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## SENATE BILL NO. 1244

Offered January 13, 2021

Prefiled January 11, 2021

A *BILL to amend and reenact §§ 2.2-3703, 2.2-3705.2, 2.2-3711, 9.1-101, 9.1-177.1, 9.1-907, 9.1-908, 10.1-104.7, 16.1-69.55, 16.1-300, 16.1-305, 17.1-213, 17.1-805, 19.2-11.01, 19.2-169.3, 19.2-174.1, 19.2-299, 19.2-301, 19.2-388, 19.2-389, as it is currently effective and as it shall become effective, 19.2-389.1, 19.2-392.02, as it is currently effective and as it shall become effective, 37.2-844, 37.2-845, 37.2-846, 37.2-1102, 44-146.18:4, 44-146.22, 53.1-136, 53.1-145, and 63.2-105 of the Code of Virginia and to repeal Chapter 9 (§§ 37.2-900 through 37.2-921) of Title 37.2 of the Code of Virginia, relating to civil commitment of sexually violent predators.*

Patrons—Morrissey; Delegate: Hope

Referred to Committee on the Judiciary

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

**1. That §§ 2.2-3703, 2.2-3705.2, 2.2-3711, 9.1-101, 9.1-177.1, 9.1-907, 9.1-908, 10.1-104.7, 16.1-69.55, 16.1-300, 16.1-305, 17.1-213, 17.1-805, 19.2-11.01, 19.2-169.3, 19.2-174.1, 19.2-299, 19.2-301, 19.2-388, 19.2-389, as it is currently effective and as it shall become effective, 19.2-389.1, 19.2-392.02, as it is currently effective and as it shall become effective, 37.2-844, 37.2-845, 37.2-846, 37.2-1102, 44-146.18:4, 44-146.22, 53.1-136, 53.1-145, and 63.2-105 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-3703. Public bodies and records to which chapter inapplicable; voter registration and election records; access by persons incarcerated in a state, local, or federal correctional facility.**

A. The provisions of this chapter shall not apply to:

1. The Virginia Parole Board, except that (i) information from the Virginia Parole Board providing the number of inmates considered by the Board for discretionary parole, the number of inmates granted or denied parole, and the number of parolees returned to the custody of the Department of Corrections solely as a result of a determination by the Board of a violation of parole shall be open to inspection and available for release, on a monthly basis, as provided by § 2.2-3704; (ii) all guidance documents, as defined in § 2.2-4101, shall be public records and subject to the provisions of this chapter; and (iii) all records concerning the finances of the Virginia Parole Board shall be public records and subject to the provisions of this chapter. The information required by clause (i) shall be furnished by offense, sex, race, age of the inmate, and the locality in which the conviction was obtained, upon the request of the party seeking the information. The information required by clause (ii) shall include all documents establishing the policy of the Board or any change in or clarification of such policy with respect to grant, denial, deferral, revocation, or supervision of parole or geriatric release or the process for consideration thereof, and shall be clearly and conspicuously posted on the Board's website. However, such information shall not include any portion of any document reflecting the application of any policy or policy change or clarification of such policy to an individual inmate;

2. Petit juries and grand juries;

3. Family assessment and planning teams established pursuant to § 2.2-5207;

4. Sexual assault response teams established pursuant to § 15.2-1627.4, except that records relating to (i) protocols and policies of the sexual assault response team and (ii) guidelines for the community's response established by the sexual assault response team shall be public records and subject to the provisions of this chapter;

5. Multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5;

6. The Virginia State Crime Commission; and

7. The records maintained by the clerks of the courts of record, as defined in § 1-212, for which clerks are custodians under § 17.1-242, and courts not of record, as defined in § 16.1-69.5, for which clerks are custodians under § 16.1-69.54, including those transferred for storage, maintenance, or archiving. Such records shall be requested in accordance with the provisions of §§ 16.1-69.54:1 and 17.1-208, as appropriate. However, other records maintained by the clerks of such courts shall be public records and subject to the provisions of this chapter.

B. Public access to voter registration and election records shall be governed by the provisions of Title 24.2 and this chapter. The provisions of Title 24.2 shall be controlling in the event of any conflict.

C. No provision of this chapter or Chapter 21 (§ 30-178 et seq.) of Title 30 shall be construed to afford any rights to any person ~~(a)~~ incarcerated in a state, local or federal correctional facility, whether or not such facility is ~~(a)~~ (i) located in the Commonwealth or ~~(b)~~ (ii) operated pursuant to the

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59 Corrections Private Management Act (§ 53.1-261 et seq.) or (ii) civilly committed pursuant to the  
60 Sexually Violent Predators Act (§ 37.2-900 et seq.). However, this subsection shall not be construed to  
61 prevent such persons from exercising their constitutionally protected rights, including, but not limited to,  
62 their right to call for evidence in their favor in a criminal prosecution.

63 **§ 2.2-3705.2. Exclusions to application of chapter; records relating to public safety.**

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

68 1. Confidential information, including victim identity, provided to or obtained by staff in a rape crisis  
69 center or a program for battered spouses.

70 2. Information that describes the design, function, operation, or access control features of any  
71 security system, whether manual or automated, which is used to control access to or use of any  
72 automated data processing or telecommunications system.

73 3. Information that would disclose the security aspects of a system safety program plan adopted  
74 pursuant to Federal Transit Administration regulations by the Commonwealth's designated Rail Fixed  
75 Guideway Systems Safety Oversight agency; and information in the possession of such agency, the  
76 release of which would jeopardize the success of an ongoing investigation of a rail accident or other  
77 incident threatening railway safety.

78 4. Information concerning security plans and specific assessment components of school safety audits,  
79 as provided in § 22.1-279.8.

80 Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the  
81 effectiveness of security plans after (i) any school building or property has been subjected to fire,  
82 explosion, natural disaster, or other catastrophic event or (ii) any person on school property has suffered  
83 or been threatened with any personal injury.

84 5. Information concerning the mental health assessment of an individual subject to commitment as a  
85 sexually violent predator under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 held by the Commitment  
86 Review Committee; except that in no case shall information identifying the victims of a sexually violent  
87 predator be disclosed.

88 6. Subscriber data provided directly or indirectly by a communications services provider to a public  
89 body that operates a 911 or E-911 emergency dispatch system or an emergency notification or reverse  
90 911 system if the data is in a form not made available by the communications services provider to the  
91 public generally. Nothing in this subdivision shall prevent the disclosure of subscriber data generated in  
92 connection with specific calls to a 911 emergency system, where the requester is seeking to obtain  
93 public records about the use of the system in response to a specific crime, emergency or other event as  
94 to which a citizen has initiated a 911 call.

95 For the purposes of this subdivision:

96 "Communications services provider" means the same as that term is defined in § 58.1-647.

97 "Subscriber data" means the name, address, telephone number, and any other information identifying  
98 a subscriber of a communications services provider.

99 7. 6. Subscriber data collected by a local governing body in accordance with the Enhanced Public  
100 Safety Telephone Services Act (§ 56-484.12 et seq.) and other identifying information of a personal,  
101 medical, or financial nature provided to a local governing body in connection with a 911 or E-911  
102 emergency dispatch system or an emergency notification or reverse 911 system if such records are not  
103 otherwise publicly available.

104 Nothing in this subdivision shall prevent the disclosure of subscriber data generated in connection  
105 with specific calls to a 911 emergency system, where the requester is seeking to obtain public records  
106 about the use of the system in response to a specific crime, emergency or other event as to which a  
107 citizen has initiated a 911 call.

108 For the purposes of this subdivision:

109 "Communications services provider" means the same as that term is defined in § 58.1-647.

110 "Subscriber data" means the name, address, telephone number, and any other information identifying  
111 a subscriber of a communications services provider.

112 8. 7. Information held by the Virginia Military Advisory Council or any commission created by  
113 executive order for the purpose of studying and making recommendations regarding preventing closure  
114 or realignment of federal military and national security installations and facilities located in Virginia and  
115 relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a  
116 local governing body, that would (i) reveal strategies under consideration or development by the Council  
117 or such commission or organizations to prevent the closure or realignment of federal military  
118 installations located in Virginia or the relocation of national security facilities located in Virginia, to  
119 limit the adverse economic effect of such realignment, closure, or relocation, or to seek additional tenant  
120 activity growth from the Department of Defense or federal government or (ii) disclose trade secrets

provided to the Council or such commission or organizations in connection with their work.

In order to invoke the trade secret protection provided by clause (ii), the submitting entity shall, in writing and at the time of submission (a) invoke this exclusion, (b) identify with specificity the information for which such protection is sought, and (c) state the reason why such protection is necessary. Nothing in this subdivision shall be construed to prevent the disclosure of all or part of any record, other than a trade secret that has been specifically identified as required by this subdivision, after the Department of Defense or federal agency has issued a final, unappealable decision, or in the event of litigation, a court of competent jurisdiction has entered a final, unappealable order concerning the closure, realignment, or expansion of the military installation or tenant activities, or the relocation of the national security facility, for which records are sought.

9. 8. Information, as determined by the State Comptroller, that describes the design, function, operation, or implementation of internal controls over the Commonwealth's financial processes and systems, and the assessment of risks and vulnerabilities of those controls, including the annual assessment of internal controls mandated by the State Comptroller, if disclosure of such information would jeopardize the security of the Commonwealth's financial assets. However, records relating to the investigation of and findings concerning the soundness of any fiscal process shall be disclosed in a form that does not compromise internal controls. Nothing in this subdivision shall be construed to prohibit the Auditor of Public Accounts or the Joint Legislative Audit and Review Commission from reporting internal control deficiencies discovered during the course of an audit.

~~10.~~ 9. Information relating to the Statewide Agencies Radio System (STARS) or any other similar local or regional public safety communications system that (i) describes the design, function, programming, operation, or access control features of the overall system, components, structures, individual networks, and subsystems of the STARS or any other similar local or regional communications system or (ii) relates to radio frequencies assigned to or utilized by STARS or any other similar local or regional communications system, code plugs, circuit routing, addressing schemes, talk groups, fleet maps, encryption, or programming maintained by or utilized by STARS or any other similar local or regional public safety communications system.

~~11.~~ 10. Information concerning a salaried or volunteer Fire/EMS company or Fire/EMS department if disclosure of such information would reveal the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties.

~~12.~~ 11. Information concerning the disaster recovery plans or the evacuation plans in the event of fire, explosion, natural disaster, or other catastrophic event for hospitals and nursing homes regulated by the Board of Health pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 provided to the Department of Health. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the effectiveness of executed evacuation plans after the occurrence of fire, explosion, natural disaster, or other catastrophic event.

~~13.~~ 12. Records received by the Department of Criminal Justice Services pursuant to §§ 9.1-184, 22.1-79.4, and 22.1-279.8 or for purposes of evaluating threat assessment teams established by a public institution of higher education pursuant to § 23.1-805 or by a private nonprofit institution of higher education, to the extent such records reveal security plans, walk-through checklists, or vulnerability and threat assessment components.

~~14.~~ 13. Information contained in (i) engineering, architectural, or construction drawings; (ii) operational, procedural, tactical planning, or training manuals; (iii) staff meeting minutes; or (iv) other records that reveal any of the following, the disclosure of which would jeopardize the safety or security of any person; governmental facility, building, or structure or persons using such facility, building, or structure; or public or private commercial office, multifamily residential, or retail building or its occupants:

a. Critical infrastructure information or the location or operation of security equipment and systems of any public building, structure, or information storage facility, including ventilation systems, fire protection equipment, mandatory building emergency equipment or systems, elevators, electrical systems, telecommunications equipment and systems, or utility equipment and systems;

b. Vulnerability assessments, information not lawfully available to the public regarding specific cybersecurity threats or vulnerabilities, or security plans and measures of an entity, facility, building structure, information technology system, or software program;

c. Surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational or transportation plans or protocols; or

d. Interconnectivity, network monitoring, network operation centers, master sites, or systems related to the Statewide Agencies Radio System (STARS) or any other similar local or regional public safety communications system.

The same categories of records of any person or entity submitted to a public body for the purpose of

182 antiterrorism response planning or cybersecurity planning or protection may be withheld from disclosure  
183 if such person or entity in writing (a) invokes the protections of this subdivision, (b) identifies with  
184 specificity the records or portions thereof for which protection is sought, and (c) states with reasonable  
185 particularity why the protection of such records from public disclosure is necessary to meet the objective  
186 of antiterrorism, cybersecurity planning or protection, or critical infrastructure information security and  
187 resilience. Such statement shall be a public record and shall be disclosed upon request.

188 Any public body receiving a request for records excluded under clauses (a) and (b) of this  
189 subdivision 44 13 shall notify the Secretary of Public Safety and Homeland Security or his designee of  
190 such request and the response made by the public body in accordance with § 2.2-3704.

