any act or omission in the performance of duties under this section unless the act or
4668 omission was the result of gross negligence or willful misconduct.

4669 J. Notwithstanding any other provision of law, a provider licensed pursuant to this article that
4670 provides services to individuals receiving services under the state plan for medical assistance services or
4671 any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a

4672 criminal history background check has been completed for a person described in subsection B for whom
 4673 a criminal history background check is required and (ii) whether the person described in subsection B is
 4674 eligible for employment, to provide sponsored residential services, to provide services in the home of a
 4675 sponsored residential service provider, or to enter into a shared living arrangement with a person
 4676 receiving medical assistance services pursuant to a waiver.

4677 **§ 46.2-390.1. Required revocation for conviction of drug offenses or deferral of proceedings.**

4678 A. Except as otherwise ordered pursuant to § 18.2-259.1, the Commissioner shall forthwith revoke,
 4679 and not thereafter reissue for six months from the later of (i) the date of conviction or deferral of
 4680 proceedings under § 18.2-251; ~~unless the deferral was for proceedings for possession of marijuana~~
 4681 ~~pursuant to § 18.2-250.1,~~ or (ii) the next date of eligibility to be licensed, the driver's license,
 4682 registration card, and license plates of any resident or nonresident on receiving notification of (a) his
 4683 conviction, (b) his having been found guilty in the case of a juvenile, or (c) the deferral of further
 4684 proceedings against him under § 18.2-251 for any violation of any provisions of Article 1 (§ 18.2-247 et
 4685 seq.) of Chapter 7 of Title 18.2; ~~unless the proceedings were for possession of marijuana pursuant to~~
 4686 ~~§ 18.2-250.1,~~ or of any state or federal law or valid county, city, or town ordinance, or a law of any
 4687 other state substantially similar to provisions of such Virginia laws. Such license revocation shall be in
 4688 addition to and shall run consecutively with any other license suspension, revocation, or forfeiture in
 4689 effect against such person.

4690 B. Any person whose license has been revoked pursuant to this section and § 18.2-259.1 shall be
 4691 subject to the provisions of §§ 46.2-370 and 46.2-414 and shall be required to pay a reinstatement fee as
 4692 provided in § 46.2-411 in order to have his license restored.

4693 **§ 52-35. Witness protection program established.**

4694 The Superintendent of State Police may establish and maintain within the Department of State Police
 4695 a witness protection program to temporarily relocate or otherwise protect witnesses and their families
 4696 who may be in danger because of their cooperation with the investigation and prosecution of serious
 4697 violent crimes, felony violations of § 18.2-248, and violations of §§ 3.2-4172, 18.2-57.2, 18.2-67.5:1,
 4698 18.2-67.5:2, and 18.2-67.5:3. The Superintendent may make the services of the program available to
 4699 law-enforcement and criminal justice agencies of all counties, cities, and towns, and of the
 4700 Commonwealth, pursuant to regulations promulgated by the Superintendent under the Administrative
 4701 Process Act. (§ 2.2-4000 et seq.).

4702 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

4703 This section shall apply to any person who is not a qualified voter because of a felony conviction,
 4704 who seeks to have his right to register to vote restored and become eligible to register to vote, and who
 4705 meets the conditions and requirements set out in this section.

4706 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in
 4707 subsection C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to §§
 4708 § 3.2-4167, 3.2-4169, 3.2-4170, 3.2-4171, 3.2-4172, 3.2-4174, 3.2-4177, 18.2-248, 18.2-248.01,
 4709 ~~18.2-248.1,~~ 18.2-255, 18.2-255.2, or § 18.2-258.02; or (iii) convicted of a felony pursuant to
 4710 § 24.2-1016, may petition the circuit court of the county or city in which he was convicted of a felony,
 4711 or the circuit court of the county or city in which he presently resides, for restoration of his civil right
 4712 to be eligible to register to vote through the process set out in this section. On such petition, the court
 4713 may approve the petition for restoration to the person of his right if the court is satisfied from the
 4714 evidence presented that the petitioner has completed, five or more years previously, service of any
 4715 sentence and any modification of sentence including probation, parole, and suspension of sentence; that
 4716 the petitioner has demonstrated civic responsibility through community or comparable service; and that
 4717 the petitioner has been free from criminal convictions, excluding traffic infractions, for the same period.

