LD4748837

HOUSE BILL NO. 1938

Offered January 20, 1995

A BILL to amend and reenact §§ 1-13.24, 3.1-401, 4.1-323, 4.1-351, 6.1-124, 13.1-520, 13.1-569, 15.1-8.1, 15.1-1126, 16.1-126, 16.1-136, 16.1-269.6 as it is currently effective and as it may become effective, 18.2-18, 18.2-21, 18.2-54, 18.2-66, 18.2-69, 18.2-263, 18.2-359, 18.2-435, 18.2-457, 19.2-9, 19.2-151, 19.2-169.1, 19.2-169.4, 19.2-169.5, 19.2-186, 19.2-217.1, 19.2-218.2 as it is currently effective and as it may become effective, 19.2-219, 19.2-221, 19.2-222, 19.2-223, 19.2-231, 19.2-232, 19.2-238, 19.2-240 as it is currently effective and as it may become effective, 19.2-241, 19.2-243, 19.2-262 as it is currently effective and as it may become effective, 19.2-264.3, 19.2-266.1, 19.2-285, 19.2-286, 19.2-288, 19.2-299, 19.2-386.10, 20-67 as it is currently effective and as it may become effective, 44-146.25, 46.2-220, 53.1-17, 55-374, 58.1-1009 and 59.1-326 of the Code of Virginia and to repeal § 19.2-242 of the Code of Virginia, relating to preliminary hearings; grand jury.

Patron—Reynolds

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 1-13.24, 3.1-401, 4.1-323, 4.1-351, 6.1-124, 13.1-520, 13.1-569, 15.1-8.1, 15.1-1126, 16.1-126, 16.1-136, 16.1-269.6 as it is currently effective and as it may become effective, 18.2-18, 18.2-21, 18.2-54, 18.2-66, 18.2-69, 18.2-263, 18.2-359, 18.2-435, 18.2-457, 19.2-9, 19.2-151, 19.2-169.1, 19.2-169.4, 19.2-169.5, 19.2-186, 19.2-217.1, 19.2-218.2 as it is currently effective and as it may become effective, 19.2-219, 19.2-221, 19.2-222, 19.2-223, 19.2-231, 19.2-232, 19.2-238, 19.2-240 as it is currently effective and as it may become effective, 19.2-241, 19.2-243, 19.2-262 as it is currently effective and as it may become effective, 19.2-264.3, 19.2-266.1, 19.2-285, 19.2-286, 19.2-288, 19.2-299, 19.2-386.10, 20-67 as it is currently effective and as it may become effective, 44-146.25, 46.2-220, 53.1-17, 55-374, 58.1-1009 and 59.1-326 of the Code of Virginia are amended and reenacted as follows:

§ 1-13.24. Railroad; railway.

The words "railroad" and "railway" shall be construed to mean the same thing in law~~; and in~~. *In* any proceeding wherein a railroad company or a railway company is a party, it shall not be deemed error to call a railway company a railroad company or vice versa; nor shall any demurrer, plea or any other defense be set up in bar or abatement to a motion, declaration or ~~indictment~~ *criminal charge* in consequence of such description. All provisions of law relating to the regulation by the State Corporation Commission and to the taxation of steam railroads shall be applicable to all railroads regardless of their motive power.

§ 3.1-401. Judges to charge grand juries; attorney for the Commonwealth to forward samples for analysis; his fees.

For the purpose of a more rigid enforcement of the law prohibiting the sale of adulterated and misbranded foods in the Commonwealth, it shall be the duty of the judge of the circuit ~~or the corporation~~ court for each county and city of this Commonwealth to bring this article to the attention of the grand juries of his county or city, and upon the finding of an indictment against the manufacturer or vender of such adulterated or misbranded food, beverages, or condiments. At any time prior thereto, the attorney for the Commonwealth may, if he deems it proper, forward a sample of the same to the Commissioner, who shall have it analyzed or examined, and render a report thereon to the attorney for the Commonwealth, which report may be used in evidence *at a preliminary hearing* before such grand jury or at the trial of the person ~~so indicted~~*charged*. For each conviction hereunder, the attorney for the Commonwealth shall be entitled to a fee of ten dollars, which shall be paid by the city or county in which the conviction was had, upon an order from the judge of the court, and the fee shall be paid, notwithstanding the provisions of any law to the contrary limiting the salary or fees of attorneys for the Commonwealth. The fee shall be taxed as a part of the costs against the defendant and when collected shall be paid into the treasury of the county or city.

§ 4.1-323. Attempts; aiding or abetting; penalty.

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

~~On an indictment, information or warrant for the violation of this title, the~~ *The* jury or the court *trying the case* may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the defendant were solely guilty of such violation.

§ 4.1-351. Previous convictions.

If ~~any indictment, information or warrant charging~~ *the case of* any person *is charged* with a violation of any provision of this title, it may be alleged and evidence may be introduced at the trial of such person to prove that such person has been previously convicted of a violation of this title.

§ 6.1-124. Receiving deposit knowing bank or broker to be insolvent.

Any officer or director of any bank and any private banker or broker or any employee of any such bank, banker or broker, who shall take and receive, or permit to be received, a deposit from any person with the actual knowledge that the bank, banker or broker is at the time insolvent, shall be guilty of embezzlement, and shall be punished by a fine double the amount so received~~,~~ and be confined in a state correctional facility not less than one nor more than three years, in the discretion of the jury, for each offense. On the trial of any ~~indictment~~ *charge* under this section it shall be the duty of any such bank, banker or broker, its agent or officers, to produce in court on demand of the attorney for the Commonwealth, all books and papers of such bank, banker or broker, to be read as evidence on the trial of such indictment; but in determining the question of the solvency of any bank, the capital stock thereof shall not be considered as a liability due by it.