191 Nothing in this subdivision 44 13 shall prevent the disclosure of records relating to (1) the structural  
192 or environmental soundness of any such facility, building, or structure or (2) an inquiry into the  
193 performance of such facility, building, or structure after it has been subjected to fire, explosion, natural  
194 disaster, or other catastrophic event.

195 As used in this subdivision, "critical infrastructure information" means the same as that term is  
196 defined in 6 U.S.C. § 131.

197 ~~45- 14.~~ Information held by the Virginia Commercial Space Flight Authority that is categorized as  
198 classified or sensitive but unclassified, including national security, defense, and foreign policy  
199 information, provided that such information is exempt under the federal Freedom of Information Act, 5  
200 U.S.C. § 552.

201 **§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

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

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

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

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

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

225 5. Discussion concerning a prospective business or industry or the expansion of an existing business  
226 or industry where no previous announcement has been made of the business' or industry's interest in  
227 locating or expanding its facilities in the community.

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

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

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

242 9. Discussion or consideration by governing boards of public institutions of higher education of  
243 matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or

work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

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

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

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

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

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

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

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

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia

305 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or  
306 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such  
307 ownership interest or the future financial performance of the entity, and (ii) would have an adverse  
308 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a  
309 local finance board or board of trustees, the board of visitors of the University of Virginia, or the  
310 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure  
311 of information relating to the identity of any investment held, the amount invested or the present value  
312 of such investment.

313 21. Those portions of meetings in which individual child death cases are discussed by the State Child  
314 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which  
315 individual child death cases are discussed by a regional or local child fatality review team established  
316 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by  
317 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in  
318 which individual adult death cases are discussed by the state Adult Fatality Review Team established  
319 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed  
320 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of  
321 meetings in which individual death cases are discussed by overdose fatality review teams established  
322 pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are  
323 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of  
324 meetings in which individual death cases of persons with developmental disabilities are discussed by the  
325 Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

326 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern  
327 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any  
328 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern  
329 Virginia Medical School, as the case may be, have been delegated, in which there is discussed  
330 proprietary, business-related information pertaining to the operations of the University of Virginia  
331 Medical Center or Eastern Virginia Medical School, as the case may be, including business development  
332 or marketing strategies and activities with existing or future joint venturers, partners, or other parties  
333 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case  
334 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such  
335 information would adversely affect the competitive position of the Medical Center or Eastern Virginia  
336 Medical School, as the case may be.

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

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

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

354 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee  
355 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in §  
356 56-484.12, related to the provision of wireless E-911 service.

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

363 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of  
364 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are  
365 defined in § 33.2-1800, or any independent review panel appointed to review information and advise  
366 the responsible public entity concerning such records.

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

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

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

~~32.~~ Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

~~33.~~ 32. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

~~34.~~ 33. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

~~35.~~ 34. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

~~36.~~ 35. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

~~37.~~ 36. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

~~38.~~ 37. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

~~39.~~ 38. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

~~40.~~ 39. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

~~41.~~ 40. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 7 of § 2.2-3705.2.

~~42.~~ 41. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

~~43.~~ 42. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

~~44.~~ 43. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

~~45.~~ 44. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the

person who supplied, or is the subject of, the information.

~~46.~~ 45. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

~~47.~~ 46. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

~~48.~~ 47. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

~~49.~~ 48. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

~~50.~~ 49. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

~~51.~~ 50. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

~~52.~~ 51. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

~~53.~~ 52. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator and discussion, consideration, or review of matters related to investigations exempt from disclosure under subdivision 1 of § 2.2-3705.3.

~~54.~~ 53. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew a permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

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

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

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

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

#### **§ 9.1-101. Definitions.**

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.



"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of

an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

**§ 9.1-177.1. Confidentiality of records of and reports on adult persons under investigation by, or placed on probation supervision with a local community-based probation services agency.**

A. Any investigation report, including a presentencing investigation report, prepared by a local community-based probation officer is confidential and is exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). Such reports shall be filed as a part of the case record. Such reports shall be made available only by court order and shall be sealed upon final order by the court; except that such reports shall be available upon request to (i) any criminal justice agency, as defined in § 9.1-101, of this or any other state or of the United States; (ii) any agency where the accused is referred for assessment or treatment; or (iii) counsel for the person who is the subject of the report; or (iv) counsel who represents the person in pursuit of a post-conviction remedy, subject to the limitations set forth in § 37.2-901.

B. Any report on the progress of an offender under the supervision of a local community-based probation agency and any information relative to the identity of or inferring personal characteristics of an accused, including demographic information, diagnostic summaries, records of office visits, medical, substance abuse, psychiatric or psychological records or information, substance abuse screening, assessment and testing information, and other sensitive information not explicitly classified as criminal history record information, is exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, such information may be disseminated to criminal justice agencies as defined in § 9.1-101 in the discretion of the custodian of these records.

**§ 9.1-907. Procedures upon a failure to register, reregister, or verify registration information.**

A. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register, reregister, or verify his registration information, the State Police shall promptly

investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person last registered, reregistered, or verified his registration information or, if the person failed to comply with the duty to register, in the jurisdiction in which the person was last convicted of an offense for which registration or reregistration is required or if the person was convicted of an offense requiring registration outside the Commonwealth, in the jurisdiction in which the person resides. The State Police shall forward to the jurisdiction an affidavit signed by a custodian of the records that such person failed to comply with the duty to register, reregister, or verify his registration information. If such affidavit is admitted into evidence, it shall constitute prima facie evidence of the failure to comply with the duty to register, reregister, or verify his registration information in any trial or hearing for the violation of § 18.2-472.1, provided that in a trial or hearing other than a preliminary hearing, the requirements of subsection G of § 18.2-472.1 have been satisfied and the accused has not objected to the admission of the affidavit pursuant to subsection H of § 18.2-472.1. The State Police shall also promptly notify the local law-enforcement agency of the jurisdiction of the person's last known residence as shown in the records of the State Police.

B. Nothing in this section shall prohibit a law-enforcement officer employed by a sheriff's office or police department of a locality from enforcing the provisions of this chapter, including obtaining a warrant, or assisting in obtaining an indictment for a violation of § 18.2-472.1. The local law-enforcement agency shall notify the State Police forthwith of such actions taken pursuant to this chapter or under the authority granted pursuant to this section.

C. The State Police shall physically verify or cause to be physically verified the registration information within 30 days of the initial registration and semiannually each year thereafter and within 30 days of a change of address of those persons who are not under the control of the Department of Corrections or community supervision as defined by § 53.1-1, who are required to register pursuant to this chapter. Whenever it appears that a person has provided false registration information, the State Police shall promptly investigate and, if there is probable cause to believe that a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person last registered, reregistered, or verified his registration information. The State Police shall forward to the jurisdiction an affidavit signed by a custodian of the records that such person failed to comply with the provisions of this chapter. If such affidavit is admitted into evidence, it shall constitute prima facie evidence of the failure to comply with the provisions of this chapter in any trial or hearing for the violation of § 18.2-472.1, provided that in a trial or hearing other than a preliminary hearing, the requirements of subsection G of § 18.2-472.1 have been satisfied and the accused has not objected to the admission of the affidavit pursuant to subsection H of § 18.2-472.1. The State Police shall also promptly notify the local law-enforcement agency of the jurisdiction of the person's last known residence as shown in the records of the State Police.

D. The Department of Corrections or community supervision as defined by § 53.1-1 shall physically verify or cause to be physically verified by the State Police the registration information within 30 days of the original registration and semiannually each year thereafter and within 30 days of a change of address of all persons who are under the control of the Department of Corrections or community supervision, and those who are under supervision pursuant to ~~§ 37.2-919~~, who are required to register pursuant to this chapter. The Department of Corrections or community supervision, upon request, shall provide the State Police the verification information, in an electronic format approved by the State Police, regarding persons under their control who are required to register pursuant to the chapter. Whenever it appears that a person has provided false registration information, the Department of Corrections or community supervision shall promptly notify the State Police, who shall investigate and, if there is probable cause to believe that a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person last registered, reregistered, or verified his registration information. The State Police shall forward to the jurisdiction an affidavit signed by a custodian of the records that such person failed to comply with the provisions of this chapter. If such affidavit is admitted into evidence, it shall constitute prima facie evidence of the failure to comply with the provisions of this chapter in any trial or hearing for the violation of § 18.2-472.1, provided that in a trial or hearing other than a preliminary hearing, the requirements of subsection G of § 18.2-472.1 have been satisfied and the accused has not objected to the admission of the affidavit pursuant to subsection H of § 18.2-472.1. The State Police shall also promptly notify the local law-enforcement agency of the jurisdiction of the person's last known residence as shown in the records of the State Police.

#### **§ 9.1-908. Duration of registration requirement.**

Any person required to register, reregister, or verify his registration information shall be required to register until the duty to register, reregister, or verify his registration information is terminated by a court order as set forth in § 9.1-910, except that any person who has been convicted of (i) any Tier III

674 offense, (ii) murder or (iii) former § 18.2-67.2:1 shall have a continuing duty to reregister or verify his  
675 registration information for life.

676 Any period of confinement in a federal, state, or local correctional facility, hospital, or any other  
677 institution or facility during the otherwise applicable period shall toll the registration or verification  
678 period and the duty to reregister or verify his registration information shall be extended. Persons  
679 confined in a federal, state, or local correctional facility shall not be required to reregister or verify his  
680 registration information until released from custody. ~~Persons civilly committed pursuant to Chapter 9~~  
681 ~~(§ 37.2-900 et seq.) of Title 37.2 shall not be required to reregister or verify his registration information~~  
682 ~~until released from custody.~~ Persons confined in a federal, state, or local correctional facility ~~or civilly~~  
683 ~~committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 shall notify the Registry within three~~  
684 days following any change of name.

685 **§ 10.1-104.7. Resource management plans; effect of implementation; exclusions.**

686 A. Notwithstanding any other provision of law, agricultural landowners or operators who fully  
687 implement and maintain the applicable components of their resource management plan, in accordance  
688 with the criteria for such plans set out in § 10.1-104.8 and any regulations adopted thereunder, shall be  
689 deemed to be in full compliance with (i) any load allocation contained in a total maximum daily load  
690 (TMDL) established under § 303(d) of the federal Clean Water Act addressing benthic, bacteria, nutrient,  
691 or sediment impairments; (ii) any requirements of the Virginia Chesapeake Bay TMDL Watershed  
692 Implementation Plan; and (iii) applicable state water quality requirements for nutrients and sediment.

693 B. The presumption of full compliance provided in subsection A shall not prevent or preclude  
694 enforcement of provisions pursuant to (i) a resource management plan or a nutrient management plan  
695 otherwise required by law for such operation, (ii) a Virginia Pollutant Discharge Elimination System  
696 permit, (iii) a Virginia Pollution Abatement permit, or (iv) requirements of the Chesapeake Bay  
697 Preservation Act (§ 62.1-44.15:67 et seq.).

698 C. Landowners or operators who implement and maintain a resource management plan in accordance  
699 with this article shall be eligible for matching grants for agricultural best management practices provided  
700 through the Virginia Agricultural Best Management Practices Cost-Share Program administered by the  
701 Department in accordance with program eligibility rules and requirements. Such landowners and  
702 operators may also be eligible for state tax credits in accordance with §§ 58.1-339.3 and 58.1-439.5.

703 D. Nothing in this article shall be construed to limit, modify, impair, or supersede the authority  
704 granted to the Commissioner of Agriculture and Consumer Services pursuant to Chapter 4 (§ 3.2-400 et  
705 seq.) of Title 3.2.

706 E. Any personal or proprietary information collected pursuant to this article shall be exempt from the  
707 Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except that the Director may release  
708 information that has been transformed into a statistical or aggregate form that does not allow  
709 identification of the persons who supplied, or are the subject of, particular information. This subsection  
710 shall not preclude the application of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) in all  
711 other instances of federal or state regulatory actions. Pursuant to subdivision ~~45~~ 44 of § 2.2-3711, public  
712 bodies may hold closed meetings for discussion or consideration of certain records excluded from the  
713 provisions of this article and the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

714 **§ 16.1-69.55. Retention of case records; limitations on enforcement of judgments; extensions.**

715 A. Criminal and traffic infraction proceedings:

716 1. In misdemeanor and traffic infraction cases, except misdemeanor cases under § 16.1-253.2,  
717 18.2-57.2, or 18.2-60.4, all documents shall be retained for 10 years, including cases sealed in  
718 expungement proceedings under § 19.2-392.2. In misdemeanor cases under § 16.1-253.2, 18.2-57.2, or  
719 18.2-60.4, all documents shall be retained for 20 years. In misdemeanor cases under §§ 18.2-67.4,  
720 18.2-67.4:1, 18.2-67.4:2, 18.2-346, 18.2-347, 18.2-348, 18.2-349, 18.2-370, 18.2-370.01, 18.2-374,  
721 18.2-386.1, 18.2-387, and 18.2-387.1, all documents shall be retained for 50 years. Documents in  
722 misdemeanor and traffic infraction cases for which an appeal has been made shall be returned to and  
723 filed with the clerk of the appropriate circuit court pursuant to § 16.1-135;

724 2. In felony cases that are certified to the grand jury, all documents shall be certified to the clerk of  
725 the appropriate circuit court pursuant to §§ 19.2-186 and 19.2-190. All other felony case documents shall  
726 be handled as provided in subdivision 1;

727 3. Dockets and indices shall be retained for 10 years.

