

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend and reenact §§ 8.01-42.4, 9.1-116.5, 9.1-902, 16.1-69.48:6, 16.1-69.55, 17.1-275.13,  
3 17.1-805, 18.2-46.1, 18.2-346, 18.2-346.1, 18.2-350, 18.2-357.1, 18.2-513, 19.2-10.2, 19.2-215.1,  
4 19.2-268.3, 19.2-386.16, 19.2-386.35, 19.2-392.02, as it is currently effective and as it shall become  
5 effective, 32.1-58, 37.2-314, 37.2-416, and 37.2-506 of the Code of Virginia and to amend the Code  
6 of Virginia by adding a section numbered 18.2-346.01, relating to prostitution; solicitation.

7 [H 2169]

8 Approved

9 Be it enacted by the General Assembly of Virginia:

10 1. That §§ 8.01-42.4, 9.1-116.5, 9.1-902, 16.1-69.48:6, 16.1-69.55, 17.1-275.13, 17.1-805, 18.2-46.1,  
11 18.2-346, 18.2-346.1, 18.2-350, 18.2-357.1, 18.2-513, 19.2-10.2, 19.2-215.1, 19.2-268.3, 19.2-386.16,  
12 19.2-386.35, 19.2-392.02, as it is currently effective and as it shall become effective, 32.1-58,  
13 37.2-314, 37.2-416, and 37.2-506 of the Code of Virginia are amended and reenacted and that the  
14 Code of Virginia is amended by adding a section numbered 18.2-346.01 as follows:

15 § 8.01-42.4. Civil action for trafficking in persons.

16 A. Any person injured by reason of (i) a violation of clause (iii), (iv), or (v) of § 18.2-48; (ii) a  
17 violation of § 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, or 18.2-368; or  
18 (iii) a felony violation of § ~~18.2-346~~ 18.2-346.01 may sue therefor and recover compensatory damages,  
19 punitive damages, and reasonable attorney fees and costs.

20 B. No action shall be commenced under this section more than seven years after the later of the date  
21 on which such person (i) was no longer subject to the conduct prohibited by clause (iii), (iv), or (v) of  
22 § 18.2-48 or § 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, or 18.2-368 or  
23 under a felony violation of § ~~18.2-346~~ 18.2-346.01 or (ii) attained 18 years of age.

24 § 9.1-116.5. Sex Trafficking Response Coordinator; duties; report.

25 A. There is established within the Department a Sex Trafficking Response Coordinator (the  
26 Coordinator). The Coordinator shall:

27 1. Create a statewide plan for local and state agencies to identify and respond to victims of sex  
28 trafficking;

29 2. Coordinate the development of standards and guidelines for treatment programs for victims of sex  
30 trafficking;

31 3. Maintain a list of programs that provide treatment or specialized services to victims of sex  
32 trafficking and make such list available to law-enforcement agencies, attorneys for the Commonwealth,  
33 crime victim and witness assistance programs, the Department of Juvenile Justice, the Department of  
34 Social Services, the Department of Education, and school divisions;

35 4. Oversee the development of a curriculum to be completed by persons convicted of solicitation of  
36 prostitution under ~~subsection B of § 18.2-346~~ § 18.2-346.01; and

37 5. Promote strategies for the education, training, and awareness of sex trafficking and for the  
38 reduction of demand for commercial sex.

39 B. The Coordinator may request and shall receive from every department, division, board, bureau,  
40 commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth  
41 is a party or any political subdivision thereof, cooperation and assistance in the performance of its  
42 duties. The Coordinator may also consult and exchange information with local government agencies and  
43 interested stakeholders.

44 C. The Coordinator shall report annually on or before October 1 to the Governor and the General  
45 Assembly. The report shall include a summary of activities for the year and any recommendations to  
46 address sex trafficking within the Commonwealth. The Department shall ensure that such report is  
47 available to the public.

48 § 9.1-902. Offenses requiring registration.

49 A. For purposes of this chapter:

50 "Murder" means a violation of, attempted violation of, or conspiracy to violate § 18.2-31 or 18.2-32  
51 where the victim is (i) under 15 years of age or (ii) where the victim is at least 15 years of age but  
52 under 18 years of age and the murder is related to an offense listed in this section or a violation of  
53 former § 18.1-21 where the victim is (a) under 15 years of age or (b) at least 15 years of age but under  
54 18 years of age and the murder is related to an offense listed in this section.

55 "Offense for which registration is required" includes:

56 1. Any Tier I, Tier II, or Tier III offense;

57 2. Murder;

58 3. Any offense similar to a Tier I, Tier II, or Tier III offense under the laws of any foreign country  
59 or any political subdivision thereof or the United States or any political subdivision thereof; and

60 4. Any offense for which registration in a sex offender and crimes against minors registry is required  
61 under the laws of the jurisdiction where the offender was convicted.

62 "Tier I offense" means (i) any homicide in conjunction with a violation of, attempted violation of, or  
63 conspiracy to violate clause (i) of § 18.2-371 or § 18.2-371.1, when the offenses arise out of the same  
64 incident, or (ii) any violation of, attempted violation of, or conspiracy to violate:

65 1. § 18.2-63 unless registration is required pursuant to subdivision 1 of the definition of Tier III  
66 offense; former § 18.2-67.2:1; § 18.2-90 with the intent to commit rape; former § 18.1-88 with the intent  
67 to commit rape; *any former felony violation of § 18.2-346*; any felony violation of § ~~18.2-346~~  
68 *18.2-346.01*; any violation of subdivision (4) of § 18.2-355; any violation of subsection C of  
69 § 18.2-357.1; subsection B of § 18.2-374.1:1; former subsection D of § 18.2-374.1:1 as it was in effect  
70 from July 1, 1994, through June 30, 2007; former clause (iv) of subsection B of § 18.2-374.3 as it was  
71 in effect on June 30, 2007; subsection B of § 18.2-374.3; or a third or subsequent conviction of  
72 § 18.2-67.4, § 18.2-67.4:2, subsection C of § 18.2-67.5, § 18.2-386.1, or, if the offense was committed  
73 on or after July 1, 2020, § 18.2-386.2.

74 If the offense was committed on or after July 1, 2006, § 18.2-91 with the intent to commit any  
75 felony offense listed in this section; subsection A of § 18.2-374.1:1; or a felony under § 18.2-67.5:1.

76 2. Where the victim is a minor or is physically helpless or mentally incapacitated as defined in  
77 § 18.2-67.10, subsection A of § 18.2-47, clause (i) of § 18.2-48, § 18.2-67.4, subsection C of  
78 § 18.2-67.5, § 18.2-361, § 18.2-366, or a felony violation of former § 18.1-191.

79 3. § 18.2-370.6.

80 4. If the offense was committed on or after July 1, 2016, and where the perpetrator is 18 years of  
81 age or older and the victim is under the age of 13, any violation of § 18.2-51.2.

82 5. If the offense was committed on or after July 1, 2016, any violation of § 18.2-356 punishable as a  
83 Class 3 felony or any violation of § 18.2-357 punishable as a Class 3 felony.

84 6. If the offense was committed on or after July 1, 2019, any felony violation of § 18.2-348 or  
85 18.2-349.

86 "Tier II offense" means any violation of, attempted violation of, or conspiracy to violate § 18.2-64.1,  
87 subsection C of § 18.2-374.1:1, or subsection C, D, or E of § 18.2-374.3.