§ 13.1-520. Crimes.

A. Any person who shall knowingly and willfully make, or cause to be made, any false statement in any book of account or other paper of any person subject to the provisions of this chapter, or knowingly and willfully exhibit any false paper to the Commission, or who shall knowingly and willfully commit any act declared unlawful by this chapter, with the intent to defraud any purchaser of securities or user of investment advisory services or with intent to deceive the Commission as to any material fact for the purpose of inducing the Commission to take any action or refrain from taking any action pursuant to this chapter, shall be guilty of a Class 4 felony.

B. Any person who shall knowingly make or cause to be made any false statement in any book of account or other paper of any person subject to the provisions of this chapter or exhibit any false paper to the Commission or who shall commit any act declared unlawful by this chapter shall be guilty of a Class 1 misdemeanor.

C. Prosecutions under this section shall be instituted ~~by indictments in the courts of record having jurisdiction of felonies~~ within three years from the date of the offense.

§ 13.1-569. Crimes.

A. Any person who shall knowingly and willfully make, or cause to be made, any false statement in any book of account or other paper of any person subject to the provisions of this chapter, or knowingly and willfully exhibit any false paper to the Commission, or who shall knowingly and willfully commit any act declared unlawful by this chapter with the intent to defraud any franchisee or with intent to deceive the Commission as to any material fact for the purpose of inducing the Commission to take any action or refrain from taking any action pursuant to this chapter, shall be guilty of a Class 4 felony.

B. Any person who shall knowingly make or cause to be made any false statement in any book of account or other paper of any person subject to the provisions of this chapter or exhibit any false paper to the Commission or who shall commit any act declared unlawful by this chapter shall be guilty of a misdemeanor, and on conviction, be punished by a fine of not less than $100 nor more than $5,000, or by confinement in jail for not less than thirty days nor more than one year, or by both such fine and imprisonment.

C. Prosecutions under this section shall be instituted ~~by indictments in the courts of record having jurisdiction of felonies~~ within three years from the date of the offense.

§ 15.1-8.1. Duties of attorneys for the Commonwealth and their assistants.

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

B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a part of the department of law enforcement of the county or city in which he is elected or appointed, and shall have the ~~duty~~ *duties* and powers imposed upon him by general law, including the duty of prosecuting all ~~warrants, indictments or informations charging felony~~ *felonies*, and he may in his discretion, prosecute Class 1, 2 and 3 misdemeanors, or any other violation, the conviction of which carries a penalty of confinement in jail, or a fine of $500 or more, or both such confinement and fine. He shall enforce all forfeitures, and carry out all duties imposed upon him by § 2.1-639.23.

§ 15.1-1126. Suits and prosecutions.

From and after the date when annexation or consolidation shall become effective, all ~~indictments~~*charges* and prosecutions for crimes committed or ordinances violated and all suits or causes of action arising within the territory of the united or consolidated municipality may be instituted in the

city with the same force and effect as if annexation or consolidation had always been effective. ~~But~~ *However,* in case the ~~corporation or other~~ courts of any city whose charter is surrendered are retained as courts of concurrent jurisdiction with any of the courts of the united or consolidated city, prosecutions for crimes committed or ordinances violated and suits or causes of action arising within the territory of the city whose charter is surrendered shall be apportioned, as far as possible, to the ~~corporation or other~~ courts so retained~~,~~ for trial~~, and all cases arising therein which are properly triable by a magistrate's court shall be tried before some civil justice or civil and police justice resident in the territory, unless otherwise provided by the consolidation or annexation ordinance~~.~~

§ 16.1-126. Certain courts of record may try misdemeanors; procedure.

Notwithstanding the provisions of this chapter, the circuit court of any county or city having criminal jurisdiction, shall have jurisdiction to try any person for any misdemeanor ~~for which a presentment or indictment is brought in or for which an information is filed;~~ or ~~such~~ *the* court may certify the ~~presentment, indictment or information~~ *charge* for trial to the *district* court ~~not of record~~ which would otherwise have jurisdiction of the offense~~;~~, in which event the ~~presentment, indictment or information~~ *charge* shall be in lieu of any ~~warrant, petition or~~ other pleading which might otherwise be required by law.

§ 16.1-136. How appeal tried.

Any appeal taken under the provisions of this chapter shall be heard de novo in the appellate court and shall be tried without formal pleadings in writing~~; and, except~~ . *However,* in the case of an appeal from any order or judgment of a *district* court ~~not of record~~ forfeiting any recognizance or revoking any suspension of sentence, the accused shall be entitled to trial by a jury in the same manner as if he had been ~~indicted for~~ *charged with* the offense in the circuit court.

§ 16.1-269.6. Circuit court hearing; jury; termination of juvenile court jurisdiction; objections and appeals.

A. Within seven days after receipt of notice of an appeal from the transfer decision by either the attorney for the Commonwealth or the juvenile, or if an appeal to a decision to transfer is not noted, upon expiration of the time in which to note such an appeal, the clerk of the court shall forward to the circuit court all papers connected with the case, including any report required by subsection B of § 16.1-269.2, as well as a written court order setting forth the reasons for the juvenile court's decision. The clerk shall forward copies of the order to the attorney for the Commonwealth and other counsel of record.