728 B. Civil proceedings:

729 1. All documents in civil proceedings in district court that are dismissed, including dismissal under  
730 § 8.01-335, shall be retained until completion of the Commonwealth's audit of the court records.  
731 Notwithstanding § 8.01-275.1, the clerks of the district courts may destroy documents in civil  
732 proceedings in which no service of process is had 24 months after the last return date;

733 2. In civil actions that result in a judgment, all documents in the possession of the general district  
734 court shall be retained for 10 years and, unless sooner satisfied, the judgment shall remain in force for a  
735 period of 10 years;

3. In civil cases that are appealed to the circuit court pursuant to § 16.1-112, all documents pertaining thereto shall be transferred to the circuit court in accordance with those sections;

4. The limitations on enforcement of general district court judgments provided in § 16.1-94.1 shall not apply if the plaintiff, prior to the expiration of that period for enforcement, pays the circuit court docketing and indexing fees on judgments from other courts together with any other required filing fees and docket the judgment in the circuit court having jurisdiction in the same geographic area as the general district court. However, a judgment debtor wishing to discharge a judgment pursuant to the provisions of § 8.01-456, when the judgment creditor cannot be located, may, prior to the expiration of that period for enforcement, pay the circuit court docketing and indexing fees on judgments from other courts together with any other required filing fees and docket the judgment in the circuit court having jurisdiction in the same geographic area as the general district court. After the expiration of the period provided in § 16.1-94.1, executions on such docketed civil judgments may issue from the general district court wherein the judgment was obtained upon the filing in the general district court of an abstract from the circuit court. In all other respects, the docketing of a general district court judgment in a circuit court confers upon such judgment the same status as if the judgment were a circuit court judgment;

5. Dockets for civil cases shall be retained for 10 years;

6. Indices in civil cases shall be retained for 10 years.

C. Juvenile and domestic relations district court proceedings:

1. In adult criminal cases, all records shall be retained as provided in subdivision A 1;

2. In juvenile cases, all documents and indices shall be governed by the provisions of § 16.1-306;

3. In all cases involving support arising under Title 16.1, 20, or 63.2, all documents and indices shall be retained until the last juvenile involved, if any, has reached 19 years of age and 10 years have elapsed from either dismissal or termination of the case by court order or by operation of law. Financial records in connection with such cases shall be subject to the provisions of § 16.1-69.56;

4. In all (i) *felony cases involving sexually violent offenses, as defined in § 37.2-900, under (a) former § 18-54, former § 18.1-44, subdivision A 5 of § 18.2-31, and §§ 18.2-61, 18.2-67.1, and 18.2-67.2; (b) clause (ii) and (iii) of § 18.2-48, and §§ 18.2-63, 18.2-64.1, and 18.2-67.3; (c) subdivision A 1 of § 18.2-31 when the abduction was committed with intent to defile the victim; (d) § 18.2-32 when the killing was in the commission of or attempt to commit rape, forcible sodomy, or inanimate or animate object sexual penetration; (e) the laws of the Commonwealth for a forcible sexual offense committed prior to July 1, 1981, where the criminal behavior is set forth in § 18.2-67.1 or 18.2-67.2, or is set forth in § 18.2-67.3; and (f) conspiracy to commit or attempt to commit any of the above offenses* and in all (ii) misdemeanor cases under §§ 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-346, 18.2-347, 18.2-348, 18.2-349, 18.2-370, 18.2-370.01, 18.2-374, 18.2-386.1, 18.2-387, and 18.2-387.1, all documents shall be retained for 50 years;

5. In cases transferred to circuit court for trial as an adult or appealed to circuit court, all documents pertaining thereto shall be transferred to circuit court;

6. All dockets in juvenile cases shall be governed by the provisions of subsection F of § 16.1-306.

D. At the direction of the chief judge of a district court, the clerk of that court may cause any or all papers or documents pertaining to civil and criminal cases that have been ended to be destroyed if such records, papers, or documents will no longer have administrative, fiscal, historical, or legal value to warrant continued retention, provided such records, papers, or documents have been microfilmed or converted to an electronic format. Such microfilm and microphotographic processes and equipment shall meet state archival microfilm standards pursuant to § 42.1-82, or such electronic format shall follow state electronic records guidelines, and such records, papers, or documents so converted shall be placed in conveniently accessible files and provisions made for examining and using the same. The provisions of this subsection shall not apply to the documents for misdemeanor cases under §§ 16.1-253.2, 18.2-57.2, 18.2-60.4, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-346, 18.2-347, 18.2-348, 18.2-349, 18.2-370, 18.2-370.01, 18.2-374, 18.2-386.1, 18.2-387, and 18.2-387.1, which shall be retained as provided in subsection A.

#### **§ 16.1-300. Confidentiality of Department records.**

A. The social, medical, psychiatric and psychological reports and records of children who are or have been (i) before the court, (ii) under supervision, or (iii) receiving services from a court service unit or who are committed to the Department of Juvenile Justice shall be confidential and shall be open for inspection only to the following:

1. The judge, prosecuting attorney, probation officers and professional staff assigned to serve a court having the child currently before it in any proceeding;

2. Any public agency, child welfare agency, private organization, facility or person who is treating or providing services to the child pursuant to a contract with the Department or pursuant to the Virginia Juvenile Community Crime Control Act as set out in Article 12.1 (§ 16.1-309.2 et seq.);

3. The child's parent, guardian, legal custodian or other person standing in loco parentis and the

797 child's attorney;

798 4. Any person who has reached the age of majority and requests access to his own records or  
799 reports;

800 5. Any state agency providing funds to the Department of Juvenile Justice and required by the  
801 federal government to monitor or audit the effectiveness of programs for the benefit of juveniles which  
802 are financed in whole or in part by federal funds;

803 6. Any other person, agency or institution, including any law-enforcement agency, school  
804 administration, or probation office by order of the court, having a legitimate interest in the case, the  
805 juvenile, or in the work of the court;

806 7. Any person, agency, or institution, in any state, having a legitimate interest (i) when release of the  
807 confidential information is for the provision of treatment or rehabilitation services for the juvenile who  
808 is the subject of the information, (ii) when the requesting party has custody or is providing supervision  
809 for a juvenile and the release of the confidential information is in the interest of maintaining security in  
810 a secure facility, as defined by § 16.1-228 if the facility is located in Virginia, or as similarly defined by  
811 the law of the state in which such facility is located if it is not located in Virginia, or (iii) when release  
812 of the confidential information is for consideration of admission to any group home, residential facility,  
813 or postdispositional facility, and copies of the records in the custody of such home or facility shall be  
814 destroyed if the child is not admitted to the home or facility;

815 8. Any attorney for the Commonwealth, any pretrial services officer, local community-based  
816 probation officer and adult probation and parole officer for the purpose of preparing pretrial  
817 investigation, including risk assessment instruments, presentence reports, including those provided in §  
818 19.2-299, discretionary sentencing guidelines worksheets, including related risk assessment instruments,  
819 as directed by the court pursuant to subsection C of § 19.2-298.01 or any court-ordered post-sentence  
820 investigation report;

821 9. Any person, agency, organization or institution outside the Department that, at the Department's  
822 request, is conducting research or evaluation on the work of the Department or any of its divisions; or  
823 any state criminal justice agency that is conducting research, provided that the agency agrees that all  
824 information received shall be kept confidential, or released or published only in aggregate form;

825 10. With the exception of medical, psychiatric, and psychological records and reports, any full-time  
826 or part-time employee of the Department of State Police or of a police department or sheriff's office that  
827 is a part of or administered by the Commonwealth or any political subdivision thereof, and who is  
828 responsible for the enforcement of the penal, traffic, or motor vehicle laws of the Commonwealth, is  
829 entitled to any information related to a criminal street gang, including that a person is a member of a  
830 criminal street gang as defined in § 18.2-46.1. Information shall be provided by the Department to law  
831 enforcement without their request to aid in initiating an investigation or assist in an ongoing  
832 investigation of a criminal street gang as defined in § 18.2-46.1. This information may also be disclosed,  
833 at the Department's discretion, to a gang task force, provided that the membership (i) consists of only  
834 representatives of state or local government or (ii) includes a law-enforcement officer who is present at  
835 the time of the disclosure of the information. The Department shall not release the identifying  
836 information of a juvenile not affiliated with or involved in a criminal street gang unless that information  
837 relates to a specific criminal act. No person who obtains information pursuant to this subdivision shall  
838 divulge such information except in connection with gang-activity intervention and prevention, a criminal  
839 investigation regarding a criminal street gang as defined in § 18.2-46.1 that is authorized by the Attorney  
840 General or by the attorney for the Commonwealth, or in connection with a prosecution or proceeding in  
841 court;

842 11. The Commonwealth's Attorneys' Services Council and any attorney for the Commonwealth, as  
843 permitted under subsection B of § 66-3.2;

844 12. Any state or local correctional facility as defined in § 53.1-1 when such facility has custody of  
845 or is providing supervision for a person convicted as an adult who is the subject of the reports and  
846 records. The reports and records shall remain confidential and shall be open for inspection only in  
847 accordance with this section; and

848 13. The Office of the Attorney General, for all criminal justice activities otherwise permitted ~~and for~~  
849 ~~purposes of performing duties required by Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.~~

850 A designated individual treating or responsible for the treatment of a person may inspect such reports  
851 and records as are kept by the Department on such person or receive copies thereof, when the person  
852 who is the subject of the reports and records or his parent, guardian, legal custodian or other person  
853 standing in loco parentis if the person is under the age of 18, provides written authorization to the  
854 Department prior to the release of such reports and records for inspection or copying to the designated  
855 individual.

856 B. The Department may withhold from inspection by a child's parent, guardian, legal custodian or  
857 other person standing in loco parentis that portion of the records referred to in subsection A, when the  
858 staff of the Department determines, in its discretion, that disclosure of such information would be

detrimental to the child or to a third party, provided that the juvenile and domestic relations district court (i) having jurisdiction over the facility where the child is currently placed or (ii) that last had jurisdiction over the child if such child is no longer in the custody or under the supervision of the Department shall concur in such determination.

If any person authorized under subsection A to inspect Department records requests to inspect the reports and records and if the Department withholds from inspection any portion of such record or report pursuant to the preceding provisions, the Department shall (i) inform the individual making the request of the action taken to withhold any information and the reasons for such action; (ii) provide such individual with as much information as is deemed appropriate under the circumstances; and (iii) notify the individual in writing at the time of the request of his right to request judicial review of the Department's decision. The circuit court (a) having jurisdiction over the facility where the child is currently placed or (b) that had jurisdiction over the original proceeding or over an appeal of the juvenile and domestic relations district court final order of disposition concerning the child if such child is no longer in the custody or under the supervision of the Department shall have jurisdiction over petitions filed for review of the Department's decision to withhold reports or records as provided herein.

**§ 16.1-305. Confidentiality of court records.**

A. Social, medical and psychiatric or psychological records, including reports or preliminary inquiries, predisposition studies and supervision records, of neglected and abused children, children in need of services, children in need of supervision and delinquent children shall be filed with the other papers in the juvenile's case file. All juvenile case files shall be filed separately from adult files and records of the court and shall be open for inspection only to the following:

1. The judge, probation officers and professional staff assigned to serve the juvenile and domestic relations district courts;

2. Representatives of a public or private agency or department providing supervision or having legal custody of the child or furnishing evaluation or treatment of the child ordered or requested by the court;

3. The attorney for any party, including the attorney for the Commonwealth;

4. Any other person, agency or institution, by order of the court, having a legitimate interest in the case or in the work of the court. However, for the purposes of an investigation conducted by a local community-based probation services agency, preparation of a pretrial investigation report, or of a presentence or postsentence report upon a finding of guilty in a circuit court or for the preparation of a background report for the Parole Board, adult probation and parole officers, including United States Probation and Pretrial Services Officers, any officer of a local pretrial services agency established or operated pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2, and any officer of a local community-based probation services agency established or operated pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) shall have access to an accused's or inmate's records in juvenile court without a court order and for the purpose of preparing the discretionary sentencing guidelines worksheets and related risk assessment instruments as directed by the court pursuant to subsection C of § 19.2-298.01, the attorney for the Commonwealth and any pretrial services or probation officer shall have access to the defendant's records in juvenile court without a court order;

5. Any attorney for the Commonwealth and any local pretrial services or community-based probation officer or state adult probation or parole officer shall have direct access to the defendant's juvenile court delinquency records maintained in an electronic format by the court for the strictly limited purposes of preparing a pretrial investigation report, including any related risk assessment instrument, any presentence report, any discretionary sentencing guidelines worksheets, including related risk assessment instruments, any post-sentence investigation report or preparing for any transfer or sentencing hearing.