88 "Tier III offense" means a violation of, attempted violation of, or conspiracy to violate:

89 1. Clause (ii) and (iii) of § 18.2-48, former § 18.1-38 with the intent to defile or, for the purpose of  
90 concubinage or prostitution, a felony violation of subdivision (2) or (3) of former § 18.1-39 that involves  
91 assisting or aiding in such an abduction, § 18.2-61, former § 18.1-44 when such act is accomplished  
92 against the complaining witness's will, by force, or through the use of the complaining witness's mental  
93 incapacity or physical helplessness, or if the victim is under 13 years of age, subsection A of § 18.2-63  
94 where the perpetrator is more than five years older than the victim, § 18.2-67.1, § 18.2-67.2, § 18.2-67.3,  
95 former § 18.1-215 when the complaining witness is under 13 years of age, § 18.2-67.4 where the  
96 perpetrator is 18 years of age or older and the victim is under the age of six, subsections A and B of  
97 § 18.2-67.5, § 18.2-370, subdivision (1), (2), or (4) of former § 18.1-213, former § 18.1-214,  
98 § 18.2-370.1, or § 18.2-374.1;

99 2. § 18.2-63, § 18.2-64.1, former § 18.2-67.2:1, § 18.2-90 with the intent to commit rape or, where  
100 the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10,  
101 subsection A of § 18.2-47, § 18.2-67.4, subsection C of § 18.2-67.5, clause (i) of § 18.2-48, § 18.2-361,  
102 § 18.2-366, or subsection C of § 18.2-374.1:1. An offense listed under this subdivision shall be deemed  
103 a Tier III offense only if the person has been convicted or adjudicated delinquent of any two or more  
104 such offenses, provided that person had been at liberty between such convictions or adjudications;

105 3. If the offense was committed on or after July 1, 2006, § 18.2-91 with the intent to commit any  
106 felony offense listed in this section. An offense listed under this subdivision shall be deemed a Tier III  
107 offense only if the person has been convicted or adjudicated delinquent of any two or more such  
108 offenses, provided that the person had been at liberty between such convictions or adjudications; or

109 4. Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code or sex trafficking (as  
110 described in § 1591 of Title 18, U.S.C.).

111 B. "Tier I offense" as defined in this section, "Tier II offense" as defined in this section, "Tier III  
112 offense" as defined in this section, and "murder" as defined in this section includes any similar offense  
113 under the laws of any foreign country or any political subdivision thereof or the United States or any  
114 political subdivision thereof.

115 C. 1. Any offense under the laws of any foreign country or any political subdivision thereof or the  
116 United States or any political subdivision thereof that is similar to (i) any Tier I, II, or III offense or (ii)  
117 murder as defined in this section shall require registration and reregistration in accordance with this

chapter in a manner consistent with the registration and reregistration obligations imposed by the similar offense listed or defined in this section, unless such offense requires more stringent registration and reregistration obligations under the laws of the jurisdiction where the offender was convicted. In instances where more stringent registration and reregistration obligations are required under the laws of the jurisdiction where the offender was convicted, the offender shall register and reregister as required by this chapter in a manner most similar with the registration obligations imposed under the laws of the jurisdiction where the offender was convicted.

2. 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 shall require registration and reregistration in accordance with this chapter in the manner most similar with the registration and reregistration obligations imposed under the laws of the jurisdiction where the offender was convicted unless such offense is similar to (i) any Tier I, II, or III offense or (ii) murder as defined in this section and the registration and reregistration obligations imposed by the similar offense listed or defined in this section are more stringent than those registration and reregistration obligations imposed under the laws of the jurisdiction where the offender was convicted. In instances where the similar offense listed or defined in this section imposes more stringent registration and reregistration obligations, the offender shall register and reregister as required by this chapter in a manner consistent with the registration and reregistration obligations imposed by the similar offense listed or defined in this section.

D. Juveniles adjudicated delinquent shall not be required to register; however, where the offender is a juvenile over the age of 13 at the time of the offense who is tried as a juvenile and is adjudicated delinquent on or after July 1, 2005, of any offense for which registration is required, the court may, in its discretion and upon motion of the attorney for the Commonwealth, find that the circumstances of the offense require offender registration. In making its determination, the court shall consider all of the following factors that are relevant to the case: (i) the degree to which the delinquent act was committed with the use of force, threat, or intimidation, (ii) the age and maturity of the complaining witness, (iii) the age and maturity of the offender, (iv) the difference in the ages of the complaining witness and the offender, (v) the nature of the relationship between the complaining witness and the offender, (vi) the offender's prior criminal history, and (vii) any other aggravating or mitigating factors relevant to the case. The attorney for the Commonwealth may file such a motion at any time during which the offender is within the jurisdiction of the court for the offense that is the basis for such motion. Prior to any hearing on such motion, the court shall appoint a qualified and competent attorney-at-law to represent the offender unless an attorney has been retained and appears on behalf of the offender or counsel has already been appointed.

E. Prior to entering judgment of conviction of an offense for which registration is required if the victim of the offense was a minor, physically helpless, or mentally incapacitated, when the indictment, warrant, or information does not allege that the victim of the offense was a minor, physically helpless, or mentally incapacitated, the court shall determine by a preponderance of the evidence whether the victim of the offense was a minor, physically helpless, or mentally incapacitated, as defined in § 18.2-67.10, and shall also determine the age of the victim at the time of the offense if it determines the victim to be a minor. When such a determination is required, the court shall advise the defendant of its determination and of the defendant's right to make a motion to withdraw a plea of guilty or nolo contendere pursuant to § 19.2-296. If the court grants the defendant's motion to withdraw his plea of guilty or of nolo contendere, his case shall be heard by another judge, unless the parties agree otherwise. Failure to make such determination or so advise the defendant does not otherwise invalidate the underlying conviction.

**§ 16.1-69.48:6. Fees for offenses related to sex trafficking.**

The court shall order any person convicted of a misdemeanor violation of ~~subsection B of § 18.2-346~~ § 18.2-346.01 or of § 18.2-348 or 18.2-349 to pay a \$100 fee, which shall be deposited into the Virginia Prevention of Sex Trafficking Fund to be used in accordance with § 9.1-116.4.

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

A. Criminal and traffic infraction proceedings:

1. In misdemeanor and traffic infraction cases, except misdemeanor cases under § 16.1-253.2, 18.2-57.2, or 18.2-60.4, all documents shall be retained for 10 years, including cases sealed in expungement proceedings under § 19.2-392.2. In misdemeanor cases under § 16.1-253.2, 18.2-57.2, or 18.2-60.4, all documents shall be retained for 20 years. In misdemeanor cases under §§ 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-346, 18.2-346.01, 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. Documents in misdemeanor and traffic infraction cases for which an appeal has been made shall be returned to and filed with the clerk of the appropriate circuit court pursuant to § 16.1-135;

2. In felony cases that are certified to the grand jury, all documents shall be certified to the clerk of the appropriate circuit court pursuant to §§ 19.2-186 and 19.2-190. All other felony case documents shall

179 be handled as provided in subdivision 1;

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

181 B. Civil proceedings:

182 1. All documents in civil proceedings in district court that are dismissed, including dismissal under  
183 § 8.01-335, shall be retained until completion of the Commonwealth's audit of the court records.  
184 Notwithstanding § 8.01-275.1, the clerks of the district courts may destroy documents in civil  
185 proceedings in which no service of process is had 24 months after the last return date;

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

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

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

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

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

206 C. Juvenile and domestic relations district court proceedings:

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

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

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

213 4. In all cases involving sexually violent offenses, as defined in § 37.2-900, and in all misdemeanor  
214 cases under §§ 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-346, 18.2-346.01, 18.2-347, 18.2-348, 18.2-349,  
215 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  
216 for 50 years;

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

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

220 D. At the direction of the chief judge of a district court, the clerk of that court may cause any or all  
221 papers or documents pertaining to civil and criminal cases that have been ended to be destroyed if such  
222 records, papers, or documents will no longer have administrative, fiscal, historical, or legal value to  
223 warrant continued retention, provided such records, papers, or documents have been microfilmed or  
224 converted to an electronic format. Such microfilm and microphotographic processes and equipment shall  
225 meet state archival microfilm standards pursuant to § 42.1-82, or such electronic format shall follow  
226 state electronic records guidelines, and such records, papers, or documents so converted shall be placed  
227 in conveniently accessible files and provisions made for examining and using the same. The provisions  
228 of this subsection shall not apply to the documents for misdemeanor cases under §§ 16.1-253.2,  
229 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, 18.2-346.01, 18.2-347, 18.2-348,  
230 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  
231 as provided in subsection A.

232 **§ 17.1-275.13. Additional fee for offenses related to sex trafficking.**

233 In addition to the fees provided for by §§ 17.1-275.1, 17.1-275.2, 17.1-275.7, 17.1-275.10, and  
234 17.1-275.12, any person convicted of a misdemeanor violation of ~~subsection B of § 18.2-346~~  
235 ~~§ 18.2-346.01~~ or of § 18.2-348 or 18.2-349 shall be ordered to pay a \$100 fee, and any person convicted  
236 of a violation of clause (ii), (iii), or (iv) of § 18.2-48, or of § 18.2-368, or any felony violation of the  
237 laws pertaining to commercial sex trafficking or prostitution offenses pursuant to Article 3 (§ 18.2-346 et  
238 seq.) of Chapter 8, with the exception of § 18.2-361, shall be ordered to pay a \$500 fee. All fees  
239 collected pursuant to this section shall be deposited into the Virginia Prevention of Sex Trafficking Fund

240 to be used in accordance with § 9.1-116.4.