B. The circuit court shall, within a reasonable time after receipt of the case from the juvenile court, (i) examine all such papers, reports and orders; (ii) if either the juvenile or the attorney for the Commonwealth has appealed the transfer decision, conduct a hearing to take further evidence on the issue of transfer, to determine if there has been substantial compliance with § 16.1-269.1, but without redetermining whether the juvenile court had sufficient evidence to find probable cause; and (iii) enter an order either remanding the case to the juvenile court or ~~advising the attorney for the Commonwealth that he may seek an indictment~~ *certifying that the case has been properly transferred or removed to the circuit court*. Upon ~~advising the attorney for the Commonwealth that he may seek an indictment~~*entry of a certification order,* the circuit court shall issue an order transferring the juvenile from the juvenile detention facility to an appropriate local correctional facility where the juvenile need no longer be entirely separate and removed from adults, unless, upon motion of counsel, good cause is shown for placement of the juvenile pursuant to the limitations of subdivision E (i), (ii), and (iii) of § 16.1-249.

C. The ~~circuit court~~ order ~~advising the attorney for the Commonwealth that he may seek an indictment~~*certifying that the case has been properly transferred* shall divest the juvenile court of its jurisdiction over the case as well as the juvenile court's jurisdiction over any other allegations of delinquency arising from the same act, transaction or scheme giving rise to the charge for which the juvenile has been transferred. In addition, upon conviction of the juvenile following transfer and trial as an adult, the circuit court shall issue an order terminating the juvenile court's jurisdiction over that juvenile with respect to any future criminal acts alleged to have been committed by such juvenile and with respect to any pending allegations of delinquency which have not been disposed of by the juvenile court at the time of the criminal conviction. Upon receipt of the order terminating the juvenile court's jurisdiction over the juvenile, the clerk of the juvenile court shall forward any pending petitions of delinquency for proceedings in the appropriate general district court *unless the attorney for the Commonwealth proceeds to indictment on such charges* .

D. The judge of the circuit court who reviewed the case after receipt from the juvenile court shall not, over the objection of any interested party, preside over the trial of such charge or charges.

E. Any objection to the jurisdiction of the circuit court pursuant to this article shall be waived if not made before arraignment.

F. The time period beginning with the filing of a notice of appeal pursuant to § 16.1-269.3 or § 16.1-269.4 and ending with the order of the circuit court disposing of the appeal shall not be included

as applying to the provisions of § 19.2-243.

§ 16.1-269.6. (Delayed effective date - see notes) Circuit court hearing; termination of family court jurisdiction; objections and appeals.

A. Within seven days after receipt of notice of an appeal from the transfer decision by either the attorney for the Commonwealth or the juvenile, or if an appeal to a decision to transfer is not noted, upon expiration of the time in which to note appeal, the clerk of the family court shall forward to the circuit court all papers connected with the case, including any report required by subsection B of § 16.1-269.2 as well as a written court order setting forth the reasons for the family court's decision. The clerk shall forward copies of the order to the attorney for the Commonwealth and other counsel of record.

B. The circuit court shall, within a reasonable time after receipt of the case from the family court, (i) examine all such papers, reports and orders; (ii) if either the juvenile or the attorney for the Commonwealth has appealed the transfer decision, conduct a hearing to take further evidence on the issue of transfer, to determine if there has been substantial compliance with § 16.1-269.1, but without redetermining whether the family court had sufficient evidence to find probable cause; and (iii) enter an order either remanding the case to the family court or ~~advising the attorney for the Commonwealth that he may seek an indictment~~*certifying that the case has been properly transferred or removed to the circuit court*. Upon ~~advising the attorney for the Commonwealth that he may seek an indictment~~*entry of the certification order*, the circuit court shall issue an order transferring the juvenile from the juvenile detention facility to an appropriate local correctional facility where the juvenile need no longer be entirely separate and removed from adults, unless, upon motion of counsel, good cause is shown for placement of the juvenile pursuant to the limitations of subdivision E (i), (ii), and (iii) of § 16.1-249.

C. The ~~circuit court~~ order ~~advising the attorney for the Commonwealth that he may seek an indictment~~ *certifying that the case has been properly transferred* shall divest the family court of its jurisdiction over the case as well as the family court's jurisdiction over any other allegations of delinquency arising from the same act, transaction or scheme giving rise to the charge for which the juvenile has been transferred. In addition, upon conviction of the juvenile following transfer and trial as an adult, the circuit court shall issue an order terminating the family court's jurisdiction over that juvenile with respect to any future criminal acts alleged to have been committed by such juvenile and with respect to any pending allegations of delinquency which have not been disposed of by the family court at the time of the criminal conviction. Upon receipt of the order terminating the family court's jurisdiction over the juvenile, the clerk of the family court shall forward any pending petitions of delinquency for proceedings in the appropriate general district court *unless the attorney for the Commonwealth proceeds to indictment on such charges*.

D. The judge of the circuit court who reviewed the case after receipt from the family court shall not, over the objection of any interested party, preside over the trial of such charge or charges.

E. Any objection to the jurisdiction of the circuit court pursuant to this article shall be waived if not made before arraignment.

F. The time period beginning with the filing of a notice of appeal pursuant to § 16.1-269.3 or § 16.1-269.4 and ending with the order of the circuit court disposing of the appeal shall not be included as applying to the provisions of § 19.2-243.

§ 18.2-18. How principals in second degree and accessories before the fact punished.

In the case of every felony, every principal in the second degree and every accessory before the fact may be ~~indicted~~ *charged*, tried, convicted and punished in all respects as if a principal in the first degree; ~~provided,~~ however, ~~that~~ except in the case of a killing for hire under the provisions of subdivision 2 of § 18.2-31, an accessory before the fact or principal in the second degree to a capital murder shall be ~~indicted~~ *charged*, tried, convicted and punished as though the offense were murder in the first degree.

§ 18.2-21. When and where accessories tried; how charged.

An accessory, either before or after the fact, ~~may,~~ whether the principal felon ~~be~~ *is* convicted or not~~,~~ or ~~be~~ *is* amenable to justice or not, *may* be ~~indicted~~ *charged*, tried, convicted and punished in the county or ~~corporation~~ *city* in which he became *an* accessory, or in which the principal felon might be ~~indicted~~ *charged*. Any such accessory before the fact may be ~~indicted~~ *charged* either with such principal or separately.