A copy of the court order of disposition in a delinquency case shall be provided to a probation officer or attorney for the Commonwealth, when requested for the purpose of calculating sentencing guidelines. The copies shall remain confidential, but reports may be prepared using the information contained therein as provided in §§ 19.2-298.01 and 19.2-299.

6. The Office of the Attorney General, for all criminal justice activities otherwise permitted ~~and for purposes of performing duties required by Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.~~

A1. Any person, agency, or institution that may inspect juvenile case files pursuant to subdivisions A 1 through A 4 shall be authorized to have copies made of such records, subject to any restrictions, conditions, or prohibitions that the court may impose.

B. All or any part of the records enumerated in subsection A, or information secured from such records, which is presented to the judge in court or otherwise in a proceeding under this law shall also be made available to the parties to the proceedings and their attorneys.

B1. If a juvenile 14 years of age or older at the time of the offense is adjudicated delinquent on the basis of an act which would be a felony if committed by an adult, all court records regarding that adjudication and any subsequent adjudication of delinquency, other than those records specified in

920 subsection A, shall be open to the public. However, if a hearing was closed, the judge may order that  
921 certain records or portions thereof remain confidential to the extent necessary to protect any juvenile  
922 victim or juvenile witness.

923 C. All other juvenile records, including the docket, petitions, motions and other papers filed with a  
924 case, transcripts of testimony, findings, verdicts, orders and decrees shall be open to inspection only by  
925 those persons and agencies designated in subsections A and B of this section. However, a licensed bail  
926 bondsman shall be entitled to know the status of a bond he has posted or provided surety on for a  
927 juvenile under § 16.1-258. This shall not authorize a bail bondsman to have access to or inspect any  
928 other portion of his principal's juvenile court records.

929 D. Attested copies of papers filed in connection with an adjudication of guilty for an offense for  
930 which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles,  
931 which shows the charge, finding, disposition, name of the attorney for the juvenile, or waiver of attorney  
932 shall be furnished to an attorney for the Commonwealth upon certification by the prosecuting attorney  
933 that such papers are needed as evidence in a pending criminal, traffic, or habitual offender proceeding  
934 and that such papers will be only used for such evidentiary purpose.

935 D1. Attested copies of papers filed in connection with an adjudication of guilt for a delinquent act  
936 that would be a felony if committed by an adult, which show the charge, finding, disposition, name of  
937 the attorney for the juvenile, or waiver of attorney by the juvenile, shall be furnished to an attorney for  
938 the Commonwealth upon his certification that such papers are needed as evidence in a pending criminal  
939 prosecution for a violation of § 18.2-308.2 and that such papers will be only used for such evidentiary  
940 purpose.

941 E. Upon request, a copy of the court order of disposition in a delinquency case shall be provided to  
942 the Virginia Workers' Compensation Commission solely for purposes of determining whether to make an  
943 award to the victim of a crime, and such information shall not be disseminated or used by the  
944 Commission for any other purpose including but not limited to actions pursuant to § 19.2-368.15.

945 F. Staff of the court services unit or the attorney for the Commonwealth shall provide notice of the  
946 disposition in a case involving a juvenile who is committed to state care after being adjudicated for a  
947 criminal sexual assault as specified in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 to the  
948 victim or a parent of a minor victim, upon request. Additionally, if the victim or parent submits a  
949 written request, the Department of Juvenile Justice shall provide advance notice of such juvenile  
950 offender's anticipated date of release from commitment.

951 G. Any record in a juvenile case file which is open for inspection by the professional staff of the  
952 Department of Juvenile Justice pursuant to subsection A and is maintained in an electronic format by the  
953 court, may be transmitted electronically to the Department of Juvenile Justice. Any record so transmitted  
954 shall be subject to the provisions of § 16.1-300.

955 **§ 17.1-213. Disposition of papers in ended cases.**

956 A. All case files for cases ended prior to January 1, 1913, shall be permanently maintained in  
957 hardcopy form, either in the locality served by the circuit court where such files originated or in The  
958 Library of Virginia in accordance with the provisions of § 42.1-86 and subsection C of § 42.1-87.

959 B. The following records for cases ending on or after January 1, 1913, shall be retained for 10 years  
960 after conclusion:

- 961 1. Conditional sales contracts;
- 962 2. Concealed weapons permit applications;
- 963 3. Minister appointments;
- 964 4. Petitions for appointment of trustee;
- 965 5. Name changes;
- 966 6. Nolle prosequi cases;
- 967 7. Civil actions that are voluntarily dismissed, including nonsuits, cases that are dismissed as settled  
968 and agreed, cases that are dismissed with or without prejudice, cases that are discontinued or dismissed  
969 under § 8.01-335, and district court appeals dismissed under § 16.1-113 prior to 1988;
- 970 8. Misdemeanor and traffic cases, except as provided in subdivision C 3, including those which were  
971 commenced on a felony charge but concluded as a misdemeanor;
- 972 9. Suits to enforce a lien;
- 973 10. Garnishments;
- 974 11. Executions except for those covered in § 8.01-484;
- 975 12. Miscellaneous oaths and qualifications, but only if the order or oath or qualification is spread in  
976 the appropriate order book; and
- 977 13. Civil cases pertaining to declarations of habitual offender status and full restoration of driving  
978 privileges.

979 C. All other records or cases ending on or after January 1, 1913, shall be retained subject to the  
980 following:

- 981 1. All civil case files to which subsection D does not pertain shall be retained 20 years from the



court order date.

2. All criminal cases dismissed, including those not a true bill, acquittals, and not guilty verdicts, shall be retained 10 years from the court order date.

3. Except as otherwise provided in this subdivision, criminal case files involving a felony conviction and all criminal case files involving a misdemeanor conviction under § 16.1-253.2, 18.2-57.2, or 18.2-60.4 shall be retained (i) 20 years from the sentencing date or (ii) until the sentence term ends, whichever comes later. Case files involving a conviction ~~for a sexually violent offense as defined in § 37.2-900, of (a) a felony under (1) former § 18-54, former § 18.1-44, subdivision A 5 of § 18.2-31, or § 18.2-61, 18.2-67.1, or 18.2-67.2; (2) clause (ii) or (iii) of § 18.2-48 or § 18.2-63, 18.2-64.1, or 18.2-67.3; (3) subdivision A 1 of § 18.2-31 when the abduction was committed with intent to defile the victim; (4) § 18.2-32 when the killing was in the commission of, or attempt to commit rape, forcible sodomy, or inanimate or animate object sexual penetration; (5) the laws of the Commonwealth for a forcible sexual offense committed prior to July 1, 1981, where the criminal behavior is set forth in § 18.2-67.1 or 18.2-67.2, or is set forth in § 18.2-67.3; or (6) conspiracy to commit or attempt to commit any of the above offenses; (b) a violent felony as defined in § 17.1-805; or (c) an act of violence as defined in § 19.2-297.1 shall be retained (a) 50 years from the sentencing date or (b) until the sentence term ends, whichever comes later.~~

D. Under the provisions of subsections B and C, the entire file of any case deemed by the local clerk of court to have historical value, as defined in § 42.1-77, or genealogical or sensational significance shall be retained permanently as shall all cases in which the title to real estate is established, conveyed or condemned by an order or decree of the court. The final order for all cases in which the title to real estate is so affected shall include an appropriate notification thereof to the clerk.

E. Except as provided in subsection A, the clerk of a circuit court may cause (i) any or all papers or documents pertaining to civil and criminal cases; (ii) any unexecuted search warrants and affidavits for unexecuted search warrants, provided at least three years have passed since issued; (iii) any abstracts of judgments; and (iv) original wills, to be destroyed if such records, papers, documents, or wills no longer have administrative, fiscal, historical, or legal value to warrant continued retention, provided such records, papers, or documents have been microfilmed or converted to an electronic format. Such microfilm and microphotographic processes and equipment shall meet state archival microfilm standards pursuant to § 42.1-82, or such electronic format shall follow state electronic records guidelines, and such records, papers, or documents so converted shall be placed in conveniently accessible files and provisions made for examining and using same. The clerk shall further provide security negative copies of any such microfilmed materials for storage in The Library of Virginia.

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

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

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

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

3. The midpoint of the initial recommended sentencing range for manufacturing, selling, giving, or distributing, or possessing with the intent to manufacture, sell, give, or distribute a Schedule I or II controlled substance, shall be increased by (i) 200 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years or (ii) 400 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of 40 years or more; and

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

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

C. For purposes of this chapter, violent felony offenses shall include any felony violation of § 16.1-253.2; solicitation to commit murder under § 18.2-29; any violation of § 18.2-31, 18.2-32, 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 § 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 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 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, 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 violation of subsection B of § 18.2-57; any felony violation of § 18.2-57.2; any violation of § 18.2-58 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, 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 third conviction of either sexual battery in violation of § 18.2-67.4 or attempted sexual battery in violation of subsection C of § 18.2-67.5; any Class 4 felony violation of § 18.2-63; any violation of subsection A of § 18.2-67.4:1; any violation of subsection A of § 18.2-77; any Class 3 felony violation 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, 18.2-91, 18.2-92, or 18.2-93; any felony violation of § 18.2-152.7; any Class 4 felony violation of § 18.2-153; any Class 4 felony violation of § 18.2-154; any Class 4 felony violation of § 18.2-155; any felony violation of § 18.2-162; any violation of § 18.2-279 involving an occupied dwelling; any felony violation of subsection A or B of § 18.2-280; any violation of § 18.2-281; any felony violation of subsection A of § 18.2-282; any felony violation of § 18.2-282.1; any violation of § 18.2-286.1, 18.2-287.2, 18.2-289, or 18.2-290; any violation of subsection A of § 18.2-300; any felony violation of 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 § 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, 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 § 18.2-358; any violation of subsection B of § 18.2-361; any violation of subsection B of § 18.2-366; 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 felony violation of § 18.2-369 resulting in serious bodily injury or disease; any violation of § 18.2-374.1; any felony violation of § 18.2-374.1:1; any violation of § 18.2-374.3 or 18.2-374.4; any second or subsequent offense under §§ 18.2-379 and 18.2-381; any felony violation of § 18.2-405 or 18.2-406; any 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 18.2-433.2; any felony violation of § 18.2-460, 18.2-474.1, or 18.2-477.1; any violation of § 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 § 52-48; any violation of § 53.1-203; any conspiracy or attempt to commit any offense specified in this subsection, or any substantially similar offense under the laws of any state, the District of Columbia, or the United States or its territories.

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

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

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

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

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

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

2. Financial assistance.

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

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

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

3. Notices.

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

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

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

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

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

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

g. Upon the victim's request, the victim shall be notified by the Commissioner of Behavioral Health and Developmental Services or his designee of the release of a defendant (i) who was found to be unrestorably incompetent and was committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2; committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, or certified pursuant to § 37.2-806 or (ii) who was acquitted by reason of insanity and committed pursuant to § 19.2-182.3.

4. Victim input.

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

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

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

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

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

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

#### 5. Courtroom assistance.

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

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

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

#### 6. Post trial assistance.

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

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

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

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

C. Officials and employees of the judiciary, including court services units, law-enforcement agencies, the Department of Corrections, attorneys for the Commonwealth and public defenders, shall be provided with copies of this chapter by the Department of Criminal Justice Services or a crime victim and witness assistance program. Each agency, officer or employee who has a responsibility or responsibilities to victims under this chapter or other applicable law shall make reasonable efforts to become informed about these responsibilities and to ensure that victims and witnesses receive such information and

services to which they may be entitled under applicable law, provided that no liability or cause of action shall arise from the failure to make such efforts or from the failure of such victims or witnesses to receive any such information or services.