241 **§ 17.1-805. Adoption of initial discretionary sentencing guideline midpoints.**

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

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

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

269 3. The midpoint of the initial recommended sentencing range for manufacturing, selling, giving, or  
 270 distributing, or possessing with the intent to manufacture, sell, give, or distribute a Schedule I or II  
 271 controlled substance, shall be increased by (i) 200 percent in cases in which the defendant has  
 272 previously been convicted of a violent felony offense punishable by a maximum punishment of less than  
 273 40 years or (ii) 400 percent in cases in which the defendant has previously been convicted of a violent  
 274 felony offense punishable by a maximum term of imprisonment of 40 years or more; and

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

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

284 C. For purposes of this chapter, violent felony offenses shall include any felony violation of  
 285 § 16.1-253.2; solicitation to commit murder under § 18.2-29; any violation of § 18.2-31, 18.2-32,  
 286 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  
 287 § 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  
 288 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  
 289 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,  
 290 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  
 291 violation of subsection B of § 18.2-57; any felony violation of § 18.2-57.2; any violation of § 18.2-58 or  
 292 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,  
 293 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  
 294 third conviction of either sexual battery in violation of § 18.2-67.4 or attempted sexual battery in  
 295 violation of subsection C of § 18.2-67.5; any Class 4 felony violation of § 18.2-63; any violation of  
 296 subsection A of § 18.2-67.4:1; any violation of subsection A of § 18.2-77; any Class 3 felony violation  
 297 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,  
 298 18.2-91, 18.2-92, or 18.2-93; any felony violation of § 18.2-152.7; any Class 4 felony violation of  
 299 § 18.2-153; any Class 4 felony violation of § 18.2-154; any Class 4 felony violation of § 18.2-155; any  
 300 felony violation of § 18.2-162; any violation of § 18.2-279 involving an occupied dwelling; any felony

301 violation of subsection A or B of § 18.2-280; any violation of § 18.2-281; any felony violation of  
 302 subsection A of § 18.2-282; any felony violation of § 18.2-282.1; any violation of § 18.2-286.1,  
 303 18.2-287.2, 18.2-289, or 18.2-290; any violation of subsection A of § 18.2-300; any felony violation of  
 304 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  
 305 § 18.2-308.2:2; any violation of § 18.2-308.3 or 18.2-312; *any former felony violation of § 18.2-346*; any  
 306 felony violation of § ~~18.2-346~~ 18.2-346.01, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356,  
 307 18.2-357, or 18.2-357.1; any violation of former § 18.2-358; any violation of subsection B of  
 308 § 18.2-361; any violation of subsection B of § 18.2-366; any violation of § 18.2-368, 18.2-370, or  
 309 18.2-370.1; any violation of subsection A of § 18.2-371.1; any felony violation of § 18.2-369 resulting  
 310 in serious bodily injury or disease; any violation of § 18.2-374.1; any felony violation of § 18.2-374.1:1;  
 311 any violation of § 18.2-374.3 or 18.2-374.4; any second or subsequent offense under §§ 18.2-379 and  
 312 18.2-381; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413,  
 313 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  
 314 § 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  
 315 18.2-485; any violation of § 37.2-917; any violation of § 52-48; any violation of § 53.1-203; any  
 316 conspiracy or attempt to commit any offense specified in this subsection, or any substantially similar  
 317 offense under the laws of any state, the District of Columbia, or the United States or its territories.

318 **§ 18.2-46.1. Definitions.**

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

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

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

327 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-31, 18.2-42,  
 328 18.2-46.3, 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1,  
 329 18.2-55, 18.2-56.1, 18.2-57, 18.2-57.2, 18.2-59, 18.2-83, 18.2-89, 18.2-90, 18.2-95, 18.2-108.1, 18.2-121,  
 330 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03, 18.2-255,  
 331 18.2-255.2, 18.2-279, 18.2-282.1, 18.2-286.1, 18.2-287.4, 18.2-289, 18.2-300, 18.2-308.1, 18.2-308.2,  
 332 18.2-308.2:01, 18.2-308.4, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; (iii) a felony violation of  
 333 § 18.2-60.3, ~~18.2-346~~ 18.2-346.01, 18.2-348, or 18.2-349; (iv) a felony violation of § 18.2-248 or of  
 334 18.2-248.1 or a conspiracy to commit a felony violation of § 18.2-248 or 18.2-248.1; (v) any violation  
 335 of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under  
 336 the laws of another state or territory of the United States, the District of Columbia, or the United States.

337 **§ 18.2-346. Prostitution; commercial sexual conduct; penalties.**

338 A. Any person who, for money or its equivalent, (i) commits any act in violation of § 18.2-361;  
 339 performs cunnilingus, fellatio, or anilingus upon or by another person; engages in sexual intercourse or  
 340 anal intercourse; touches the unclothed genitals or anus of another person with the intent to sexually  
 341 arouse or gratify; or allows another to touch his unclothed genitals or anus with the intent to sexually  
 342 arouse or gratify or (ii) offers to commit any act in violation of § 18.2-361; perform cunnilingus,  
 343 fellatio, or anilingus upon or by another person; engage in sexual intercourse or anal intercourse; touch  
 344 the unclothed genitals or anus of another person with the intent to sexually arouse or gratify; or allow  
 345 another to touch his unclothed genitals or anus with the intent to sexually arouse or gratify and  
 346 thereafter does any substantial act in furtherance thereof is guilty of prostitution, which is punishable as  
 347 a Class 1 misdemeanor.

348 B. Any person who offers money or its equivalent to another for the purpose of engaging in sexual  
 349 acts as enumerated in subsection A and thereafter does any substantial act in furtherance thereof is  
 350 guilty of solicitation of prostitution, which is punishable as a Class 4 misdemeanor. However, any  
 351 person who solicits prostitution from a minor (i) 16 years of age or older is guilty of a Class 6 felony  
 352 or (ii) younger than 16 years of age is guilty of a Class 5 felony.

353 **§ 18.2-346.01. Prostitution; solicitation; commercial exploitation of a minor; penalties.**

354 Any person who offers money or its equivalent to another for the purpose of engaging in sexual acts  
 355 enumerated in § 18.2-346 and thereafter does any substantial act in furtherance thereof is guilty of  
 356 solicitation of prostitution, which is punishable as a Class 1 misdemeanor. However, any person who  
 357 solicits prostitution from a minor (i) 16 years of age or older is guilty of a Class 6 felony or (ii)  
 358 younger than 16 years of age is guilty of a Class 5 felony.

359 **§ 18.2-346.1. Testing of convicted prostitutes and injection drug users for infection with human  
 360 immunodeficiency viruses and hepatitis C; limited disclosure.**

361 A. As soon as practicable following conviction of any person for violation of § 18.2-346,

362 18.2-346.01, or 18.2-361, or any violation of Article 1 (§ 18.2-247 et seq.) or 1.1 (§ 18.2-265.1 et seq.)  
 363 of Chapter 7 involving the possession, sale, or use of a controlled substance in a form amenable to  
 364 intravenous use; or the possession, sale, or use of hypodermic syringes, needles, or other objects  
 365 designed or intended for use in parenterally injecting controlled substances into the human body, such  
 366 person shall be required to submit to testing for infection with human immunodeficiency viruses and  
 367 hepatitis C. The convicted person shall receive counseling from personnel of the Department of Health  
 368 concerning (i) the meaning of the test, (ii) acquired immunodeficiency syndrome and hepatitis C, and  
 369 (iii) the transmission and prevention of infection with human immunodeficiency viruses and hepatitis C.

370 B. Tests for human immunodeficiency viruses shall be conducted to confirm any initial positive test  
 371 results before any test result shall be determined to be positive for infection. The results of such test  
 372 shall be confidential as provided in § 32.1-36.1 and shall be disclosed to the person who is the subject  
 373 of the test and to the Department of Health as required by § 32.1-36. The Department shall conduct  
 374 surveillance and investigation in accordance with the requirements of § 32.1-39.