§ 18.2-54. Conviction of lesser offenses under certain charges.

On any ~~indictment~~ *charge* for maliciously shooting, stabbing, cutting or wounding a person or by any means causing him bodily injury, with intent to maim, disfigure, disable or kill him, or of causing bodily injury by means of any acid, lye or other caustic substance or agent, the jury or the court trying the case without a jury may find the accused not guilty of the offense charged but guilty of unlawfully doing such act with the intent aforesaid, or of assault and battery if the evidence warrants.

§ 18.2-66. Effect of subsequent marriage to child over fourteen years of age.

If the carnal knowledge is with the consent of the child and such child is fourteen years of age or

older, the subsequent marriage of the parties may be pleaded to any ~~indictment found~~ *charge made* against the accused. The court, upon proof of such marriage, and that the parties are living together as husband and wife, and that the accused has properly provided for, supported, and maintained and is at the time properly providing, supporting and maintaining the spouse and the issue of such marriage, if any, shall continue the case from time to time and from term to term, until the spouse reaches the age of sixteen years. Thereupon the court shall dismiss the ~~indictment already found~~ *charge* against the accused for the aforesaid offense. However, if the accused deserts such spouse before the spouse without just cause reaches the age of sixteen, any ~~indictment found~~ *charge* against the accused for such offense shall be tried without regard to the number of times the case has been continued, and whether such continuance is entered upon the order book.

§ 18.2-69. Evidence necessary to convict; limitation of prosecution.

No conviction under § 18.2-68 shall be had on the testimony of the female seduced, unsupported by other evidence, nor unless the ~~indictment shall be found~~ *accused is charged* within two years after the commission of the offense.

§ 18.2-263. Unnecessary to negative exception, etc.; burden of proof of exception, etc.

In any ~~complaint, information, or indictment,~~ *criminal charge* and in any action or proceeding brought for the enforcement of any provision of this article or of the Drug Control Act (§ 54.1-3400 et seq.), it shall not be necessary to negative any exception, excuse, proviso, or exemption contained in this article or in the Drug Control Act, and the burden of proof of any such exception, excuse, proviso, or exemption shall be upon the defendant.

§ 18.2-359. Venue where any person transported for criminal sexual assault, attempted criminal sexual assault, or purposes of unlawful sexual intercourse, crimes against nature, and indecent liberties with children.

A. Any person transporting or attempting to transport through or across this Commonwealth, any person for the purposes of unlawful sexual intercourse or prostitution, or for the purpose of committing any crime specified in § 18.2-361 or § 18.2-370, may be ~~presented, indicted~~ *charged*, tried, and convicted in any county or city in which any part of such transportation occurred.

B. Venue for the trial of any person charged with committing or attempting to commit criminal sexual assault under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of this title may be had in the county or city in which such crime is alleged to have occurred or in any county or city through which the victim was transported by the defendant prior to the commission of such offense.

§ 18.2-435. Giving conflicting testimony on separate occasions as to same matter; charge; sufficiency of evidence.

It shall likewise constitute perjury for any person, with the intent to testify falsely, to knowingly give testimony under oath as to any material matter or thing and subsequently to give conflicting testimony under oath as to the same matter or thing. In any ~~indictment~~ *charge* for such perjury, it shall be sufficient to allege the offense by stating that the person ~~charged therewith~~ did, knowingly and with the intent to testify falsely, on one occasion give testimony upon a certain matter and, on a subsequent occasion, give different testimony upon the same matter. Upon the trial on such ~~indictment~~ *charge*, it shall be sufficient to prove that the defendant, knowingly and with the intent to testify falsely, gave such differing testimony and that the differing testimony was given on two separate occasions.

§ 18.2-457. Fine and imprisonment by court limited unless jury impaneled.

No court shall, without a jury, for any such contempt as is mentioned in the first class embraced in § 18.2-456, impose a fine exceeding fifty dollars or imprison more than ten days; but in any such case the court may, without ~~an indictment, information~~ *a written charge* or any formal pleading, impanel a jury to ascertain the fine or imprisonment proper to be inflicted and may give judgment according to the verdict.

§ 19.2-9. Prosecution of certain criminal cases removed from state to federal courts; costs.

When any person ~~indicted~~ *charged* in the courts of this Commonwealth for a violation of its laws, has his case removed to the district court of the United States under § 33 of the Judicial Code of the United States, it shall be the duty of the attorney for the Commonwealth for the county or city in which any such ~~indictment is found~~ *charge is made* to prosecute ~~any such~~ *the* case in the United States district court to which the same ~~shall be so~~ *is*removed ~~, and for~~ . *For* his services in this behalf, he shall be paid a fee of $100 for each case tried by him in such United States district court, and mileage at the rate now allowed by law to the members of the General Assembly for all necessary travel ~~in going~~ to and ~~returning~~ from such court, to be paid on his account when approved by the Attorney General.

A per diem of one dollar and fifty cents for each day of actual attendance upon such United States district court and mileage at a rate as provided by law for every mile of necessary travel in going to and returning from such court shall be paid out of the state treasury to each witness for the Commonwealth in every such case upon accounts therefor against the Commonwealth, certified by the attorney for the Commonwealth prosecuting such case and approved by the Attorney General.

It shall not be the duty of the Attorney General to appear for the Commonwealth in such cases unless he can do so without interfering with the efficient discharge of the duties imposed upon him by law; but he may appear with the attorney for the Commonwealth prosecuting such case in any case when the interests of the Commonwealth may in his judgment require his presence.

The Comptroller shall from time to time draw his warrants upon the state treasury in favor of the parties entitled to be paid the above compensation and expenses, or their assigns, upon bills certified and approved as above prescribed.