**§ 19.2-169.3. Disposition of the unrestorably incompetent defendant; capital murder charge; sexually violent offense charge.**

A. If, at any time after the defendant is ordered to undergo treatment pursuant to subsection A of § 19.2-169.2, the director of the community services board or behavioral health authority or his designee or the director of the treating inpatient facility or his designee concludes that the defendant is likely to remain incompetent for the foreseeable future, he shall send a report to the court so stating. The report shall also indicate whether, in the board, authority, or inpatient facility director's or his designee's opinion, the defendant should be released, committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, or certified pursuant to § 37.2-806 in the event he is found to be unrestorably incompetent. Upon receipt of the report, the court shall make a competency determination according to the procedures specified in subsection E of § 19.2-169.1. If the court finds that the defendant is incompetent and is likely to remain so for the foreseeable future, it shall order that he be (i) released, (ii) committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, or (iii) certified pursuant to § 37.2-806. However, if the court finds that the defendant is incompetent and is likely to remain so for the foreseeable future and the defendant has been charged with a sexually violent offense, as defined in § 37.2-900, he shall be screened pursuant to the procedures set forth in §§ 37.2-903 and 37.2-904. If the court finds the defendant incompetent but restorable to competency in the foreseeable future, it may order treatment continued until six months have elapsed from the date of the defendant's initial admission under subsection A of § 19.2-169.2.

B. At the end of six months from the date of the defendant's initial admission under subsection A of § 19.2-169.2 if the defendant remains incompetent in the opinion of the board, authority, or inpatient facility director or his designee, the director or his designee shall so notify the court and make recommendations concerning disposition of the defendant as described in subsection A. The court shall hold a hearing according to the procedures specified in subsection E of § 19.2-169.1 and, if it finds the defendant unrestorably incompetent, shall order one of the dispositions described in subsection A. If the court finds the defendant incompetent but restorable to competency, it may order continued treatment under subsection A of § 19.2-169.2 for additional six-month periods, provided a hearing pursuant to subsection E of § 19.2-169.1 is held at the completion of each such period and the defendant continues to be incompetent but restorable to competency in the foreseeable future.

C. If any defendant has been charged with a misdemeanor in violation of Article 3 (§ 18.2-95 et seq.) of Chapter 5 of Title 18.2 or Article 5 (§ 18.2-119 et seq.) of Chapter 5 of Title 18.2, other than a misdemeanor charge pursuant to § 18.2-130 or Article 2 (§ 18.2-415 et seq.) of Chapter 9 of Title 18.2, and is being treated pursuant to subsection A of § 19.2-169.2, and after 45 days has not been restored to competency, the director of the community service board, behavioral health authority, or the director of the treating inpatient facility, or any of their designees, shall send a report indicating the defendant's status to the court. The report shall also indicate whether the defendant should be released or committed pursuant to § 37.2-817 or certified pursuant to § 37.2-806. Upon receipt of the report, if the court determines that the defendant is still incompetent, the court shall order that the defendant be released, committed, or certified, and may dismiss the charges against the defendant.

D. Unless an incompetent defendant is charged with capital murder or the charges against an incompetent criminal defendant have been previously dismissed, charges against an unrestorably incompetent defendant shall be dismissed on the date upon which his sentence would have expired had he been convicted and received the maximum sentence for the crime charged, or on the date five years from the date of his arrest for such charges, whichever is sooner.

E. If the court orders an unrestorably incompetent defendant to be screened pursuant to the procedures set forth in §§ 37.2-903 and 37.2-904, it shall order the attorney for the Commonwealth in the jurisdiction wherein the defendant was charged and the Commissioner of Behavioral Health and Developmental Services to provide the Director of the Department of Corrections with any information relevant to the review, including, but not limited to: (i) a copy of the warrant or indictment, (ii) a copy of the defendant's criminal record, (iii) information about the alleged crime, (iv) a copy of the competency report completed pursuant to § 19.2-169.1, and (v) a copy of the report prepared by the director of the defendant's community services board, behavioral health authority, or treating inpatient facility or his designee pursuant to this section. The court shall further order that the defendant be held in the custody of the Department of Behavioral Health and Developmental Services for secure confinement and treatment until the Commitment Review Committee's and Attorney General's review and any subsequent hearing or trial are completed. If the court receives notice that the Attorney General has declined to file a petition for the commitment of an unrestorably incompetent defendant as a

1289 sexually violent predator after conducting a review pursuant to § 37.2-905, the court shall order that the  
1290 defendant be released, committed pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2,  
1291 or certified pursuant to § 37.2-806.

1292 F. In any case when an incompetent defendant is charged with capital murder and has been  
1293 determined to be unrestorably incompetent, notwithstanding any other provision of this section, the  
1294 charge shall not be dismissed and the court having jurisdiction over the capital murder case may order  
1295 that the defendant receive continued treatment under subsection A of § 19.2-169.2 in a secure facility  
1296 determined by the Commissioner of the Department of Behavioral Health and Developmental Services  
1297 where the defendant shall remain until further order of the court, provided that (i) a hearing pursuant to  
1298 subsection E of § 19.2-169.1 is held at yearly intervals for five years and at biennial intervals thereafter,  
1299 or at any time that the director of the treating facility or his designee submits a competency report to the  
1300 court in accordance with subsection D of § 19.2-169.1 that the defendant's competency has been  
1301 restored, (ii) the defendant remains incompetent, (iii) the court finds continued treatment to be medically  
1302 appropriate, and (iv) the defendant presents a danger to himself or others. No unrestorably incompetent  
1303 defendant charged with capital murder shall be released except pursuant to a court order.

1304 G. F. The attorney for the Commonwealth may bring charges that have been dismissed against the  
1305 defendant when he is restored to competency.

1306 **§ 19.2-174.1. Information required prior to admission to a mental health facility.**

1307 Prior to any person being placed into the custody of the Commissioner for evaluation or treatment  
1308 pursuant to §§ 19.2-169.2, 19.2-169.3, 19.2-169.6, 19.2-182.2, and 19.2-182.3, and Chapter 9 (§  
1309 37.2-900 et seq.) of Title 37.2, the court or special justice shall provide the Commissioner with the  
1310 following, if available: (i) the commitment order, (ii) the names and addresses for the attorney for the  
1311 Commonwealth, the attorney for the person and the judge holding jurisdiction over the person, (iii) a  
1312 copy of the warrant or indictment, and (iv) a copy of the criminal incident information as defined in  
1313 § 2.2-3706 or a copy of the arrest report or a summary of the facts relating to the crime. The party  
1314 requesting the placement into the Commissioner's custody or, in the case of admissions pursuant to  
1315 §§ 19.2-169.3 and 19.2-169.6, and Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, the person having  
1316 custody over the defendant or inmate shall gather the above information for submission to the court at  
1317 the hearing. If the information is not available at the hearing, it shall be provided by the party  
1318 requesting placement or the person having custody directly to the Commissioner within 96 hours of the  
1319 person being placed into the Commissioner's custody. If the 96-hour period expires on a Saturday,  
1320 Sunday or legal holiday, the 96 hours shall be extended to the next day that is not a Saturday, Sunday  
1321 or legal holiday.

1322 **§ 19.2-299. Investigations and reports by probation officers in certain cases.**

1323 A. When a person is tried in a circuit court (i) upon a charge of assault and battery in violation of  
1324 § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4,  
1325 attempted sexual battery in violation of § 18.2-67.5, or driving while intoxicated in violation of  
1326 § 18.2-266, and is adjudged guilty of such charge, unless waived by the court and the defendant and the  
1327 attorney for the Commonwealth, the court may, or on motion of the defendant shall; or (ii) upon a  
1328 felony charge not set forth in subdivision (iii) below, the court may when there is a plea agreement  
1329 between the defendant and the Commonwealth and shall, unless waived by the defendant and the  
1330 attorney for the Commonwealth, when the defendant pleads guilty or nolo contendere without a plea  
1331 agreement or is found guilty by the court after a plea of not guilty or nolo contendere; or (iii) the court  
1332 shall when a person is charged and adjudged guilty of a felony violation, or conspiracy to commit or  
1333 attempt to commit a felony violation, of § 18.2-46.2, 18.2-46.3, 18.2-48, clause (2) or (3) of § 18.2-49,  
1334 § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4:1, 18.2-67.5,  
1335 18.2-67.5:1, 18.2-355, 18.2-356, 18.2-357, 18.2-361, 18.2-362, 18.2-366, 18.2-368, 18.2-370, 18.2-370.1,  
1336 or 18.2-370.2, or any attempt to commit or conspiracy to commit any felony violation of § 18.2-67.5,  
1337 18.2-67.5:2, or 18.2-67.5:3, direct a probation officer of such court to thoroughly investigate and report  
1338 upon the history of the accused, including a report of the accused's criminal record as an adult and  
1339 available juvenile court records, any information regarding the accused's participation or membership in  
1340 a criminal street gang as defined in § 18.2-46.1, and all other relevant facts, to fully advise the court so  
1341 the court may determine the appropriate sentence to be imposed. Unless the defendant or the attorney  
1342 for the Commonwealth objects, the court may order that the report contain no more than the defendant's  
1343 criminal history, any history of substance abuse, any physical or health-related problems as may be  
1344 pertinent, and any applicable sentencing guideline worksheets. This expedited report shall be subject to  
1345 all the same procedures as all other sentencing reports and sentencing guidelines worksheets. The  
1346 probation officer, after having furnished a copy of this report at least five days prior to sentencing to  
1347 counsel for the accused and the attorney for the Commonwealth for their permanent use, shall submit his  
1348 report in advance of the sentencing hearing to the judge in chambers, who shall keep such report  
1349 confidential. Counsel for the accused may provide the accused with a copy of the presentence report.  
1350 The probation officer shall be available to testify from this report in open court in the presence of the

accused, who shall have been provided with a copy of the presentence report by his counsel or advised of its contents and be given the right to cross-examine the investigating officer as to any matter contained therein and to present any additional facts bearing upon the matter. The report of the investigating officer shall at all times be kept confidential by each recipient, and shall be filed as a part of the record in the case. Any report so filed shall be made available only by court order and shall be sealed upon final order by the court, except that such reports or copies thereof shall be available at any time to any criminal justice agency, as defined in § 9.1-101, of this or any other state or of the United States; to any agency where the accused is referred for treatment by the court or by probation and parole services; and to counsel for any person who has been indicted jointly for the same felony as the person subject to the report. ~~Subject to the limitations set forth in § 37.2-901, any~~ Any report prepared pursuant to the provisions hereof shall without court order be made available to counsel for the person who is the subject of the report if that person (a) is charged with a felony subsequent to the time of the preparation of the report or (b) has been convicted of the crime or crimes for which the report was prepared and is pursuing a post-conviction remedy. Such report shall be made available for review without a court order to incarcerated persons who are eligible for release by the Virginia Parole Board, or such person's counsel, pursuant to regulations promulgated by the Virginia Parole Board for that purpose. The presentence report shall be in a form prescribed by the Department of Corrections. In all cases where such report is not ordered, a simplified report shall be prepared on a form prescribed by the Department of Corrections. For the purposes of this subsection, information regarding the accused's participation or membership in a criminal street gang may include the characteristics, specific rivalries, common practices, social customs and behavior, terminology, and types of crimes that are likely to be committed by that criminal street gang.

B. As a part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony, the court probation officer shall advise any victim of such offense in writing that he may submit to the Virginia Parole Board a written request (i) to be given the opportunity to submit to the Board a written statement in advance of any parole hearing describing the impact of the offense upon him and his opinion regarding the defendant's release and (ii) to receive copies of such other notifications pertaining to the defendant as the Board may provide pursuant to subsection B of § 53.1-155.

C. As part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony drug offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the presentence report shall include any known association of the defendant with illicit drug operations or markets.

D. As a part of any presentence investigation conducted pursuant to subsection A, when the offense for which the defendant was convicted was a felony, not a capital offense, committed on or after January 1, 2000, the defendant shall be required to undergo a substance abuse screening pursuant to § 18.2-251.01.

**§ 19.2-301. Judge shall require examination under § 19.2-300; by whom made; report; expenses of psychiatrist.**

The judge shall order the defendant examined by at least one psychiatrist or clinical psychologist who is qualified by specialized training and experience to perform such evaluations. Upon a finding by the court that a psychiatrist or clinical psychologist is not reasonably available for the instant case, the court may appoint a state licensed clinical social worker who has been certified by the Commonwealth as a sex offender treatment provider as defined in § 54.1-3600 and qualified by experience and by specialized training approved by the Commissioner of Behavioral Health and Developmental Services to perform such evaluations. The examination shall be performed on an outpatient basis at a mental health facility or in jail. However, if the court specifically finds that outpatient examination services are unavailable or if the results of outpatient examination indicate that hospitalization of the defendant for further examination is necessary, the court may order the defendant sent to a hospital designated by the Commissioner of Behavioral Health and Developmental Services as appropriate for examination of persons convicted of crimes. The defendant shall then be hospitalized for such time as the director of the hospital deems necessary to perform an adequate examination, but not to exceed 30 days from the date of admission to the hospital. Upon completion of the examination, the examiners shall prepare a written report of their findings and conclusions and shall furnish copies of such report to the defendant, counsel for the defendant, and the attorney for the Commonwealth at least five days prior to sentencing and shall furnish a copy of the report to the judge in advance of the sentencing hearing. The report of the examiners shall at all times be kept confidential by each recipient, except to the extent necessary for the prosecution or defense of any offense, and shall be filed as part of the record in the case and the defendant's copy shall be returned to the court at the conclusion of sentencing. Any report so filed shall be sealed upon the entry of the sentencing order by the court and made available only by court order, except that such report or copies thereof shall be available at any time to the office of the Attorney

1412 General for assessment for civil commitment as provided in Chapter 9 (§ 37.2-900 et seq.) of Title 37.2;  
1413 any criminal justice agency, as defined in § 9.1-101, of this or any other state or of the United States;;  
1414 to any agency where the accused is referred for treatment by the court or by probation and parole  
1415 services;; and to counsel for any person who has been indicted jointly for the same felony as the person  
1416 who is the subject of the report. Any such report shall without court order be made available to counsel  
1417 for the person who is the subject of the report if that person is charged with a felony subsequent to the  
1418 time of the preparation of the report.