375 C. Upon receiving a report of a positive test for hepatitis C, the State Health Commissioner may  
 376 share protected health information relating to such positive test with relevant sheriffs' offices, the state  
 377 police, local police departments, adult or youth correctional facilities, salaried or volunteer firefighters,  
 378 paramedics or emergency medical technicians, officers of the court, and regional or local jails (i) to the  
 379 extent necessary to advise exposed individuals of the risk of infection and to enable exposed individuals  
 380 to seek appropriate testing and treatment, and (ii) as may be needed to prevent and control disease and  
 381 is deemed necessary to prevent serious harm and serious threats to the health and safety of individuals  
 382 and the public.

383 The disclosed protected health information shall be held confidential; no person to whom such  
 384 information is disclosed shall redisclose or otherwise reveal the protected health information without first  
 385 obtaining the specific authorization from the individual who was the subject of the test for such  
 386 redisclosure.

387 Such protected health information shall only be used to protect the health and safety of individuals  
 388 and the public in conformance with the regulations concerning patient privacy promulgated by the  
 389 federal Department of Health and Human Services, as such regulations may be amended.

390 D. The results of the tests shall not be admissible in any criminal proceeding related to prostitution  
 391 or drug use.

392 The cost of the tests shall be paid by the Commonwealth and taxed as part of the cost of such  
 393 criminal proceedings.

394 **§ 18.2-350. Confinement of convicted prostitutes and persons violating §§ 18.2-347 through**  
 395 **18.2-349.**

396 In any case in which a person is convicted of a violation of ~~subsection A of~~ § 18.2-346 or of a  
 397 misdemeanor violation of § 18.2-347, 18.2-348, or 18.2-349 and where a city or county farm or hospital  
 398 is available for the confinement of persons so convicted, confinement may be in such farm or hospital,  
 399 in the discretion of the court or judge.

400 **§ 18.2-357.1. Commercial sex trafficking; penalties.**

401 A. Any person who, with the intent to receive money or other valuable thing or to assist another in  
 402 receiving money or other valuable thing from the earnings of a person from prostitution or unlawful  
 403 sexual intercourse in violation of ~~subsection A of~~ § 18.2-346, solicits, invites, recruits, encourages, or  
 404 otherwise causes or attempts to cause a person to violate ~~subsection A of~~ § 18.2-346 is guilty of a Class  
 405 5 felony.

406 B. Any person who violates subsection A through the use of force, intimidation, or deception is  
 407 guilty of a Class 4 felony.

408 C. Any adult who violates subsection A with a person under 18 years of age is guilty of a Class 3  
 409 felony.

410 D. Each violation of this section constitutes a separate and distinct felony.

411 **§ 18.2-513. Definitions.**

412 As used in this chapter:

413 "Criminal street gang" means the same as that term is defined in § 18.2-46.1.

414 "Enterprise" includes any of the following: sole proprietorship, partnership, corporation, business  
 415 trust, criminal street gang, or other group of three or more individuals associated for the purpose of  
 416 criminal activity.

417 "Proceeds" means the same as that term is defined in § 18.2-246.2.

418 "Racketeering activity" means to commit, attempt to commit, or conspire to commit or to solicit,  
 419 coerce, or intimidate another person to commit two or more of the following offenses: Article 2.1  
 420 (§ 18.2-46.1 et seq.) of Chapter 4, § 18.2-460; a felony offense of § 3.2-4212, 3.2-4219, 10.1-1455,  
 421 18.2-31, 18.2-32, 18.2-32.1, 18.2-33, or 18.2-35, Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4,  
 422 § 18.2-47, 18.2-48, 18.2-48.1, 18.2-49, 18.2-51, 18.2-51.2, 18.2-52, 18.2-53, 18.2-55, 18.2-58, 18.2-59,

423 18.2-77, 18.2-79, 18.2-80, 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-95, Article 4 (§ 18.2-111  
 424 et seq.) of Chapter 5, Article 1 (§ 18.2-168 et seq.) of Chapter 6, § 18.2-178 or 18.2-186, Article 6  
 425 (§ 18.2-191 et seq.) of Chapter 6, Article 9 (§ 18.2-246.1 et seq.) of Chapter 6, § 18.2-246.13, Article 1  
 426 (§ 18.2-247 et seq.) of Chapter 7, § 18.2-279, 18.2-286.1, 18.2-289, 18.2-300, 18.2-308.2, 18.2-308.2:1,  
 427 18.2-328, 18.2-346, 18.2-346.01, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357,  
 428 18.2-357.1, 18.2-368, 18.2-369, or 18.2-374.1, Article 8 (§ 18.2-433.1 et seq.) of Chapter 9, Article 1  
 429 (§ 18.2-434 et seq.) of Chapter 10, Article 2 (§ 18.2-438 et seq.) of Chapter 10, Article 3 (§ 18.2-446 et  
 430 seq.) of Chapter 10, Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12, § 3.2-6571, 18.2-516, 32.1-314,  
 431 58.1-1008.2, 58.1-1017, or 58.1-1017.1; or any substantially similar offenses under the laws of any other  
 432 state, the District of Columbia, or the United States or its territories.

433 **§ 19.2-10.2. Administrative subpoena issued for record from provider of electronic**  
 434 **communication service or remote computing service.**

435 A. A provider of electronic communication service or remote computing service that is transacting or  
 436 has transacted any business in the Commonwealth shall disclose a record or other information pertaining  
 437 to a subscriber to or customer of such service, excluding the contents of electronic communications as  
 438 required by § 19.2-70.3, to an attorney for the Commonwealth or the Attorney General pursuant to an  
 439 administrative subpoena issued under this section.

440 1. In order to obtain such records or other information, the attorney for the Commonwealth or the  
 441 Attorney General shall certify on the face of the subpoena that there is reason to believe that the records  
 442 or other information being sought are relevant to a legitimate law-enforcement investigation concerning  
 443 violations of §§ 18.2-47, 18.2-48, 18.2-49, 18.2-346, 18.2-346.01, 18.2-347, 18.2-348, 18.2-348.1,  
 444 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-374.1, and 18.2-374.1:1, former § 18.2-374.1:2, and  
 445 § 18.2-374.3.

446 2. Upon written certification by the attorney for the Commonwealth or the Attorney General that  
 447 there is a reason to believe that the victim is under the age of 18 and that notification or disclosure of  
 448 the existence of the subpoena will endanger the life or physical safety of an individual, or lead to flight  
 449 from prosecution, the destruction of or tampering with evidence, the intimidation of potential witnesses,  
 450 or otherwise seriously jeopardize an investigation, the subpoena shall include a provision ordering the  
 451 service provider not to notify or disclose the existence of the subpoena to another person, other than an  
 452 attorney to obtain legal advice, for a period of 30 days after the date on which the service provider  
 453 responds to the subpoena.

454 3. On a motion made promptly by the electronic communication service or remote computing service  
 455 provider, a court of competent jurisdiction may quash or modify the administrative subpoena if the  
 456 records or other information requested are unusually voluminous in nature or if compliance with the  
 457 subpoena would otherwise cause an undue burden on the service provider.

458 B. All records or other information received by an attorney for the Commonwealth or the Attorney  
 459 General pursuant to an administrative subpoena issued under this section shall be used only for a  
 460 reasonable length of time not to exceed 30 days and only for a legitimate law-enforcement purpose.  
 461 Upon completion of the investigation, the records or other information held by the attorney for the  
 462 Commonwealth or the Attorney General shall be destroyed if no prosecution is initiated. The existence  
 463 of such a subpoena shall be disclosed upon motion of an accused.

464 C. No cause of action shall lie in any court against an electronic communication service or remote  
 465 computing service provider, its officers, employees, agents, or other specified persons for providing  
 466 information, facilities, or assistance in accordance with the terms of an administrative subpoena issued  
 467 under this section.

468 D. Records or other information pertaining to a subscriber to or customer of such service means  
 469 name, address, local and long distance telephone connection records, or records of session times and  
 470 durations, length of service, including start date, and types of service utilized, telephone or instrument  
 471 number or other subscriber number or identity, including any temporarily assigned network address, and  
 472 means and source of payment for such service.