4718 If the court approves the petition, it shall so state in an order, provide a copy of the order to the
 4719 petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the
 4720 petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the
 4721 date of the order, subject to the approval or denial of restoration of that right by the Governor. The
 4722 Secretary of the Commonwealth shall transmit the order to the Governor who may grant or deny the
 4723 petition for restoration of the right to be eligible to register to vote approved by the court order. The
 4724 Secretary of the Commonwealth shall send, within 90 days of the date of the order, to the petitioner at
 4725 the address stated on the court's order, a certificate of restoration of that right or notice that the
 4726 Governor has denied the restoration of that right. The Governor's denial of a petition for the restoration
 4727 of voting rights shall be a final decision and the petitioner shall have no right of appeal. The Secretary
 4728 shall notify the court and the State Board of Elections in each case of the restoration of the right or
 4729 denial of restoration by the Governor.

4730 On receipt of the certificate of restoration of the right to register to vote from the Secretary of the
 4731 Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to
 4732 vote.

4733 § 54.1-2903. What constitutes practice; advertising in connection with medical practice.

4734 A. Any person shall be regarded as practicing the healing arts who actually engages in such practice
4735 as defined in this chapter, or who opens an office for such purpose, or who advertises or announces to
4736 the public in any manner a readiness to practice or who uses in connection with his name the words or
4737 letters "Doctor," "Dr.," "M.D.," "D.O.," "D.P.M.," "D.C.," "Healer," "N.P.," or any other title, word,
4738 letter or designation intending to designate or imply that he is a practitioner of the healing arts or that
4739 he is able to heal, cure or relieve those suffering from any injury, deformity or disease.

4740 Signing a birth or death certificate, or signing any statement certifying that the person so signing has
4741 rendered professional service to the sick or injured, or signing or issuing a prescription for drugs or
4742 other remedial agents, shall be prima facie evidence that the person signing or issuing such writing is
4743 practicing the healing arts within the meaning of this chapter except where persons other than physicians
4744 are required to sign birth certificates.

4745 B. No person regulated under this chapter shall use the title "Doctor" or the abbreviation "Dr." in
4746 writing or in advertising in connection with his practice unless he simultaneously uses words, initials, an
4747 abbreviation or designation, or other language that identifies the type of practice for which he is
4748 licensed. No person regulated under this chapter shall include in any advertisement a reference to
4749 marijuana, as defined in § ~~18.2-247~~ *3.2-4121*, unless such advertisement is for the treatment of addiction
4750 or substance abuse. However, nothing in this subsection shall prevent a person from including in any
4751 advertisement that such person is registered with the Board of Pharmacy to issue written certifications
4752 for the use of cannabidiol oil or THC-A oil, as defined in § 54.1-3408.3.

4753 § 54.1-3408.3. Certification for use of cannabidiol oil or THC-A oil for treatment.

4754 A. As used in this section:

4755 "Cannabidiol oil" means any formulation of processed Cannabis plant extract that contains at least 15
4756 percent cannabidiol but no more than five percent tetrahydrocannabinol, or a dilution of the resin of the
4757 Cannabis plant that contains at least five milligrams of cannabidiol per dose but not more than five
4758 percent tetrahydrocannabinol. "Cannabidiol oil" does not include industrial hemp, as defined in
4759 § 3.2-4112, that is grown, dealt, or processed in compliance with state or federal law.

4760 "Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine, a
4761 physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the
4762 Board of Medicine and the Board of Nursing.

4763 "Registered agent" means an individual designated by a patient who has been issued a written
4764 certification, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, designated
4765 by such patient's parent or legal guardian, and registered with the Board pursuant to subsection G.

4766 "THC-A oil" means any formulation of processed Cannabis plant extract that contains at least 15
4767 percent tetrahydrocannabinol acid but not more than five percent tetrahydrocannabinol, or a dilution of
4768 the resin of the Cannabis plant that contains at least five milligrams of tetrahydrocannabinol acid per
4769 dose but not more than five percent tetrahydrocannabinol.

4770 B. A practitioner in the course of his professional practice may issue a written certification for the
4771 use of cannabidiol oil or THC-A oil for treatment or to alleviate the symptoms of any diagnosed
4772 condition or disease determined by the practitioner to benefit from such use.

4773 C. The written certification shall be on a form provided by the Office of the Executive Secretary of
4774 the Supreme Court developed in consultation with the Board of Medicine. Such written certification
4775 shall contain the name, address, and telephone number of the practitioner, the name and address of the
4776 patient issued the written certification, the date on which the written certification was made, and the
4777 signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no
4778 later than one year after its issuance unless the practitioner provides in such written certification an
4779 earlier expiration.

4780 D. No practitioner shall be prosecuted under § *3.2-4169, subsection B of § 3.2-4170, or § 3.2-4172*
4781 *or 18.2-248* ~~or 18.2-248.1~~ for dispensing or distributing cannabidiol oil or THC-A oil for the treatment
4782 or to alleviate the symptoms of a patient's diagnosed condition or disease pursuant to a written
4783 certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of
4784 Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical
4785 condition or otherwise violating the applicable standard of care for evaluating or treating medical
4786 conditions.