1419 **§ 19.2-388. Duties and authority of Exchange.**

1420 A. It shall be the duty of the Central Criminal Records Exchange to receive, classify, and file  
1421 criminal history record information as defined in § 9.1-101 and other records required to be reported to  
1422 it by §§ 16.1-299 and 19.2-390. The Exchange is authorized to prepare and furnish to all state and local  
1423 law-enforcement officials and agencies; to clerks of circuit courts, general district courts, and juvenile  
1424 and domestic relations district courts; and to corrections and penal officials, forms that shall be used for  
1425 the making of such reports.

1426 B. Juvenile records received pursuant to § 16.1-299 shall be maintained separately from adult records.

1427 C. The Exchange shall submit periodic reports to the Office of the Executive Secretary of the  
1428 Supreme Court of Virginia, the clerk of each circuit court and district court, attorneys for the  
1429 Commonwealth, and law-enforcement agencies containing a list of offenses with unapplied criminal  
1430 history record information. Reports to the Office of the Executive Secretary of the Supreme Court of  
1431 Virginia shall be quarterly and shall include all such offenses within the Commonwealth identified by  
1432 jurisdiction and by court. Reports to the clerk of each circuit court and district court shall be quarterly  
1433 and shall include only such offenses that were submitted by the respective clerk of court. Reports to  
1434 attorneys for the Commonwealth shall be quarterly and shall include only such offenses that were  
1435 submitted by law-enforcement agencies and courts in the county or city served by the respective attorney  
1436 for the Commonwealth. Reports to law-enforcement agencies shall be monthly and shall include only  
1437 such offenses for which the respective law-enforcement agency executed the arrest or issued the  
1438 summons. For each offense, the report shall include, if known, the name and any other identifying  
1439 information of the defendant, any identifying court case information, the date of submission to the  
1440 Exchange, and the reason the offense could not be applied to the criminal history record.

1441 D. The Exchange shall review offenses containing unapplied criminal history record information and  
1442 shall make reasonable efforts to ensure that such information, including any offense of which the  
1443 Exchange is notified pursuant to subdivision A 12 of § 9.1-176.1, subdivision F 7 or 8 of § 19.2-305.1,  
1444 subsection B of § 53.1-23, or subdivision 11 or 12 of § 53.1-145, is applied to criminal history  
1445 records. The Exchange may request and shall receive from the clerk of each circuit court and district  
1446 court, attorneys for the Commonwealth, law-enforcement agencies, the Department of Corrections, the  
1447 Department of Forensic Science, and local probation and community corrections agencies cooperation  
1448 and assistance to obtain positive identification or to reconcile any inconsistencies, errors, or omissions  
1449 within such unapplied criminal history record information.

1450 E. The Exchange shall submit a report to the Governor and General Assembly on or before  
1451 November 1 of each year on the status of unapplied criminal history record information and any updates  
1452 to fingerprinting policies and procedures. The report shall include the following, if known: (i) the total  
1453 number of offenses submitted to the Exchange, identified by the year of the offense and the year the  
1454 charge was filed for such offense, that contain unapplied criminal history record information and cannot  
1455 be applied to criminal history records; (ii) the number of such offenses submitted to the Exchange  
1456 without fingerprints or positive identification and the law-enforcement agencies that submitted those  
1457 offenses; (iii) the number of such offenses submitted to the Exchange with an inconsistency, error, or  
1458 omission and, for those offenses, the jurisdiction from which the offense was submitted; and (iv) efforts  
1459 made by the Exchange to ensure that unapplied criminal history record information is applied to  
1460 criminal history records, including any offenses of which the Exchange was notified pursuant to  
1461 subdivision A 12 of § 9.1-176.1, subdivision F 7 or 8 of § 19.2-305.1, subsection B of § 53.1-23, or  
1462 subdivision 11 or 12 of § 53.1-145.

1463 **§ 19.2-389. (Effective until July 1, 2021) Dissemination of criminal history record information.**

1464 A. Criminal history record information shall be disseminated, whether directly or through an  
1465 intermediary, only to:

1466 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for  
1467 purposes of the administration of criminal justice and the screening of an employment application or  
1468 review of employment by a criminal justice agency with respect to its own employees or applicants, and  
1469 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all  
1470 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,  
1471 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For  
1472 purposes of this subdivision, criminal history record information includes information sent to the Central  
1473 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time



or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved by family day systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction

that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed assisted living facilities and licensed adult day care centers for the conduct of investigations of applicants for compensated employment in licensed assisted living facilities and licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof and general registrars appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to voter registration, limited to any record of felony convictions;

19. The Commissioner of Behavioral Health and Developmental Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2, 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Behavioral Health and Developmental Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Behavioral Health and Developmental Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

28. The Commissioner of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests

approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Social Services and directors of local departments of social services for the purpose of screening individuals seeking to enter into a contract with the Department of Social Services or a local department of social services for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

46. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records

requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

**§ 19.2-389. (Effective July 1, 2021) Dissemination of criminal history record information.**

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that

expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth, public transportation companies owned, operated or controlled by any political subdivision, and any public service corporation that operates a public transit system owned by a local government for the conduct of investigations of applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a position of employment whenever, in the interest of public welfare or safety and as authorized in the Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment under consideration;

8. Public or private agencies when authorized or required by federal or state law or interstate compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult members of that individual's household, with whom the agency is considering placing a child or from whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall not be further disseminated to any party other than a federal or state authority or court as may be required to comply with an express requirement of law;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including, but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line program as defined in § 15.2-1713.1;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment and those current school board employees for whom a report of arrest has been made pursuant to § 19.2-83.1;

14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law

1781 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,  
1782 and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth  
1783 in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

1784 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations  
1785 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital  
1786 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject  
1787 to the limitations set out in subsection E;

1788 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of  
1789 investigations of applicants for compensated employment in licensed assisted living facilities and  
1790 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

1791 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth  
1792 in § 4.1-103.1;

1793 18. The State Board of Elections and authorized officers and employees thereof and general registrars  
1794 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to  
1795 voter registration, limited to any record of felony convictions;

1796 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who  
1797 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,  
1798 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

1799 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety  
1800 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first  
1801 offenders under § 18.2-251, or (iii) services to offenders under § 18.2-51.4, 18.2-266, or 18.2-266.1;

1802 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the  
1803 Department of Education, or the Department of Behavioral Health and Developmental Services for the  
1804 purpose of determining applicants' fitness for employment or for providing volunteer or contractual  
1805 services;

1806 22. The Department of Behavioral Health and Developmental Services and facilities operated by the  
1807 Department for the purpose of determining an individual's fitness for employment pursuant to  
1808 departmental instructions;

1809 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or  
1810 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such  
1811 records information on behalf of such governing boards or administrators pursuant to a written  
1812 agreement with the Department of State Police;

1813 24. Public institutions of higher education and nonprofit private institutions of higher education for  
1814 the purpose of screening individuals who are offered or accept employment;

1815 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,  
1816 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of  
1817 higher education, for the purpose of assessing or intervening with an individual whose behavior may  
1818 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal  
1819 history record information obtained pursuant to this section or otherwise use any record of an individual  
1820 beyond the purpose that such disclosure was made to the threat assessment team;

1821 26. Executive directors of community services boards or the personnel director serving the  
1822 community services board for the purpose of determining an individual's fitness for employment,  
1823 approval as a sponsored residential service provider, or permission to enter into a shared living  
1824 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to  
1825 §§ 37.2-506 and 37.2-607;

1826 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of  
1827 determining an individual's fitness for employment, approval as a sponsored residential service provider,  
1828 or permission to enter into a shared living arrangement with a person receiving medical assistance  
1829 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

1830 28. The Commissioner of Social Services for the purpose of locating persons who owe child support  
1831 or who are alleged in a pending paternity proceeding to be a putative father, provided that only the  
1832 name, address, demographics and social security number of the data subject shall be released;

1833 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of  
1834 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the  
1835 purpose of determining if any applicant who accepts employment in any direct care position or requests  
1836 approval as a sponsored residential service provider or permission to enter into a shared living  
1837 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted  
1838 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with  
1839 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and  
1840 37.2-607;

1841 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants  
1842 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20

(§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

31. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current or proposed members, senior officers, directors, and principals of an applicant or person licensed under Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the applicant or its designee;

39. The Department of Professional and Occupational Regulation for the purpose of investigating individuals for initial licensure pursuant to § 54.1-2106.1;

40. The Department for Aging and Rehabilitative Services and the Department for the Blind and Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

42. The State Treasurer for the purpose of determining whether a person receiving compensation for wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

43. The Department of Education or its agents or designees for the purpose of screening individuals seeking to enter into a contract with the Department of Education or its agents or designees for the provision of child care services for which child care subsidy payments may be provided;

44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of a juvenile's household when completing a predispositional or postdispositional report required by § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

45. The State Corporation Commission, for the purpose of screening applicants for insurance licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;

46. Administrators and board presidents of and applicants for licensure or registration as a child day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Superintendent of Public Instruction's representative, or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination; and

47. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records

requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.

F. Criminal history information provided to licensed assisted living facilities and licensed adult day care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1720.

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.

H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in the request to the employer or prospective employer making the request, provided that the person on whom the data is being obtained has consented in writing to the making of such request and has presented a photo-identification to the employer or prospective employer. In the event no conviction data is maintained on the person named in the request, the requesting employer or prospective employer shall be furnished at his cost a certification to that effect. The criminal history record search shall be conducted on forms provided by the Exchange.

I. Nothing in this section shall preclude the dissemination of a person's criminal history record information pursuant to the rules of court for obtaining discovery or for review by the court.

**§ 19.2-389.1. Dissemination of juvenile record information.**

Record information maintained in the Central Criminal Records Exchange pursuant to the provisions of § 16.1-299 shall be disseminated only (i) to make the determination as provided in §§ 18.2-308.2 and 18.2-308.2:2 of eligibility to possess or purchase a firearm; (ii) to aid in the preparation of a pretrial investigation report prepared by a local pretrial services agency established pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9, a presentence or post-sentence investigation report pursuant to § 19.2-264.5 or 19.2-299 or in the preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (iii) to aid local community-based probation services agencies established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) with investigating or serving adult local-responsible offenders and all court service units serving juvenile delinquent offenders; (iv) for fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information System (AFIS) computer; (v) to attorneys for the Commonwealth to secure information incidental to sentencing and to attorneys for the Commonwealth and probation officers to prepare the discretionary sentencing guidelines worksheets pursuant to subsection C of § 19.2-298.01; (vi) to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the



enforcement of the penal, traffic or highway laws of the Commonwealth, for purposes of the administration of criminal justice as defined in § 9.1-101; (vii) to the Department of Forensic Science to verify its authority to maintain the juvenile's sample in the DNA data bank pursuant to § 16.1-299.1; (viii) to the Office of the Attorney General, for all criminal justice activities otherwise permitted and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.); (ix) to the Virginia Criminal Sentencing Commission for research purposes; (x) to members of a threat assessment team established by a school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, to aid in the assessment or intervention with individuals whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any juvenile record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team; (xi) to any full-time or part-time employee of the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof for the purpose of screening any person for full-time or part-time employment with the State Police or a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof; (xii) to the State Health Commissioner or his designee for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5; and (xiii) to the chief law-enforcement officer of a locality, or his designee who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance in accordance with §§ 15.2-1503.1 and 19.2-389 for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency as provided in § 32.1-111.5.

**§ 19.2-392.02. (Effective until July 1, 2021) National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.**

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 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 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, 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 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, 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, 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; 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, 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, 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, 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, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 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 § 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 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, 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 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any 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, 18.2-433.2, 18.2-472.1, 18.2-474.1, 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, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation 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 the laws of another jurisdiction; (iii) any felony violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 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, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for,

2027 or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the  
2028 time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief  
2029 description of the barrier crime or offenses for which the person has been arrested or has been  
2030 convicted, the disposition of the charge, and any other information that may be useful in identifying  
2031 persons arrested for or convicted of a barrier crime.