473 E. Nothing in this section shall require the disclosure of information in violation of any federal law.

474 **§ 19.2-215.1. Functions of a multi-jurisdiction grand jury.**

475 The functions of a multi-jurisdiction grand jury are:

476 1. To investigate any condition that involves or tends to promote criminal violations of:

477 a. Title 10.1 for which punishment as a felony is authorized;

478 b. § 13.1-520;

479 c. §§ 18.2-47 and 18.2-48;

480 d. §§ 18.2-111 and 18.2-112;

481 e. Article 6 (§ 18.2-59 et seq.) of Chapter 4 of Title 18.2;

482 f. Article 7.1 (§ 18.2-152.1 et seq.) of Chapter 5 of Title 18.2;

483 g. Article 1 (§ 18.2-247 et seq.) and Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2;

484 h. Article 1 (§ 18.2-325 et seq.) and Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2,  
 485 Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 or any other provision prohibiting, limiting, regulating, or  
 486 otherwise affecting gaming or gambling activity;

487 i. § 18.2-434, when violations occur before a multi-jurisdiction grand jury;

488 j. Article 2 (§ 18.2-438 et seq.) and Article 3 (§ 18.2-446 et seq.) of Chapter 10 of Title 18.2;

489 k. § 18.2-460 for which punishment as a felony is authorized;

490 l. Article 1.1 (§ 18.2-498.1 et seq.) of Chapter 12 of Title 18.2;

491 m. Article 1 (§ 32.1-310 et seq.) of Chapter 9 of Title 32.1;

492 n. Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1;

493 o. Article 9 (§ 3.2-6570 et seq.) of Chapter 65 of Title 3.2;

494 p. Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

495 q. Article 2.1 (§ 18.2-46.1 et seq.) and Article 2.2 (§ 18.2-46.4 et seq.) of Chapter 4 of Title 18.2;

496 r. Article 5 (§ 18.2-186 et seq.) and Article 6 (§ 18.2-191 et seq.) of Chapter 6 of Title 18.2;

497 s. Chapter 6.1 (§ 59.1-92.1 et seq.) of Title 59.1;

498 t. § 18.2-178 where the violation involves insurance fraud;

499 u. § 18.2-346, 18.2-346.01, 18.2-348, or 18.2-349 for which punishment as a felony is authorized or  
 500 § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1;

501 v. Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2;

502 w. Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2;

503 x. Malicious felonious assault and malicious bodily wounding under Article 4 (§ 18.2-51 et seq.) of  
 504 Chapter 4 of Title 18.2;

505 y. Article 5 (§ 18.2-58 et seq.) of Chapter 4 of Title 18.2;

506 z. Felonious sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

507 aa. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony  
 508 violation of § 18.2-79;

509 ab. Chapter 13 (§ 18.2-512 et seq.) of Title 18.2;

510 ac. § 18.2-246.14 and Chapter 10 (§ 58.1-1000 et seq.) of Title 58.1;

511 ad. Subsection A or B of § 18.2-57 where the victim was selected because of his race, religious  
 512 conviction, gender, disability, gender identity, sexual orientation, color, or national origin;

513 ae. § 18.2-121 for which punishment as a felony is authorized;

514 af. Article 5 (§ 18.2-420 et seq.) of Chapter 9 of Title 18.2; and

515 ag. Any other provision of law when such condition is discovered in the course of an investigation  
 516 that a multi-jurisdiction grand jury is otherwise authorized to undertake and to investigate any condition  
 517 that involves or tends to promote any attempt, solicitation, or conspiracy to violate the laws enumerated  
 518 in this section.

519 2. To report evidence of any criminal offense enumerated in subdivision 1 and for which a court  
 520 reporter has recorded all oral testimony as provided by § 19.2-215.9 to the attorney for the  
 521 Commonwealth or United States attorney of any jurisdiction where such offense could be prosecuted or  
 522 investigated, or to the chief law-enforcement officer of any jurisdiction where such offense could be  
 523 prosecuted or investigated, or to a sworn investigator designated pursuant to § 19.2-215.6, or, when  
 524 appropriate, to the Attorney General.

525 3. To consider bills of indictment prepared by a special counsel to determine whether there is  
 526 sufficient probable cause to return each such indictment as a "true bill." Only bills of indictment which  
 527 allege an offense enumerated in subdivision 1 may be submitted to a multi-jurisdiction grand jury.

528 4. The provisions of this section shall not abrogate the authority of an attorney for the  
 529 Commonwealth in a particular jurisdiction to determine the course of a prosecution in that jurisdiction.

530 **§ 19.2-268.3. Admissibility of statements by children in certain cases.**

531 A. As used in this section, "offense against children" means a violation or an attempt to violate  
 532 § 18.2-31, 18.2-32, or 18.2-35, subsection A of § 18.2-47, § 18.2-48, 18.2-51, 18.2-51.2, 18.2-51.6,  
 533 18.2-52, 18.2-54.1, 18.2-54.2, 18.2-61, 18.2-67.1, 18.2-67.2, or 18.2-67.3, subsection B of § 18.2-346  
 534 § 18.2-346.01 if punishable as a felony, § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1, subsection B of  
 535 § 18.2-361, subsection B of § 18.2-366, § 18.2-370, 18.2-370.1, 18.2-371.1, 18.2-374.1, 18.2-374.1:1,  
 536 18.2-374.3, or 18.2-374.4, § 18.2-386.1 if punishable as a felony, or § 40.1-103.

537 B. An out-of-court statement made by a child who is under 13 years of age at the time of trial or  
 538 hearing who is the alleged victim of an offense against children describing any act directed against the  
 539 child relating to such alleged offense shall not be excluded as hearsay under Rule 2:802 of the Rules of  
 540 Supreme Court of Virginia if both of the following apply:

541 1. The court finds, in a hearing conducted prior to a trial, that the time, content, and totality of  
 542 circumstances surrounding the statement provide sufficient indicia of reliability so as to render it  
 543 inherently trustworthy. In determining such trustworthiness, the court may consider, among other things,  
 544 the following factors:

- 545 a. The child's personal knowledge of the event;  
 546 b. The age, maturity, and mental state of the child;  
 547 c. The credibility of the person testifying about the statement;  
 548 d. Any apparent motive the child may have to falsify or distort the event, including bias or coercion;  
 549 e. Whether the child was suffering pain or distress when making the statement; and  
 550 f. Whether extrinsic evidence exists to show the defendant's opportunity to commit the act; and

551 2. The child:

552 a. Testifies; or

553 b. Is declared by the court to be unavailable as a witness; when the child has been declared  
 554 unavailable, such statement may be admitted pursuant to this section only if there is corroborative  
 555 evidence of the act relating to an alleged offense against children.

556 C. At least 14 days prior to the commencement of the proceeding in which a statement will be  
 557 offered as evidence, the party intending to offer the statement shall notify the opposing party, in writing,  
 558 of the intent to offer the statement and shall provide or make available copies of the statement to be  
 559 introduced.

560 D. This section shall not be construed to limit the admission of any statement offered under any  
 561 other hearsay exception or applicable rule of evidence.

562 **§ 19.2-386.16. Forfeiture of motor vehicles used in commission of certain crimes.**

563 A. Any vehicle knowingly used by the owner thereof or used by another with his knowledge of and  
 564 during the commission of, or in an attempt to commit, a second or subsequent offense of § 18.2-346,  
 565 18.2-346.01, 18.2-347, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355, 18.2-356 or 18.2-357 or of a similar  
 566 ordinance of any county, city or town or knowingly used for the transportation of any stolen goods,  
 567 chattels or other property, when the value of such stolen goods, chattels or other property is \$1,000 or  
 568 more, or any stolen property obtained as a result of a robbery, without regard to the value of the  
 569 property, shall be forfeited to the Commonwealth. The vehicle shall be seized by any law-enforcement  
 570 officer arresting the operator of such vehicle for the criminal offense, and delivered to the sheriff of the  
 571 county or city in which the offense occurred. The officer shall take a receipt therefor.

572 B. Any vehicle knowingly used by the owner thereof or used by another with his knowledge of and  
 573 during the commission of, or in an attempt to commit, a misdemeanor violation of subsection D of  
 574 § 18.2-47 or a felony violation of (i) Article 3 (§ 18.2-47 et seq.) of Chapter 4 of Title 18.2 or (ii)  
 575 § 18.2-357 where the prostitute is a minor, shall be forfeited to the Commonwealth. The vehicle shall be  
 576 seized by any law-enforcement officer arresting the operator of such vehicle for the criminal offense,  
 577 and delivered to the sheriff of the county or city in which the offense occurred. The officer shall take a  
 578 receipt therefor.