§ 19.2-151. Satisfaction and discharge of assault and similar charges.

When a person is in jail or under a recognizance to answer a charge of assault and battery or other misdemeanor, or has *otherwise* been ~~indicted for~~ *charged with* an assault and battery or other misdemeanor, for which there is a remedy by civil action, unless the offense was committed by or upon any law-enforcement officer or riotously in violation of §§ 18.2-404 to 18.2-407, or with intent to commit a felony, if the party injured appear before the judge who made the commitment or took the recognizance, or before the court in which the ~~indictment~~ *charge* is pending, and acknowledge in writing that he has received satisfaction for the injury, such judge~~,~~ or court may, in his or its discretion, by an order, supersede the commitment, discharge the recognizance, or dismiss the prosecution, upon payment by the defendant of costs accrued to the Commonwealth or any of its officers.

§ 19.2-169.1. Raising question of competency to stand trial or plead; evaluation and determination of competency.

A. Raising competency issue; appointment of evaluators. If, at any time after the attorney for the defendant has been retained or appointed and before the end of trial, the court finds, upon hearing evidence or representations of counsel for the defendant or the attorney for the Commonwealth, that there is probable cause to believe that the defendant lacks substantial capacity to understand the proceedings against him or to assist his attorney in his own defense, the court shall order that a competency evaluation be performed by at least one psychiatrist, clinical psychologist or master's level psychologist who is qualified by training and experience in forensic evaluation.

B. Location of evaluation. The evaluation shall be performed on an outpatient basis at a mental health facility or in jail unless the court specifically finds that outpatient evaluation services are unavailable or unless the results of outpatient evaluation indicate that hospitalization of the defendant for evaluation on competency is necessary. If either finding is made, the court, under authority of this subsection, may order the defendant sent to a hospital designated by the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services as appropriate for evaluations of persons under criminal charge. The defendant shall be hospitalized for such time as the director of the hospital deems necessary to perform an adequate evaluation of the defendant's competency, but not to exceed thirty days from the date of admission to the hospital.

C. Provision of information to evaluators. The court shall require the attorney for the Commonwealth to provide to the evaluators appointed under subsection A any information relevant to the evaluation, including, but not limited to, (i) a copy of the *summons,* warrant, *presentment, information* or indictment; (ii) the names and addresses of the attorney for the Commonwealth, the attorney for the defendant, and the judge ordering the evaluation; (iii) information about the alleged crime; and (iv) a summary of the reasons for the evaluation request. The court shall require the attorney for the defendant to provide any available psychiatric records and other information that is deemed relevant.

D. The competency report. Upon completion of the evaluation, the evaluators shall promptly submit a report in writing to the court and the attorneys of record concerning (i) the defendant's capacity to understand the proceedings against him; (ii) his ability to assist his attorney; and (iii) his need for treatment in the event he is found incompetent. No statements of the defendant relating to the time period of the alleged offense shall be included in the report.

E. The competency determination. After receiving the report described in subsection D, the court shall promptly determine whether the defendant is competent to stand trial. A hearing on the defendant's competency is not required unless one is requested by the attorney for the Commonwealth or the attorney for the defendant, or unless the court has reasonable cause to believe the defendant will be hospitalized under § 19.2-169.2. If a hearing is held, the party alleging that the defendant is incompetent shall bear the burden of proving by a preponderance of the evidence the defendant's incompetency. The defendant shall have the right to notice of the hearing, the right to counsel at the hearing and the right to personally participate in and introduce evidence at the hearing.

The fact that the defendant claims to be unable to remember the time period surrounding the alleged offense shall not, by itself, bar a finding of competency if the defendant otherwise understands the charges against him and can assist in his defense. Nor shall the fact that the defendant is under the influence of medication bar a finding of competency if the defendant is able to understand the charges against him and assist in his defense while medicated.

§ 19.2-169.4. Litigating certain issues when the defendant is incompetent.

A finding of incompetency does not preclude the adjudication, at any time before trial, of a motion

objecting to the sufficiency of the ~~indictment~~ *charge*, nor does it preclude the adjudication of similar legal objections which, in the court's opinion, may be undertaken without the personal participation of the defendant.

§ 19.2-169.5. Evaluation of sanity at the time of the offense; disclosure of evaluation results.

A. Raising issue of sanity at the time of offense; appointment of evaluators. If, at any time before trial, the court finds, upon hearing evidence or representations of counsel for the defendant, that there is probable cause to believe that the defendant's sanity will be a significant factor in his defense and that the defendant is financially unable to pay for expert assistance, the court shall appoint one or more qualified mental health experts to evaluate the defendant's sanity at the time of the offense and, where appropriate, to assist in the development of an insanity defense. Such mental health expert shall be (i) a psychiatrist, a licensed clinical psychologist, a licensed psychologist registered with the Board of Psychology with a specialty in clinical services, or an individual with a doctorate degree in clinical psychology who has successfully completed forensic evaluation training as approved by the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services and (ii) qualified by specialized training and experience to perform forensic evaluations. The defendant shall not be entitled to a mental health expert of his own choosing or to funds to employ such expert.

B. Location of evaluation. The evaluation shall be performed on an outpatient basis, at a mental health facility or in jail, unless the court specifically finds that outpatient services are unavailable, or unless the results of the outpatient evaluation indicate that hospitalization of the defendant for further evaluation of his sanity at the time of the offense is necessary. If either finding is made, the court, under authority of this subsection, may order that the defendant be sent to a hospital designated by the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services as appropriate for evaluation of the defendant under criminal charge. The defendant shall be hospitalized for such time as the director of the hospital deems necessary to perform an adequate evaluation of the defendant's sanity at the time of the offense, but not to exceed thirty days from the date of admission to the hospital.