2032 "Care" means the provision of care, treatment, education, training, instruction, supervision, or  
2033 recreation to children or the elderly or disabled.

2034 "Department" means the Department of State Police.

2035 "Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or  
2036 seeks to volunteer for a qualified entity.

2037 "Identification document" means a document made or issued by or under the authority of the United  
2038 States government, a state, a political subdivision of a state, a foreign government, political subdivision  
2039 of a foreign government, an international governmental or an international quasi-governmental  
2040 organization that, when completed with information concerning a particular individual, is of a type  
2041 intended or commonly accepted for the purpose of identification of individuals.

2042 "Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may  
2043 have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity  
2044 provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised  
2045 access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or  
2046 operate a qualified entity.

2047 "Qualified entity" means a business or organization that provides care to children or the elderly or  
2048 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt  
2049 pursuant to subdivision A 7 of § 63.2-1715.

2050 B. A qualified entity may request the Department of State Police to conduct a national criminal  
2051 background check on any provider who is employed by such entity. No qualified entity may request a  
2052 national criminal background check on a provider until such provider has:

2053 1. Been fingerprinted; and

2054 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and  
2055 date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the  
2056 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or  
2057 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime  
2058 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a  
2059 background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background  
2060 check report, to challenge the accuracy and completeness of any information contained in any such  
2061 report, and to obtain a prompt determination as to the validity of such challenge before a final  
2062 determination is made by the Department; and (v) a notice to the provider that prior to the completion  
2063 of the background check the qualified entity may choose to deny the provider unsupervised access to  
2064 children or the elderly or disabled for whom the qualified entity provides care.

2065 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a  
2066 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in  
2067 subsection B, the Department shall make a determination whether the provider has been convicted of or  
2068 is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier  
2069 crime information, the Department shall access the national criminal history background check system,  
2070 which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other  
2071 methods of identification, and shall access the Central Criminal Records Exchange maintained by the  
2072 Department. If the Department receives a background report lacking disposition data, the Department  
2073 shall conduct research in whatever state and local recordkeeping systems are available in order to obtain  
2074 complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry  
2075 within 15 business days.

2076 D. Any background check conducted pursuant to this section for a provider employed by a private  
2077 entity shall be screened by the Department of State Police. If the provider has been convicted of or is  
2078 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not  
2079 qualified to work or volunteer in a position that involves unsupervised access to children or the elderly  
2080 or disabled.

2081 E. Any background check conducted pursuant to this section for a provider employed by a  
2082 governmental entity shall be provided to that entity.

2083 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a  
2084 national criminal background check, the Department and the Federal Bureau of Investigation may each  
2085 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted  
2086 with the fingerprints.

2087 G. The failure to request a criminal background check pursuant to subsection B shall not be  
2088 considered negligence per se in any civil action.

H. [Expired.]

**§ 19.2-392.02. (Effective July 1, 2021) National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.**

A. For purposes of this section:

"Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 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 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, 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 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, 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, 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; 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, 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, 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, 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, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 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 § 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 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, 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 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any 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, 18.2-433.2, 18.2-472.1, 18.2-474.1, 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~~, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation 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 the laws of another jurisdiction; (iii) any felony violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 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, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or

2150 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt  
2151 pursuant to subdivision A 7 of § 22.1-289.030.

2152 B. A qualified entity may request the Department of State Police to conduct a national criminal  
2153 background check on any provider who is employed by such entity. No qualified entity may request a  
2154 national criminal background check on a provider until such provider has:

2155 1. Been fingerprinted; and

2156 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and  
2157 date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the  
2158 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or  
2159 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime  
2160 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a  
2161 background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background  
2162 check report, to challenge the accuracy and completeness of any information contained in any such  
2163 report, and to obtain a prompt determination as to the validity of such challenge before a final  
2164 determination is made by the Department; and (v) a notice to the provider that prior to the completion  
2165 of the background check the qualified entity may choose to deny the provider unsupervised access to  
2166 children or the elderly or disabled for whom the qualified entity provides care.

2167 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a  
2168 provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in  
2169 subsection B, the Department shall make a determination whether the provider has been convicted of or  
2170 is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier  
2171 crime information, the Department shall access the national criminal history background check system,  
2172 which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other  
2173 methods of identification, and shall access the Central Criminal Records Exchange maintained by the  
2174 Department. If the Department receives a background report lacking disposition data, the Department  
2175 shall conduct research in whatever state and local recordkeeping systems are available in order to obtain  
2176 complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry  
2177 within 15 business days.

2178 D. Any background check conducted pursuant to this section for a provider employed by a private  
2179 entity shall be screened by the Department of State Police. If the provider has been convicted of or is  
2180 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not  
2181 qualified to work or volunteer in a position that involves unsupervised access to children or the elderly  
2182 or disabled.

2183 E. Any background check conducted pursuant to this section for a provider employed by a  
2184 governmental entity shall be provided to that entity.

2185 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a  
2186 national criminal background check, the Department and the Federal Bureau of Investigation may each  
2187 charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted  
2188 with the fingerprints.

2189 G. The failure to request a criminal background check pursuant to subsection B shall not be  
2190 considered negligence per se in any civil action.

2191 H. [Expired.]

2192 **§ 37.2-844. Habeas corpus as means.**

2193 A. Any person held in custody because of his mental illness may by petition for a writ of habeas  
2194 corpus have the question of the legality of his detention determined by a court of competent jurisdiction.  
2195 Upon the petition, after notice to the authorities of the facility or other institution in which the person is  
2196 confined, the court shall determine in a courtroom of the county or city or in some other convenient  
2197 public place in that county or city, whether the person has a mental illness and whether he should be  
2198 detained.

2199 B. Any proceeding to challenge the continued secure inpatient treatment of a person held in custody  
2200 as a sexually violent predator under Chapter 9 (§ 37.2-900 et seq.) of this title shall be conducted in  
2201 accordance with § 37.2-910.

2202 **§ 37.2-845. Procedure when person confined in facility or other institution.**

2203 A. If the person referenced in § 37.2-844 is held in custody and actually confined in any facility or  
2204 other institution, he may file his petition in the circuit court of the county or the city in which the  
2205 facility or other institution is located or in the circuit court of the county or the city adjoining the  
2206 county or city in which the facility or other institution is located.

2207 B. Any proceeding to challenge the continued secure inpatient treatment of any person held in  
2208 custody as a sexually violent predator under Chapter 9 (§ 37.2-900 et seq.) of this title shall be  
2209 conducted in the circuit court wherein the person was last convicted of a sexually violent offense or  
2210 wherein the defendant was deemed unrestorably incompetent and referred for commitment pursuant to  
2211 § 19.2-169.3.

**§ 37.2-846. Procedure when person not confined in facility or other institution.**

A. In all cases, other than those provided for in § 37.2-845, the person may file his petition in the circuit court of the county or the city in which he resides or in which he was found to have a mental illness or in which an order was entered authorizing his continued involuntary inpatient treatment, pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of this title.

B. ~~Any proceeding to challenge the continued secure inpatient treatment of any person held in custody as a sexually violent predator under Chapter 9 (§ 37.2-900 et seq.) of this title shall be conducted in the circuit court wherein the person was last convicted of a sexually violent offense or wherein the defendant was deemed unrestorably incompetent and referred for commitment pursuant to § 19.2-169.3.~~

**§ 37.2-1102. Certain actions may not be authorized.**

The following actions may not be authorized under this chapter:

1. Nontherapeutic sterilization, abortion, or psychosurgery.

2. Admission to a training center or a hospital. However, the court may issue an order under § 37.2-1101 authorizing treatment of a person whose admission to a training center or hospital has been or is simultaneously being authorized under § 37.2-805, 37.2-806, 37.2-807, or §§ 37.2-809 through 37.2-813, or of a person who is subject to an order of involuntary admission previously or simultaneously issued under §§ 37.2-814 through 37.2-819 ~~or of Chapter 9 (§ 37.2-900 et seq.)~~.

3. Administration of antipsychotic medication for a period to exceed 180 days or electroconvulsive therapy for a period to exceed 60 days pursuant to any petition filed under this section. The court may authorize electroconvulsive therapy only if it is demonstrated by clear and convincing evidence, which shall include the testimony of a licensed psychiatrist, that all other reasonable forms of treatment have been considered and that electroconvulsive therapy is the most effective treatment for the person. Even if the court has authorized administration of antipsychotic medication or electroconvulsive therapy hereunder, these treatments may be administered over the person's objection only if he is subject to an order of involuntary admission, including involuntary outpatient treatment, previously or simultaneously issued under §§ 37.2-814 through 37.2-819 ~~or Chapter 9 (§ 37.2-900 et seq.)~~, or the provisions of Chapter 11 (§ 19.2-167 et seq.) or Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2.

4. Restraint or transportation of the person, unless the court finds upon clear and convincing evidence that restraint or transportation is necessary to the administration of an authorized treatment for a physical disorder or for a mental disorder if the person is subject to an order of involuntary admission issued previously or simultaneously under Chapter 11 (§ 19.2-167 et seq.) or 11.1 (§ 19.2-182.2 et seq.) of Title 19.2; ~~or §§ 37.2-814 through 37.2-819, or Chapter 9 (§ 37.2-900 et seq.)~~.

**§ 44-146.18:4. State Coordinator of Emergency Management responsible for annual Virginia Comprehensive Emergency Management Report.**

A. The Department of Emergency Management (the Department) shall create a comprehensive tabulated annual report, known as the Virginia Comprehensive Emergency Management Report (the Report), that shall include the annual Threat Hazard Identification Risk and Assessment (THIRA) report that the Department submits to the Federal Emergency Management Agency (FEMA), as well as information on the following:

1. The current readiness of Virginia's search and rescue efforts;

2. The jurisdictions that received financial assistance during the prior fiscal year because they were located in an area declared to be in a state of emergency, but not declared to be a major disaster area for which federal assistance was provided, and the amount each such jurisdiction received;

3. The status of the Commonwealth's emergency shelter capabilities and readiness;

4. All assets received during the prior fiscal year as a result of a law-enforcement seizure and subsequent forfeiture by either a state or federal court and their estimated net worth;

5. The forfeiture of federal grant funding by any state agency that is required to return such funding as a result of not fulfilling the specifications of a grant;

6. The results of the annual statewide drill conducted by the Governor in accordance with § 44-146.17:2 in preparation for a potential large-scale disaster;

7. The number and types of training and exercises related to man-made and natural disaster preparedness that were conducted by the Department, the costs associated with such training and exercises, and the challenges and barriers to ensuring that state and local agencies are able and ready to respond to emergencies and natural disasters;

8. The mandates administered by state agencies and imposed on local governments, an estimate of the fiscal impact of the mandates on the affected local governments, and a written justification as to why the mandate should or should not be eliminated;

9. The status of continuity of operations programs, plans, and systems of the Commonwealth's executive branch agencies. Such plans shall include a description of how the agency or institution of higher education will continue to provide essential services or perform mission essential functions during

2273 a disaster or other event that disrupts normal operations;

2274 10. The state of the Commonwealth's emergency prevention, protection, mitigation, response, and  
2275 recovery efforts and the resources necessary to implement them; and

2276 11. The status of emergency management response plans throughout the Commonwealth and other  
2277 measures taken or recommended to prevent, respond to, or recover from disasters, including acts of  
2278 terrorism. Information submitted in accordance with the procedures set forth in subdivision 44 13 of  
2279 § 2.2-3705.2 shall not be disclosed unless:

2280 a. It is requested by law-enforcement authorities in furtherance of an official investigation or the  
2281 prosecution of a criminal act;

2282 b. The agency holding the record is served with a proper judicial order; or

2283 c. The agency holding the record has obtained written consent to release the information from the  
2284 Department.

2285 B. The State Coordinator of Emergency Management shall compile and submit the Report to the  
2286 Secretary of Public Safety and Homeland Security, and shall provide copies to the Chairmen of the  
2287 Senate Committee on Finance, the Senate Committee for Courts of Justice, the House Committee on  
2288 Appropriations, and the House Committee on Militia, Police and Public Safety, by November 1 of each  
2289 year. All state and local agencies of the Commonwealth shall provide information and assistance to the  
2290 State Coordinator of Emergency Management, upon request.

2291 C. The Report may, with the concurrence of the Governor, include sensitive information, which shall  
2292 be excluded from disclosure in accordance with subdivisions 2, 3, 4, and 6 5 of § 2.2-3705.2 and which,  
2293 if revealed publicly, would jeopardize or compromise security plans and procedures in the  
2294 Commonwealth designed to protect (i) the public or (ii) public or private critical infrastructure. Any  
2295 sensitive information presented to any committee of the General Assembly shall be discussed in a closed  
2296 meeting as provided in subdivision A 19 of § 2.2-3711.