579 C. Forfeiture of such vehicle shall be enforced as is provided in Chapter 22.1 (§ 19.2-386.1 et seq.).

580 **§ 19.2-386.35. Seizure of property used in connection with certain offenses.**

581 All money, equipment, motor vehicles, and other personal and real property of any kind or character  
 582 together with any interest or profits derived from the investment of such proceeds or other property that  
 583 (i) was used in connection with the commission of, or in an attempt to commit, a violation of subsection  
 584 B of § 18.2-47, § 18.2-48 ~~or~~, 18.2-59, subsection B of ~~§ 18.2-346~~, ~~or~~ § 18.2-346.01, 18.2-347, 18.2-348,  
 585 18.2-348.1, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, 40.1-29, 40.1-100.2, or 40.1-103; (ii) is  
 586 traceable to the proceeds of some form of activity that violates subsection B of § 18.2-47, § 18.2-48 ~~or~~,  
 587 18.2-59, subsection B of ~~§ 18.2-346~~, ~~or~~ § 18.2-346.01, 18.2-347, 18.2-348, 18.2-348.1, 18.2-349,  
 588 18.2-355, 18.2-356, 18.2-357, 40.1-29, 40.1-100.2, or 40.1-103; or (iii) was used to or intended to be  
 589 used to promote some form of activity that violates subsection B of § 18.2-47, § 18.2-48 ~~or~~, 18.2-59,  
 590 subsection B of ~~§ 18.2-346~~, ~~or~~ § 18.2-346.01, 18.2-347, 18.2-348, 18.2-348.1, 18.2-349, 18.2-355,  
 591 18.2-356, 18.2-357, 40.1-29, 40.1-100.2, or 40.1-103 is subject to lawful seizure by a law-enforcement  
 592 officer and subject to forfeiture to the Commonwealth pursuant to Chapter 22.1 (§ 19.2-386.1 et seq.).

593 Real property shall not be subject to seizure unless the minimum prescribed punishment for the  
 594 violation is a term of imprisonment of not less than five years.

595 All seizures and forfeitures under this section shall be governed by Chapter 22.1 (§ 19.2-386.1 et  
 596 seq.), and the procedures specified therein shall apply, mutatis mutandis, to all forfeitures under this  
 597 section.

598 **§ 19.2-392.02. (Effective until July 1, 2021) National criminal background checks by businesses  
 599 and organizations regarding employees or volunteers providing care to children or the elderly or  
 600 disabled.**

601 A. For purposes of this section:

602 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,  
 603 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  
 604 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,  
 605 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

606 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,  
 607 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,  
 608 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;  
 609 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,  
 610 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,  
 611 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,  
 612 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,  
 613 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  
 614 18.2-314; any felony violation of § ~~18.2-346~~ 18.2-346.01, 18.2-348, or 18.2-349; any violation of  
 615 § 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  
 616 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,  
 617 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  
 618 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413,  
 619 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,  
 620 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  
 621 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of  
 622 § 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  
 623 laws of another jurisdiction; (iii) any felony violation of § 18.2-248, 18.2-248.01, 18.2-248.02,  
 624 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,  
 625 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another  
 626 jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of  
 627 another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to  
 628 register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any  
 629 finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et  
 630 seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register  
 631 with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially  
 632 similar offense under the laws of another jurisdiction; or any offense for which registration in a sex  
 633 offender and crimes against minors registry is required under the laws of the jurisdiction where the  
 634 offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless  
 635 five years have elapsed from the date of the conviction.

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

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

644 "Department" means the Department of State Police.

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

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

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

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

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

663 1. Been fingerprinted; and

664 2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and  
 665 date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the  
 666 provider has ever been convicted of or is the subject of pending charges for a criminal offense within or

667 outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime  
 668 and the particulars of the conviction; (iii) a notice to the provider that the entity may request a  
 669 background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background  
 670 check report, to challenge the accuracy and completeness of any information contained in any such  
 671 report, and to obtain a prompt determination as to the validity of such challenge before a final  
 672 determination is made by the Department; and (v) a notice to the provider that prior to the completion  
 673 of the background check the qualified entity may choose to deny the provider unsupervised access to  
 674 children or the elderly or disabled for whom the qualified entity provides care.

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

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

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

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

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

699 H. [Expired.]

700 **§ 19.2-392.02. (Effective July 1, 2021) National criminal background checks by businesses and**  
 701 **organizations regarding employees or volunteers providing care to children or the elderly or**  
 702 **disabled.**

703 A. For purposes of this section:

704 "Barrier crime" means (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32,  
 705 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  
 706 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,  
 707 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  
 708 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,  
 709 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,  
 710 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;  
 711 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,  
 712 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,  
 713 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,  
 714 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,  
 715 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  
 716 18.2-314; any felony violation of § ~~18.2-346~~ 18.2-346.01, 18.2-348, or 18.2-349; any violation of  
 717 § 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  
 718 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,  
 719 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  
 720 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413,  
 721 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,  
 722 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  
 723 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of  
 724 § 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  
 725 laws of another jurisdiction; (iii) any felony violation of § 18.2-248, 18.2-248.01, 18.2-248.02,  
 726 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,  
 727 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another

728 jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of  
 729 another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to  
 730 register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any  
 731 finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et  
 732 seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register  
 733 with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially  
 734 similar offense under the laws of another jurisdiction; or any offense for which registration in a sex  
 735 offender and crimes against minors registry is required under the laws of the jurisdiction where the  
 736 offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless  
 737 five years have elapsed from the date of the conviction.

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

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

746 "Department" means the Department of State Police.

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

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

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

759 "Qualified entity" means a business or organization that provides care to children or the elderly or  
 760 disabled, whether governmental, private, for profit, nonprofit, or voluntary, except organizations exempt  
 761 pursuant to subdivision A 7 of § 22.1-289.030.

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

765 1. Been fingerprinted; and

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

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

788 D. Any background check conducted pursuant to this section for a provider employed by a private

789 entity shall be screened by the Department of State Police. If the provider has been convicted of or is  
 790 under indictment for a barrier crime, the qualified entity shall be notified that the provider is not  
 791 qualified to work or volunteer in a position that involves unsupervised access to children or the elderly  
 792 or disabled.

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

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

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

801 H. [Expired.]

802 **§ 32.1-58. Persons convicted of certain crimes to be examined, tested and treated.**

803 Each person convicted of a violation of § 18.2-346, *18.2-346.01*, or § 18.2-361 shall be examined  
 804 and tested for venereal disease and treated if necessary.

805 **§ 37.2-314. Background check required.**

806 A. As a condition of employment, the Department shall require any applicant who (i) accepts a  
 807 position of employment at a state facility and was not employed by that state facility prior to July 1,  
 808 1996, or (ii) accepts a position with the Department that receives, monitors, or disburses funds of the  
 809 Commonwealth and was not employed by the Department prior to July 1, 1996, to submit to  
 810 fingerprinting and provide personal descriptive information to be forwarded along with the applicant's  
 811 fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI)  
 812 for the purpose of obtaining national criminal history record information regarding the applicant.

813 B. For purposes of clause (i) of subsection A, the Department shall not hire for compensated  
 814 employment persons who have been convicted of (i) any offense set forth in clause (i), (ii), or (iii) of  
 815 the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause (iv) of the  
 816 definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for  
 817 employment or (b) if such person continues on probation or parole or has failed to pay required court  
 818 costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

819 C. Notwithstanding the provisions of subsection B, the Department may hire for compensated  
 820 employment at an adult substance abuse or adult mental health treatment program a person who was  
 821 convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or  
 822 subsection A of § 18.2-57; any first offense misdemeanor violation of § 18.2-57.2; any violation of  
 823 § 18.2-60, 18.2-89, 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282 ~~or~~, 18.2-346, *or*  
 824 *18.2-346.01*; any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02,  
 825 except an offense pursuant to subsection H1 or H2 of § 18.2-248; or any substantially similar offense  
 826 under the laws of another jurisdiction, if the Department determines, based upon a screening assessment,  
 827 that the criminal behavior was substantially related to the applicant's substance abuse or mental illness  
 828 and that the person has been successfully rehabilitated and is not a risk to individuals receiving services  
 829 based on his criminal history background and his substance abuse or mental illness history.