C. Provision of information to evaluators. The court shall require the party making the motion for the evaluation, and such other parties as the court deems appropriate, to provide to the evaluators appointed under subsection A any information relevant to the evaluation, including, but not limited to (i) *a* copy of the *summons,* warrant, *presentment, information* or indictment; (ii) the names and addresses of the attorney for the Commonwealth, the attorney for the defendant and the judge who appointed the expert; (iii) information pertaining to the alleged crime, including statements by the defendant made to the police and transcripts of preliminary hearings, if any; (iv) a summary of the reasons for the evaluation request; (v) any available psychiatric, psychological, medical or social records that are deemed relevant; and (vi) a copy of the defendant's criminal record, to the extent reasonably available.

D. The report. The evaluators shall prepare a full report concerning the defendant's sanity at the time of the offense, including whether he may have had a significant mental disease or defect which rendered him insane at the time of the offense. The report shall be prepared within the time period designated by the court, said period to include the time necessary to obtain and evaluate the information specified in subsection C.

E. Disclosure of evaluation results. The report described in subsection D shall be sent solely to the attorney for the defendant and shall be deemed to be protected by the lawyer-client privilege. However, the Commonwealth shall be given the report, the results of any other evaluation of the defendant's sanity at the time of the offense, and copies of psychiatric, psychological, medical, or other records obtained during the course of any such evaluation, after the attorney for the defendant gives notice of an intent to present psychiatric or psychological evidence pursuant to § 19.2-168.

§ 19.2-186. When accused to be discharged, tried, committed or bailed by judge.

The judge shall discharge the accused if he ~~consider~~ *considers* that there is not ~~sufficient~~ *probable* cause for charging him with the offense.

If ~~a~~ *the* judge ~~consider~~ *considers* that there is ~~sufficient~~ *probable* cause only to charge the accused with an offense which the judge has jurisdiction to try, then he shall try the accused for such offense and convict him if he ~~deem~~*deems* him guilty and pass judgment upon him in accordance with law just as if the accused had first been brought before him on a warrant charging him with such offense.

If ~~a~~ *the* judge ~~consider~~ *considers* that there is ~~sufficient~~ *probable* cause to charge the accused with an offense that he does not have jurisdiction to try, then he shall certify the case to the appropriate court having jurisdiction and shall commit the accused to jail or let him to bail pursuant to the provisions of § 19.2-123.

§ 19.2-217.1. Central file of capital murder indictments.

Upon ~~the return by a grand jury of an~~ indictment *or other charge* for capital murder and the arrest of the defendant, the clerk of the circuit court in which ~~such~~ *the* indictment is returned *or the charge is made* shall forthwith file a certified copy of the indictment *or charge* with the clerk of the Supreme Court of Virginia. All such indictments *and charges* shall be maintained in a single place by the clerk of

the Supreme Court, and shall be available to members of the public upon request. Failure to comply with the provisions of this section shall not be (i) a basis upon which ~~an indictment~~ *any charge* may be quashed or deemed invalid; (ii) deemed error upon which a conviction may be reversed or a sentence vacated; or (iii) a basis upon which a court may prevent or delay execution of a sentence.

§ 19.2-218.2. (For effective date - See note) Hearing before juvenile and domestic relations district court required for persons accused of certain violations against their spouses.

A. In any case involving a violation of §§ 18.2-61 B, 18.2-67.1 B, 18.2-67.2 B or § 18.2-67.2:1 where a preliminary hearing pursuant to § 19.2-218.1 has not been held prior to ~~indictment or~~ trial, the court shall refer the case to the appropriate juvenile and domestic relations district court for a hearing to determine whether counseling or therapy is appropriate prior to further disposition unless the hearing is waived in writing by the accused. The court conducting this hearing may order counseling or therapy for the accused in compliance with the guidelines set forth in § 19.2-218.1.

B. After such hearing pursuant to which the accused has completed counseling or therapy and upon the recommendation of the juvenile and domestic relations district court judge conducting the hearing, the judge of the circuit court may dismiss the charge with the consent of the attorney for the Commonwealth and if the court finds such action will promote maintenance of the family unit and be in the best interest of the complaining witness.

§ 19.2-218.2. (Delayed effective date - See notes) Hearing before family court required for persons accused of certain violations against their spouses.

A. In any case involving a violation of §§ 18.2-61 B, 18.2-67.1 B, 18.2-67.2 B or § 18.2-67.2:1 where a preliminary hearing pursuant to § 19.2-218.1 has not been held prior to ~~indictment or~~ trial, the court shall refer the case to the appropriate family court for a hearing to determine whether counseling or therapy is appropriate prior to further disposition unless the hearing is waived in writing by the accused. The court conducting this hearing may order counseling or therapy for the accused in compliance with the guidelines set forth in § 19.2-218.1.

B. After such hearing pursuant to which the accused has completed counseling or therapy and upon the recommendation of the family court judge conducting the hearing, the judge of the circuit court may dismiss the charge with the consent of the attorney for the Commonwealth and if the court finds such action will promote maintenance of the family unit and be in the best interest of the complaining witness.

§ 19.2-219. When capias need not be issued; summons; judgment.

No capias need be issued on a ~~presentment or indictment~~ *charge* of an offense for which there is no punishment ~~but~~ *other than* a fine or forfeiture~~,~~ limited to an amount not exceeding twenty dollars~~;~~ , but a summons to answer such ~~presentment or indictment~~ *charge* may be issued against the accused ~~;~~ ~~and~~ ~~if~~ . *If* it ~~be~~*is* served ten days before the return day thereof, and ~~he~~ *the accused* does not appear, judgment may be rendered against him for the penalty. If ~~he~~ *the accused* ~~appear~~ *appears*, the court may, unless he ~~demand~~ *demands* a jury, hear and determine the matter and give judgment thereon.