4787 E. A practitioner who issues a written certification to a patient pursuant to this section shall register
4788 with the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the number
4789 of patients to whom a practitioner may issue a written certification.

4790 F. A patient who has been issued a written certification shall register with the Board or, if such
4791 patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian
4792 shall register and shall register such patient with the Board.

4793 G. A patient, or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such
4794 patient's parent or legal guardian, may designate an individual to act as his registered agent for the

4795 purposes of receiving cannabidiol oil or THC-A oil pursuant to a valid written certification. Such
 4796 designated individual shall register with the Board. The Board may set a limit on the number patients
 4797 for whom any individual is authorized to act as a registered agent.

4798 H. The Board shall promulgate regulations to implement the registration process. Such regulations
 4799 shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification,
 4800 the patient being treated by the practitioner, his registered agent, and, if such patient is a minor or an
 4801 incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for
 4802 ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a
 4803 prohibition for the patient to be issued a written certification by more than one practitioner during any
 4804 given time period.

4805 I. Information obtained under the registration process shall be confidential and shall not be subject to
 4806 the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However,
 4807 reasonable access to registry information shall be provided to (i) the Chairmen of the House and Senate
 4808 Committees for Courts of Justice, (ii) state and federal agencies or local law enforcement for the
 4809 purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed
 4810 physicians or pharmacists for the purpose of providing patient care and drug therapy management and
 4811 monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical processor involved in the
 4812 treatment of a registered patient, or (v) a registered patient, his registered agent, or, if such patient is a
 4813 minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian, but only
 4814 with respect to information related to such registered patient.

4815 **§ 54.1-3442.6. Permit to operate pharmaceutical processor.**

4816 A. No person shall operate a pharmaceutical processor without first obtaining a permit from the
 4817 Board. The application for such permit shall be made on a form provided by the Board and signed by a
 4818 pharmacist who will be in full and actual charge of the pharmaceutical processor. The Board shall
 4819 establish an application fee and other general requirements for such application.

4820 B. Each permit shall expire annually on a date determined by the Board in regulation. The number of
 4821 permits that the Board may issue or renew in any year is limited to one for each health service area
 4822 established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of
 4823 the pharmaceutical processor.

4824 C. The Board shall adopt regulations establishing health, safety, and security requirements for
 4825 pharmaceutical processors. Such regulations shall include requirements for (i) physical standards; (ii)
 4826 location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v)
 4827 recordkeeping; (vi) labeling and packaging; (vii) quarterly inspections; (viii) processes for safely and
 4828 securely cultivating Cannabis plants intended for producing cannabidiol oil and THC-A oil, producing
 4829 cannabidiol oil and THC-A oil, and dispensing and delivering in person cannabidiol oil and THC-A oil
 4830 to a registered patient, his registered agent, or, if such patient is a minor or an incapacitated adult as
 4831 defined in § 18.2-369, such patient's parent or legal guardian; (ix) a maximum number of marijuana
 4832 plants a pharmaceutical processor may possess at any one time; (x) the secure disposal of plant remains;
 4833 (xi) a process for registering a cannabidiol oil and THC-A oil product; (xii) dosage limitations, which
 4834 shall provide that each dispensed dose of cannabidiol oil or THC-A not exceed 10 milligrams of
 4835 tetrahydrocannabinol; and (xiii) a process for the wholesale distribution of and the transfer of
 4836 cannabidiol oil and THC-A oil products between pharmaceutical processors.

4837 D. Every pharmaceutical processor shall be under the personal supervision of a licensed pharmacist
 4838 on the premises of the pharmaceutical processor.

4839 E. The Board shall require an applicant for a pharmaceutical processor permit to submit to
 4840 fingerprinting and provide personal descriptive information to be forwarded along with his fingerprints
 4841 through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose
 4842 of obtaining criminal history record information regarding the applicant. The cost of fingerprinting and
 4843 the criminal history record search shall be paid by the applicant. The Central Criminal Records
 4844 Exchange shall forward the results of the criminal history background check to the Board or its
 4845 designee, which shall be a governmental entity.

4846 F. In addition to other employees authorized by the Board, a pharmaceutical processor may employ
 4847 individuals who may have less than two years of experience (i) to perform cultivation-related duties
 4848 under the supervision of an individual who has received a degree in horticulture or a certification
 4849 recognized by the Board or who has at least two years of experience cultivating plants and (ii) to
 4850 perform extraction-related duties under the supervision of an individual who has a degree in chemistry
 4851 or pharmacology or at least two years of experience extracting chemicals from plants.