830 D. The Department and a screening contractor designated by the Department shall screen applicants  
 831 who meet the criteria set forth in subsection C to assess whether the applicants have been rehabilitated  
 832 successfully and are not a risk to individuals receiving services based on their criminal history  
 833 backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the  
 834 applicant shall have completed all prison or jail terms; shall not be under probation or parole  
 835 supervision; shall have no pending charges in any locality; shall have paid all fines, restitution, and  
 836 court costs for any prior convictions; and shall have been free of parole or probation for at least five  
 837 years for all convictions. In addition to any supplementary information the Department or screening  
 838 contractor may require or the applicant may wish to present, the applicant shall provide to the screening  
 839 contractor a statement from his most recent probation or parole officer, if any, outlining his period of  
 840 supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony  
 841 conviction. The cost of this screening shall be paid by the applicant, unless the Department decides to  
 842 pay the cost.

843 E. The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that  
 844 no record exists, shall submit a report to the state facility or to the Department. If an applicant is denied  
 845 employment because of information appearing on his criminal history record and the applicant disputes  
 846 the information upon which the denial was based, the Central Criminal Records Exchange shall, upon  
 847 written request, furnish to the applicant the procedures for obtaining a copy of the criminal history  
 848 record from the FBI. The information provided to the state facility or Department shall not be  
 849 disseminated except as provided in this section.

850 F. Those applicants listed in clause (i) of subsection A also shall provide to the state facility or  
851 Department a copy of information from the central registry maintained pursuant to § 63.2-1515 on any  
852 investigation of child abuse or neglect undertaken on them.

853 G. The Board may adopt regulations to comply with the provisions of this section. Copies of any  
854 information received by the state facility or Department pursuant to this section shall be available to the  
855 Department and to the applicable state facility but shall not be disseminated further, except as permitted  
856 by state or federal law. The cost of obtaining the criminal history record and the central registry  
857 information shall be borne by the applicant, unless the Department or state facility decides to pay the  
858 cost.

859 **§ 37.2-416. Background checks required.**

860 A. As used in this section:

861 "Direct care position" means any position that includes responsibility for (i) treatment, case  
862 management, health, safety, development, or well-being of an individual receiving services or (ii)  
863 immediately supervising a person in a position with this responsibility.

864 "Hire for compensated employment" does not include (i) a promotion from one adult substance abuse  
865 or adult mental health treatment position to another such position within the same licensee licensed  
866 pursuant to this article or (ii) new employment in an adult substance abuse or adult mental health  
867 treatment position in another office or program licensed pursuant to this article if the person employed  
868 prior to July 1, 1999, in a licensed program had no convictions in the five years prior to the application  
869 date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an  
870 adult substance abuse treatment position to any mental health or developmental services direct care  
871 position within the same licensee licensed pursuant to this article or (b) new employment in any mental  
872 health or developmental services direct care position in another office or program of the same licensee  
873 licensed pursuant to this article for which the person has previously worked in an adult substance abuse  
874 treatment position.

875 "Shared living" means an arrangement in which the Commonwealth's program of medical assistance  
876 pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and  
877 providing companionship, support, and other limited, basic assistance to a person with developmental  
878 disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal  
879 responsibility.

880 B. Every provider licensed pursuant to this article shall require (i) any applicant who accepts  
881 employment in any direct care position, (ii) any applicant for approval as a sponsored residential service  
882 provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential  
883 service provider, (iv) any person employed by a sponsored residential service provider to provide  
884 services in the home, and (v) any person who enters into a shared living arrangement with a person  
885 receiving medical assistance services pursuant to a waiver to submit to fingerprinting and provide  
886 personal descriptive information to be forwarded through the Central Criminal Records Exchange to the  
887 Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record  
888 information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no provider  
889 licensed pursuant to this article shall:

890 1. Hire for compensated employment any person who has been convicted of (i) any offense set forth  
891 in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth  
892 in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the  
893 application date for employment or (b) if such person continues on probation or parole or has failed to  
894 pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in  
895 § 19.2-392.02;

896 2. Approve an applicant as a sponsored residential service provider if the applicant, any adult  
897 residing in the home of the applicant, or any person employed by the applicant has been convicted of (i)  
898 any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii)  
899 any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five  
900 years prior to the application date to be a sponsored residential service provider or (b) if such applicant  
901 continues on probation or parole or has failed to pay required court costs for such offense set forth in  
902 clause (iv) of the definition of barrier crime in § 19.2-392.02; or

903 3. Permit to enter into a shared living arrangement with a person receiving medical assistance  
904 services pursuant to a waiver any person who has been convicted of (i) any offense set forth in clause  
905 (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) any offense set forth in clause  
906 (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to entering into a  
907 shared living arrangement or (b) if such person continues on probation or parole or has failed to pay  
908 required court costs for such offense set forth in clause (iv) of the definition of barrier crime in  
909 § 19.2-392.02.

910 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no

911 record exists, shall submit a report to the requesting authorized officer or director of a provider licensed  
 912 pursuant to this article. If any applicant is denied employment because of information appearing on the  
 913 criminal history record and the applicant disputes the information upon which the denial was based, the  
 914 Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures  
 915 for obtaining a copy of the criminal history record from the FBI. The information provided to the  
 916 authorized officer or director of a provider licensed pursuant to this article shall not be disseminated  
 917 except as provided in this section.

918 C. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment  
 919 at adult substance abuse or adult mental health treatment programs a person who was convicted of any  
 920 violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or 18.2-56.1 or subsection A of  
 921 § 18.2-57; any first offense misdemeanor violation of § 18.2-57.2; any violation of § 18.2-60, 18.2-89,  
 922 18.2-92, or 18.2-94; any misdemeanor violation of § 18.2-282 ~~or~~, 18.2-346, *or 18.2-346.01*; any offense  
 923 set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to  
 924 subsections H1 and H2 of § 18.2-248; or any substantially similar offense under the laws of another  
 925 jurisdiction, if the hiring provider determines, based upon a screening assessment, that the criminal  
 926 behavior was substantially related to the applicant's substance abuse or mental illness and that the person  
 927 has been successfully rehabilitated and is not a risk to individuals receiving services based on his  
 928 criminal history background and his substance abuse or mental illness history.

929 D. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment  
 930 at adult substance abuse treatment facilities a person who has been convicted of not more than one  
 931 offense under subsection C of § 18.2-57, or any substantially similar offense under the laws of another  
 932 jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in  
 933 Virginia, or the equivalent if the person was convicted under the laws of another jurisdiction; (ii) more  
 934 than 10 years have elapsed since the conviction; and (iii) the hiring provider determines, based upon a  
 935 screening assessment, that the criminal behavior was substantially related to the applicant's substance  
 936 abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving  
 937 services based on his criminal history background and his substance abuse history.

938 E. The hiring provider and a screening contractor designated by the Department shall screen  
 939 applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have  
 940 been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal  
 941 history backgrounds and substance abuse or mental illness histories. To be eligible for such screening,  
 942 the applicant shall have completed all prison or jail terms, shall not be under probation or parole  
 943 supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court  
 944 costs for any prior convictions, and shall have been free of parole or probation for at least five years for  
 945 all convictions. In addition to any supplementary information the provider or screening contractor may  
 946 require or the applicant may wish to present, the applicant shall provide to the screening contractor a  
 947 statement from his most recent probation or parole officer, if any, outlining his period of supervision  
 948 and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The  
 949 cost of this screening shall be paid by the applicant, unless the licensed provider decides to pay the cost.

950 F. Notwithstanding the provisions of subsection B, a provider may (i) hire for compensated  
 951 employment, (ii) approve as a sponsored residential service provider, or (iii) permit to enter into a  
 952 shared living arrangement persons who have been convicted of not more than one misdemeanor offense  
 953 under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction,  
 954 if 10 years have elapsed following the conviction, unless the person committed the offense while  
 955 employed in a direct care position. A provider may also approve a person as a sponsored residential  
 956 service provider if (a) any adult living in the home of an applicant or (b) any person employed by the  
 957 applicant to provide services in the home in which sponsored residential services are provided has been  
 958 convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially  
 959 similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction,  
 960 unless the person committed the offense while employed in a direct care position.