§ 19.2-221. Form of prosecutions generally; murder and manslaughter.

The prosecutions for offenses against the Commonwealth, unless otherwise provided, shall be by presentment, indictment ~~or~~, information *or warrant*. While any form of presentment, indictment ~~or~~, information *or warrant* which informs the accused of the nature and cause of the accusation against him shall be good, the following shall be deemed sufficient for murder and manslaughter:

Commonwealth of Virginia . . . . . county (or city) to-wit: The grand jurors of the Commonwealth of Virginia, in and for the body of the county (or city) of . . . . . ., upon their oaths present that A . . . . . B . . . . . ., on the . . . . . day of . . . . . ., 19 . . . . . ., in the county (or city) of . . . . . feloniously did kill and murder one C . . . . . D . . . . . against the peace and dignity of the Commonwealth.

A grand jury may, in case of homicide, which in their opinion amounts to manslaughter only, and not to murder, find an indictment against the accused for manslaughter, and in such case the indictment shall be sufficient if it ~~be~~*is* in *the* form or effect as follows:

Commonwealth of Virginia . . . . . county (or city) to-wit: The grand jurors of the Commonwealth of Virginia, in and for the body of the county (or city) of . . . . . ., upon their oaths present that A . . . . . B . . . . . ., on the . . . . . day of . . . . . ., 19 . . . . . ., in the county (or city) of . . . . . feloniously and unlawfully did kill and slay one C . . . . . D . . . . . ., against the peace and dignity of the Commonwealth.

§ 19.2-222. What sufficient statement in charge for perjury or subornation of perjury.

In ~~an indictment or accusation~~ *a charge* for perjury or subornation of perjury, it shall be sufficient to state the substance of the offense charged against the accused, in what court or by whom the oath was administered which is charged to have been falsely taken, and to aver that such court or person had competent authority to administer the same, together with proper averments to falsify the matter wherein the perjury is assigned, without setting forth any part of any record or proceeding at law or equity, or the commission or authority of the court or person before whom the perjury was committed~~;~~ ~~but~~

~~nothing~~. *However, nothing* herein shall be construed to allow, without the consent of the accused, a part only of any record, proceeding or writing to be given in evidence on the trial of such ~~indictment or accusation~~*charge*. A distinct allegation, averment or statement in any part of the ~~indictment~~ *charge* that the defendant did corruptly swear falsely, or did, on the occasion mentioned in the indictment, commit willful perjury, shall be a sufficient allegation of the falsity of the oath alleged to have been taken.

In ~~indictments or accusations~~ *charges made* under § 18.2-435 it shall be unnecessary to allege which statement made by the accused was false, but the other requirements set forth in the foregoing paragraph shall be followed as closely as consistency will permit, identifying each of the circumstances under which the statements of the accused were made.

§ 19.2-223. Charging several acts of embezzlement; description of money.

In a prosecution against a person accused of embezzling or fraudulently converting to his own use bullion, money, bank notes or other security for money or items of personal property subject to larceny it shall be lawful in the same ~~indictment or accusation to charge and thereon~~ *charge* to proceed against the accused for any number of distinct acts of such embezzlements or fraudulent conversions which may have been committed by him within six months from the first to the last of the acts charged ~~in the indictment; and it~~ . *It* shall be sufficient to allege the embezzlement or fraudulent conversion to be of money without specifying any particular money, gold, silver, note or security. Such allegation, so far as it regards the description of the property, shall be sustained if the accused ~~be~~ *is* proved to have embezzled any bullion, money, bank note or other security for money or items of personal property subject to larceny although the particular species ~~be~~*is* not proved.

And in a prosecution for the larceny of United States currency or for obtaining United States currency by a false pretense or token, or for receiving United States currency knowing the same to have been stolen, it shall be sufficient if the accused ~~be~~*is* proved guilty of the larceny of national bank notes or United States treasury notes, certificates for either gold or silver coin, fractional coin, currency, or any other form of money issued by the United States government, or of obtaining the same by false pretense or token, or of receiving the same knowing it to have been stolen although the particular species ~~be~~*is* not proved.

§ 19.2-231. Amendment of indictment, presentment, information or warrant.

If there ~~be~~ *is* any defect in form in any indictment, presentment ~~or~~, information *or warrant*, or if there ~~shall appear~~ *appears* to be any variance between the allegations therein and the evidence offered in proof thereof, the court may permit amendment of ~~such~~ *the* indictment, presentment ~~or~~, information *or warrant*, at any time before the jury returns a verdict or the court finds the accused guilty or not guilty, provided the amendment does not change the nature or character of the offense charged. After any such amendment the accused shall be arraigned on the indictment, presentment ~~or~~, information *or warrant* as amended~~,~~ and shall be allowed to plead anew thereto, if he so desires~~, and the~~ . *The* trial shall proceed as if no amendment had been made~~;~~, but if the court finds that ~~such~~ *the* amendment operates as a surprise to the accused, he shall be entitled, upon request, to a continuance of the case for a reasonable time.

§ 19.2-232. What process to be awarded against accused on indictment, etc.

When an indictment ~~or~~, presentment, *information or other charge* is found ~~or~~, made or ~~information~~ filed, the court, or the judge thereof, shall award process against the accused to answer the same, if he ~~be~~ *is* not in custody. Such process, if the prosecution ~~be~~*is* for a felony, shall be a capias; if it ~~be~~ *is* for a misdemeanor, for which imprisonment may be imposed, it may be a capias or summons, in the discretion of the court or judge; in all other cases, it shall be, in the first instance a summons~~, but~~. *However,* if a summons ~~be~~ *is* returned executed and the defendant does not appear, or ~~be~~ *is* returned not found, the court or judge may award a capias. The officer serving the summons or capias shall also serve a copy of the indictment, presentment ~~or~~, information *or other charge* therewith.