2297 **§ 44-146.22. Development of measures to prevent or reduce harmful consequences of disasters;**  
2298 **disclosure of information.**

2299 A. In addition to disaster prevention measures included in state, local and interjurisdictional  
2300 emergency operations plans, the Governor shall consider, on a continuing basis, hazard mitigation or  
2301 other measures that could be taken to prevent or reduce the harmful consequences of disasters. At his  
2302 direction, and pursuant to any other authority, state agencies, including, but not limited to, those charged  
2303 with responsibilities in connection with floodplain management, stream encroachment and flow  
2304 regulation, weather modification, fire prevention and control, air quality, public works, critical  
2305 infrastructure protection, land use and land-use planning, and construction standards, shall make studies  
2306 of disaster prevention. The Governor, from time to time, shall make recommendations to the General  
2307 Assembly, local governments, and other appropriate public and private entities as may facilitate  
2308 measures for prevention or reduction of the harmful consequences of disasters.

2309 B. The Governor or agencies acting on his behalf may receive information, voluntarily submitted  
2310 from both public and nonpublic entities, related to the protection of the nation's critical infrastructure  
2311 sectors and components that are located in Virginia or affect the health, safety, and welfare of the  
2312 citizens of Virginia. Information submitted by any public or nonpublic entity in accordance with the  
2313 procedures set forth in subdivision 44 13 of § 2.2-3705.2 shall not be disclosed unless:

2314 1. It is requested by law-enforcement authorities in furtherance of an official investigation or the  
2315 prosecution of a criminal act;

2316 2. The agency holding the record is served with a proper judicial order; or

2317 3. The agency holding the record has obtained the written consent to release the information from the  
2318 entity voluntarily submitting it.

2319 **§ 53.1-136. Powers and duties of Board; notice of release of certain inmates.**

2320 In addition to the other powers and duties imposed upon the Board by this article, the Board shall:

2321 1. Adopt, subject to approval by the Governor, general rules governing the granting of parole and  
2322 eligibility requirements, which shall be published and posted for public review;

2323 2. Adopt, subject to approval by the Governor, rules providing for the granting of parole to those  
2324 prisoners who are eligible for parole pursuant to § 53.1-165.1 on the basis of demonstrated maturity and  
2325 rehabilitation and the lesser culpability of juvenile offenders;

2326 3. a. Release on parole for such time and upon such terms and conditions as the Board shall  
2327 prescribe, persons convicted of felonies and confined under the laws of the Commonwealth in any  
2328 correctional facility in Virginia when those persons become eligible and are found suitable for parole,  
2329 according to those rules adopted pursuant to subdivisions 1 and 2;

2330 b. Establish the conditions of postrelease supervision authorized pursuant to § 18.2-10 and subsection  
2331 A of § 19.2-295.2; and

2332 c. Notify by certified mail at least 21 business days prior to release on discretionary parole of any  
2333 inmate convicted of a felony and sentenced to a term of 10 or more years, the attorney for the  
2334 Commonwealth in the jurisdiction where the inmate was sentenced. In the case of parole granted for

medical reasons, where death is imminent, the attorney for the Commonwealth may be notified by telephone or other electronic means prior to release. Nothing in this section shall be construed to alter the obligations of the Board under § 53.1-155 for investigation prior to release;

d. Provide that in any case where a person who is released on parole or postrelease supervision has been committed to the Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (~~§ 37.2-900 et seq.~~) of Title 37.2 the conditions of his parole or postrelease supervision shall include the requirement that the person comply with all conditions given him by the Department of Behavioral Health and Developmental Services and that he follow all of the terms of his treatment plan;

4. Revoke parole and any period of postrelease and order the reincarceration of any parolee or felon serving a period of postrelease supervision or impose a condition of participation in any component of the Statewide Community-Based Corrections System for State-Responsible Offenders (§ 53.1-67.2 et seq.) on any eligible parolee, when, in the judgment of the Board, he has violated the conditions of his parole or postrelease supervision or is otherwise unfit to be on parole or on postrelease supervision;

5. Issue final discharges to persons released by the Board on parole when the Board is of the opinion that the discharge of the parolee will not be incompatible with the welfare of such person or of society;

6. Make investigations and reports with respect to any commutation of sentence, pardon, reprieve or remission of fine, or penalty when requested by the Governor;

7. Publish monthly a statement regarding the action taken by the Board on the parole of prisoners. The statement shall list the name of each prisoner considered for parole and indicate whether parole was granted or denied, as well as the basis for denial of parole as described in subdivision 3 a; and

8. Ensure that each person eligible for parole receives a timely and thorough review of his suitability for release on parole, including a review of any relevant post-sentencing information. If parole is denied, the basis for the denial of parole shall be in writing and shall give specific reasons for such denial to such inmate.

**§ 53.1-145. Powers and duties of probation and parole officers.**

In addition to other powers and duties prescribed by this article, each probation and parole officer shall:

1. Investigate and report on any case pending in any court or before any judge in his jurisdiction referred to him by the court or judge;

2. Supervise and assist all persons within his territory placed on probation, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and furnish every such person with a written statement of the conditions of his probation and instruct him therein; if any such person has been committed to the Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (~~§ 37.2-900 et seq.~~) of Title 37.2, the conditions of probation shall include the requirement that the person comply with all conditions given him by the Department of Behavioral Health and Developmental Services, and that he follow all of the terms of his treatment plan;

3. Supervise and assist all persons within his territory released on parole or postrelease supervision, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and, in his discretion, assist any person within his territory who has completed his parole, postrelease supervision, or has been mandatorily released from any correctional facility in the Commonwealth and requests assistance in finding a place to live, finding employment, or in otherwise becoming adjusted to the community;

4. Arrest and recommit to the place of confinement from which he was released, or in which he would have been confined but for the suspension of his sentence or of its imposition, for violation of the terms of probation, post-release supervision pursuant to § 19.2-295.2 or parole, any probationer, person subject to post-release supervision or parolee under his supervision, or as directed by the Chairman, Board member or the court, pending a hearing by the Board or the court, as the case may be;

5. Keep such records, make such reports, and perform other duties as may be required of him by the Director and the court or judge by whom he was authorized;

6. Order and conduct, in his discretion, drug and alcohol screening tests of any probationer, person subject to post-release supervision pursuant to § 19.2-295.2 or parolee under his supervision who the officer has reason to believe is engaged in the illegal use of controlled substances or marijuana, or the abuse of alcohol. The cost of the test may be charged to the person under supervision. Regulations governing the officer's exercise of this authority shall be promulgated by the Director;

7. Have the power to carry a concealed weapon in accordance with regulations promulgated by the Director and upon the certification of appropriate training and specific authorization by a judge of a circuit court;

8. Provide services in accordance with any contract entered into between the Department of

2396 Corrections and the Department of Behavioral Health and Developmental Services pursuant to  
2397 § 37.2-912;

2398 9. Pursuant to any contract entered into between the Department of Corrections and the Department  
2399 of Behavioral Health and Developmental Services, probation and parole officers shall have the power to  
2400 provide intensive supervision services to persons placed on conditional release, regardless of whether the  
2401 person has any time remaining to serve on any criminal sentence, pursuant to Chapter 9 (§ 37.2-900 et  
2402 seq.);

2403 10. Determine by reviewing the Local Inmate Data System upon intake and again prior to release  
2404 whether a blood, saliva, or tissue sample has been taken for DNA analysis for each person placed on  
2405 probation or parole required to submit a sample pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter  
2406 18 of Title 19.2 and, if no sample has been taken, require a person placed on probation or parole to  
2407 submit a sample for DNA analysis;

2408 11. 9. For every offender accepted pursuant to the Interstate Compact for the Supervision of Adult  
2409 Offenders (§ 53.1-176.1 et seq.) who has been convicted of an offense that, if committed in Virginia,  
2410 would be considered a felony, take a sample or verify that a sample has been taken and accepted into  
2411 the data bank for DNA analysis in the Commonwealth;

2412 12. 10. Monitor the collection and payment of restitution to the victims of crime for offenders placed  
2413 on supervised probation;

2414 13. 11. Prior to the release from supervision of any offender on probation as of July 1, 2019, review  
2415 the criminal history record of the offender at least 60 days prior to release from supervision, or  
2416 immediately if the offender is scheduled to be released from supervision within less than 60 days, to  
2417 determine whether all offenses for which the offender is being supervised appear on such record and, if  
2418 any such offense that is required to be reported to the Central Criminal Records Exchange pursuant to  
2419 § 19.2-390 does not appear, (i) take and provide fingerprints and a photograph of the offender to the  
2420 Central Criminal Records Exchange to be classified and filed as part of the criminal history record  
2421 information pursuant to subsection D of § 19.2-390 and (ii) provide written or electronic notification to  
2422 the Central Criminal Records Exchange within the Department of State Police that such offense does not  
2423 appear on the offender's criminal history record; and

2424 14. 12. Upon intake of any offender on or after July 1, 2019, (i) take and provide fingerprints and a  
2425 photograph of the offender to the Central Criminal Records Exchange to be classified and filed as part  
2426 of the criminal history record information pursuant to subsection D of § 19.2-390, (ii) review the  
2427 criminal history record of the offender to determine whether all offenses for which the offender is being  
2428 supervised appear on such record, and (iii) if any such offense that is required to be reported to the  
2429 Central Criminal Records Exchange pursuant to § 19.2-390 does not appear, provide written or electronic  
2430 notification to the Central Criminal Records Exchange within the Department of State Police that such  
2431 offense does not appear on the offender's criminal history record.

2432 Nothing in this article shall require probation and parole officers to investigate or supervise cases  
2433 before general district or juvenile and domestic relations district courts.

2434 **§ 63.2-105. Confidential records and information concerning social services; child-protective**  
2435 **services and child-placing agencies.**

2436 A. The local department may disclose the contents of records and information learned during the  
2437 course of a child-protective services investigation or during the provision of child-protective services to  
2438 a family, without a court order and without the consent of the family, to a person having a legitimate  
2439 interest when in the judgment of the local department such disclosure is in the best interest of the child  
2440 who is the subject of the records. Persons having a legitimate interest in child-protective services records  
2441 of local departments include, but are not limited to, (i) any person who is responsible for investigating a  
2442 report of known or suspected abuse or neglect or for providing services to a child or family that is the  
2443 subject of a report, including multidisciplinary teams and family assessment and planning teams  
2444 referenced in subsections J and K of § 63.2-1503, law-enforcement agencies and attorneys for the  
2445 Commonwealth; (ii) child welfare or human services agencies of the Commonwealth or its political  
2446 subdivisions when those agencies request information to determine the compliance of any person with a  
2447 child-protective services plan or an order of any court; (iii) personnel of the school or child day program  
2448 as defined in § 63.2-100 attended by the child so that the local department can receive information from  
2449 such personnel on an ongoing basis concerning the child's health and behavior, and the activities of the  
2450 child's custodian; and (iv) a parent, grandparent, or any other person when such parent, grandparent or  
2451 other person would be considered by the local department as a potential caretaker of the child in the  
2452 event the local department has to remove the child from his custodian; and (v) the Commitment Review  
2453 Committee and the Office of the Attorney General for the purposes of sexually violent predator civil  
2454 commitments pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

2455 Whenever a local department exercises its discretion to release otherwise confidential information to  
2456 any person who meets one or more of these descriptions, the local department shall be presumed to have  
2457 exercised its discretion in a reasonable and lawful manner.



B. Any person who has not been legally adopted in accordance with the provisions of this title and who was a child for whom all parental rights and responsibilities have been terminated, shall not have access to any information from a child-placing agency with respect to the identity of the biological family, except (i) upon application of the child who is 18 or more years of age, (ii) upon order of a circuit court entered upon good cause shown, and (iii) after notice to and opportunity for hearing by the applicant for such order and the child-placing agency or local board that had custody of the child.

An eligible person who is a resident of Virginia may apply for the court order provided for herein to (a) the circuit court of the county or city where the person resides or (b) the circuit court of the county or city where the principal office of the child-placing agency or local board that controls the information sought by the person is located. An eligible person who is not a resident of Virginia shall apply for such a court order to the circuit court of the county or city where the principal office of the child-placing agency or local board that controls the information sought by the person is located.

If the identity and whereabouts of the biological family are known to the agency or local board, the court may require the agency or local board to advise the biological parents of the pendency of the application for such order. In determining good cause for the disclosure of such information, the court shall consider the relative effects of such action upon the applicant for such order and upon the biological parents.

**2. That Chapter 9 (§§ 37.2-900 through 37.2-921) of Title 37.2 of the Code of Virginia is repealed.**