961 G. Providers licensed pursuant to this article also shall require, as a condition of employment,  
 962 approval as a sponsored residential service provider, or permission to enter into a shared living  
 963 arrangement with a person receiving medical assistance services pursuant to a waiver, written consent  
 964 and personal information necessary to obtain a search of the registry of founded complaints of child  
 965 abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

966 H. The cost of obtaining the criminal history record and search of the child abuse and neglect  
 967 registry record shall be borne by the applicant, unless the provider licensed pursuant to this article  
 968 decides to pay the cost.

969 I. A person who complies in good faith with the provisions of this section shall not be liable for any  
 970 civil damages for any act or omission in the performance of duties under this section unless the act or

971 J. Notwithstanding any other provision of law, a provider licensed pursuant to this article that

972 provides services to individuals receiving services under the state plan for medical assistance services or  
 973 any waiver thereto may disclose to the Department of Medical Assistance Services (i) whether a  
 974 criminal history background check has been completed for a person described in subsection B for whom  
 975 a criminal history background check is required and (ii) whether the person described in subsection B is  
 976 eligible for employment, to provide sponsored residential services, to provide services in the home of a  
 977 sponsored residential service provider, or to enter into a shared living arrangement with a person  
 978 receiving medical assistance services pursuant to a waiver.

979 **§ 37.2-506. Background checks required.**

980 A. As used in this section:

981 "Direct care position" means any position that includes responsibility for (i) treatment, case  
 982 management, health, safety, development, or well-being of an individual receiving services or (ii)  
 983 immediately supervising a person in a position with this responsibility.

984 "Hire for compensated employment" does not include (i) a promotion from one adult substance abuse  
 985 or adult mental health treatment position to another such position within the same community services  
 986 board or (ii) new employment in an adult substance abuse or adult mental health treatment position in  
 987 another office or program of the same community services board if the person employed prior to July 1,  
 988 1999, had no convictions in the five years prior to the application date for employment. "Hire for  
 989 compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment  
 990 position to any mental health or developmental services direct care position within the same community  
 991 services board or (b) new employment in any mental health or developmental services direct care  
 992 position in another office or program of the same community services board for which the person has  
 993 previously worked in an adult substance abuse treatment position.

994 "Shared living" means an arrangement in which the Commonwealth's program of medical assistance  
 995 pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and  
 996 providing companionship, support, and other limited, basic assistance to a person with developmental  
 997 disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal  
 998 responsibility.

999 B. Every community services board shall require (i) any applicant who accepts employment in any  
 1000 direct care position with the community services board, (ii) any applicant for approval as a sponsored  
 1001 residential service provider, (iii) any adult living in the home of an applicant for approval as a  
 1002 sponsored residential service provider, (iv) any person employed by a sponsored residential service  
 1003 provider to provide services in the home, and (v) any person who enters into a shared living  
 1004 arrangement with a person receiving medical assistance services pursuant to a waiver to submit to  
 1005 fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal  
 1006 Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national  
 1007 criminal history record information regarding the applicant. Except as otherwise provided in subsection  
 1008 C, D, or F, no community services board shall hire for compensated employment, approve as a  
 1009 sponsored residential service provider, or permit to enter into a shared living arrangement with a person  
 1010 receiving medical assistance services pursuant to a waiver persons who have been convicted of (a) any  
 1011 offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (b) any  
 1012 offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years  
 1013 prior to the application date for employment, the application date to be a sponsored residential service  
 1014 provider, or entering into a shared living arrangement or (2) if such person continues on probation or  
 1015 parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition  
 1016 of barrier crime in § 19.2-392.02.

1017 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no  
 1018 record exists, shall submit a report to the requesting executive director or personnel director of the  
 1019 community services board. If any applicant is denied employment because of information appearing on  
 1020 his criminal history record and the applicant disputes the information upon which the denial was based,  
 1021 the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the  
 1022 procedures for obtaining a copy of the criminal history record from the FBI. The information provided  
 1023 to the executive director or personnel director of any community services board shall not be  
 1024 disseminated except as provided in this section.

1025 C. Notwithstanding the provisions of subsection B, the community services board may hire for  
 1026 compensated employment at adult substance abuse or adult mental health treatment programs a person  
 1027 who was convicted of any violation of § 18.2-51.3; any misdemeanor violation of § 18.2-56 or  
 1028 18.2-56.1, subsection A of § 18.2-57, or § 18.2-57.2; any violation of § 18.2-60, 18.2-89, 18.2-92, or  
 1029 18.2-94; any misdemeanor violation of § 18.2-282 ~~or~~, 18.2-346, *or 18.2-346.01*; any offense set forth in  
 1030 clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection  
 1031 H1 or H2 of § 18.2-248; or any substantially similar offense under the laws of another jurisdiction, if  
 1032 the hiring community services board determines, based upon a screening assessment, that the criminal

1033 behavior was substantially related to the applicant's substance abuse or mental illness and that the person  
1034 has been successfully rehabilitated and is not a risk to individuals receiving services based on his  
1035 criminal history background and his substance abuse or mental illness history.

1036 D. Notwithstanding the provisions of subsection B, the community services board may hire for  
1037 compensated employment at adult substance abuse treatment programs a person who has been convicted  
1038 of not more than one offense under subsection C of § 18.2-57, or any substantially similar offense under  
1039 the laws of another jurisdiction, if (i) the person has been granted a simple pardon if the offense was a  
1040 felony committed in Virginia, or the equivalent if the person was convicted under the laws of another  
1041 jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring community  
1042 services board determines, based upon a screening assessment, that the criminal behavior was  
1043 substantially related to the applicant's substance abuse and that the person has been successfully  
1044 rehabilitated and is not a risk to individuals receiving services based on his criminal history background  
1045 and his substance abuse history.

1046 E. The community services board and a screening contractor designated by the Department shall  
1047 screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants  
1048 have been rehabilitated successfully and are not a risk to individuals receiving services based on their  
1049 criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such  
1050 screening, the applicant shall have completed all prison or jail terms, shall not be under probation or  
1051 parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution,  
1052 and court costs for any prior convictions, and shall have been free of parole or probation for at least  
1053 five years for all convictions. In addition to any supplementary information the community services  
1054 board or screening contractor may require or the applicant may wish to present, the applicant shall  
1055 provide to the screening contractor a statement from his most recent probation or parole officer, if any,  
1056 outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in  
1057 connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless  
1058 the board decides to pay the cost.

1059 F. Notwithstanding the provisions of subsection B, a community services board may (i) hire for  
1060 compensated employment, (ii) approve as a sponsored residential service provider, or (iii) permit to enter  
1061 into a shared living arrangement persons who have been convicted of not more than one misdemeanor  
1062 offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another  
1063 jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense  
1064 while employed in a direct care position. A community services board may also approve a person as a  
1065 sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any  
1066 person employed by the applicant to provide services in the home in which sponsored residential  
1067 services are provided has been convicted of not more than one misdemeanor offense under § 18.2-57 or  
1068 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have  
1069 elapsed following the conviction, unless the person committed the offense while employed in a direct  
1070 care position.

1071 G. Community services boards also shall require, as a condition of employment, approval as a  
1072 sponsored residential service provider, or permission to enter into a shared living arrangement with a  
1073 person receiving medical assistance services pursuant to a waiver, written consent and personal  
1074 information necessary to obtain a search of the registry of founded complaints of child abuse and  
1075 neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

1076 H. The cost of obtaining the criminal history record and search of the child abuse and neglect  
1077 registry record shall be borne by the applicant, unless the community services board decides to pay the  
1078 cost.

1079 I. Notwithstanding any other provision of law, a community services board that provides services to  
1080 individuals receiving services under the state plan for medical assistance services or any waiver thereto  
1081 may disclose to the Department of Medical Assistance Services (i) whether a criminal history  
1082 background check has been completed for a person described in subsection B for whom a criminal  
1083 history background check is required and (ii) whether the person described in subsection B is eligible  
1084 for employment, to provide sponsored residential services, to provide services in the home of a  
1085 sponsored residential service provider, or to enter into a shared living arrangement with a person  
1086 receiving medical assistance services pursuant to a waiver.

1087 J. A person who complies in good faith with the provisions of this section shall not be liable for any  
1088 civil damages for any act or omission in the performance of duties under this section unless the act or  
1089 omission was the result of gross negligence or willful misconduct.