4852 G. No person who has been convicted of (i) a felony under the laws of the Commonwealth or
 4853 another jurisdiction or (ii) within the last five years, any offense in violation of *Article 7* (§ 3.2-4164 *et*
 4854 *seq.*) of *Chapter 41.2 of Title 3.2* or *Article 1* (§ 18.2-247 *et seq.*) or *Article 1.1* (§ 18.2-265.1 *et seq.*)
 4855 of *Chapter 7 of Title 18.2* or a substantially similar offense under the laws of another jurisdiction shall

4856 be employed by or act as an agent of a pharmaceutical processor.

4857 H. Every pharmaceutical processor shall adopt policies for pre-employment drug screening and
4858 regular, ongoing, random drug screening of employees.

4859 **§ 54.1-3442.8. Criminal liability; exceptions.**

4860 In any prosecution of an agent or employee of a pharmaceutical processor under § ~~18.2-248,~~
4861 ~~18.2-248.1, 3.2-4164, 3.2-4165, 3.2-4167, 3.2-4169, 3.2-4170, 3.2-4172, or 18.2-250;~~ ~~or 18.2-250.1~~ for
4862 possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabidiol oil
4863 or THC-A oil, it shall be an affirmative defense that such agent or employee (i) possessed or
4864 manufactured such marijuana for the purposes of producing cannabidiol oil or THC-A oil in accordance
4865 with the provisions of this article and Board regulations or (ii) possessed, manufactured, or distributed
4866 such cannabidiol oil or THC-A oil in accordance with the provisions of this article and Board
4867 regulations. If such agent or employee files a copy of the permit issued to the pharmaceutical processor
4868 pursuant to § 54.1-3442.6 with the court at least 10 days prior to trial and causes a copy of such permit
4869 to be delivered to the attorney for the Commonwealth, such permit shall be prima facie evidence that (a)
4870 such marijuana was possessed or manufactured for the purposes of producing cannabidiol oil or THC-A
4871 oil in accordance with the provisions of this article and Board regulations or (b) such cannabidiol oil or
4872 THC-A oil was possessed, manufactured, or distributed in accordance with the provisions of this article
4873 and Board regulations.

4874 **2. That §§ 18.2-248.1, 18.2-250.1, and 18.2-251.1 of the Code of Virginia are repealed.**

4875 **3. That the Board of Agriculture and Consumer Services shall begin receiving applications for**
4876 **marijuana establishments within one year of the effective date of this act. For two years after the**
4877 **Board begins to receive applications for marijuana establishments, the Board shall approve only**
4878 **applications for marijuana cultivation facilities, marijuana manufacturing facilities, marijuana**
4879 **secure transporters, retail marijuana stores, and marijuana microbusinesses (i) from persons who**
4880 **are residents of the Commonwealth or (ii) if the applicant is a business entity, from business**
4881 **entities (a) in which every officer, director, manager, and general partner of the business entity is**
4882 **a natural person who is a resident of the Commonwealth; (b) in which a majority of the shares,**
4883 **membership interests, partnership interests, or other equity ownership interests as applicable to**
4884 **the business entity are held or owned by natural persons who are residents of the Commonwealth**
4885 **or business entities whose owners are all natural persons who are residents of the Commonwealth;**
4886 **and (c) that are incorporated in the Commonwealth or otherwise formed or organized under the**
4887 **laws of the Commonwealth. If the Board determines, after accepting applications for a period of**
4888 **one year, that additional state licenses are necessary to minimize the illegal market for marijuana**
4889 **in the Commonwealth, to efficiently meet the demand for marijuana, or to provide reasonable**
4890 **access to marijuana in rural areas, the Board shall begin to accept applications from any**
4891 **applicant.**

4892 **4. That the initial adoption of regulations by the Board of Agriculture and Consumer Services**
4893 **necessary to implement the provisions of this act shall be exempt from the Administrative Process**
4894 **Act (§ 2.2-4000 et seq. of the Code of Virginia), except that the Board of Agriculture and**
4895 **Consumer Services shall provide an opportunity for public comment on the regulations prior to**
4896 **adoption.**

4897 **5. That the provisions of this act may result in a net increase in periods of imprisonment or**
4898 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**
4899 **necessary appropriation cannot be determined for periods of imprisonment in state adult**
4900 **correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia**
4901 **Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to**
4902 **§ 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for**
4903 **periods of commitment to the custody of the Department of Juvenile Justice.**