§ 19.2-238. Summons against corporation; proceedings; expense of publication.

A summons against a corporation to answer ~~an indictment, presentment or information~~ *a charge* may be served as provided in §§ 8.01-299 through 8.01-301~~; and if~~ . *If* the defendant after being so served ~~fail~~ *fails* to appear, the court may proceed to trial and judgment, without further process, as if the defendant had appeared, ~~plead~~*pleaded* not guilty and waived trial by jury. And when, in any such case, publication of a copy of the process is required according to such sections, the expense of such publication may be certified by the court to the Comptroller, and shall be paid out of the state treasury~~; but~~. *However,* the same shall be taxed with other costs and collected from the defendant, if judgment ~~be~~*is* for the Commonwealth, and *shall* be paid into the state treasury by the officer collecting the same.

§ 19.2-240. (For effective date - See note) Clerks shall make out criminal docket.

Before every term of any court in which criminal cases are to be tried, the clerk of the court shall make out a separate docket of criminal cases then pending, in the following order, numbering the same:

1. Felony cases;

2. Misdemeanor cases.

He shall docket all felony cases in ~~the~~ *chronological* order ~~in which the indictments are~~ *based upon the date on which (i) a presentment or indictment is* found ~~and all~~*, (ii) a probable cause finding in a preliminary hearing is received, or (iii) a waiver of indictment is received. All* misdemeanor cases ~~in the~~ *shall be docketed in chronological* order ~~in~~ *based on the date on* which ~~the presentments or indictments are found or informations are filed or appeals are allowed by magistrates and as soon as any presentments or indictments are made at a term of court he shall forthwith docket the same in the order required above~~*(i) a presentment or indictment is found, (ii) an information is filed, or (iii) an appeal is received.*

Traffic infractions shall be docketed with misdemeanor cases.

Cases appealed from the juvenile and domestic relations district court shall not be placed on the criminal docket except for cases involving criminal offenses committed by adults as provided in § 16.1-302. Cases transferred to a circuit court from a juvenile and domestic relations district court pursuant to Article 7 (§ 16.1-269.1 et seq.) of Chapter 11 of Title 16.1 shall be docketed as provided in this section upon ~~return of a true bill of indictment by the grand jury~~ *entry of an order by the circuit court judge certifying the case for transfer pursuant to § 16.1-269.6.*

§ 19.2-240. (Delayed effective date - See notes) Clerks shall make out criminal docket.

Before every term of any court in which criminal cases are to be tried the clerk of the court shall make out a separate docket of criminal cases then pending, in the following order, numbering the same:

1. Felony cases;

2. Misdemeanor cases.

He shall docket all felony cases in ~~the~~ *chronological* order ~~in which the indictments are~~ *based upon the date on which (i) a presentment or indictment is* found ~~and all~~*, (ii) a probable cause finding in a preliminary hearing is received, or (iii) a waiver of indictment is received. All* misdemeanor cases ~~in the~~ *shall be docketed in chronological* order ~~in~~ *based on the date on* which ~~the presentments or indictments are found or informations are filed or appeals are allowed by magistrates and as soon as any presentments or indictments are made at a term of court he shall forthwith docket the same in the order required above~~ *(i) a presentment or indictment is found, (ii) an information is filed or (iii) an appeal is received.*

Traffic infractions shall be docketed with misdemeanor cases. Cases appealed from the family court shall not be placed on the criminal docket except for cases involving criminal offenses committed by adults as provided in § 16.1-302. Cases transferred to a circuit court from a family court pursuant to Article 7 (§ 16.1-269.1 et seq.) of Chapter 11 of Title 16.1 shall be docketed as provided in this section upon ~~return of a true bill of indictment by the grand jury~~ *entry of an order by the circuit court judge certifying the case for transfer pursuant to § 16.1-269.6.*

§ 19.2-241. Time within which court to set criminal cases for trial.

The judge of each circuit court shall fix a day of his court when the trial of criminal cases will commence, and may make such general or special order in reference thereto, and to the summoning of witnesses, as may seem proper ~~, but all~~ . *All* criminal cases shall be disposed of before civil cases, unless the court shall direct otherwise.

When an indictment, *warrant or information* is found against a person for *a* felony or when an appeal has been perfected from the conviction of a misdemeanor or traffic infraction, the accused, if in custody, or if he ~~appear~~ *appears* according to his recognizance, may be tried at the same term and shall be tried within the time limits fixed in § 19.2-243~~; provided that~~ . *However,* no trial shall be held on the first day of the term ~~unless it be~~ *except* with consent of the attorney for the Commonwealth and the accused and his attorney.

§ 19.2-243. Limitation on prosecution of felony due to lapse of time after finding of probable cause; misdemeanors; exceptions.

Where a general district court has found that there is probable cause to believe that the accused has committed a felony, the accused, if he is held continuously in custody thereafter, shall be forever discharged from prosecution for such offense if no trial is commenced in the circuit court within five months from the date such probable cause was found by the district court~~; and if~~. *If* the accused is not held in custody but has been recognized for his appearance in the circuit court to answer for such offense, he shall be forever discharged from prosecution therefor if no trial is commenced in the circuit court within nine months from the date such probable cause was found.

If there was no preliminary hearing in the district court, ~~or if such preliminary hearing was waived by the accused,~~ the commencement of the running of the ~~five and nine months~~ *five-and nine-month* periods, respectively, set forth in this section, shall be from the date an indictment or presentment is found against the accused.

If both a preliminary hearing and indictment were waived by the accused, the commencement of the running of the five-and nine-month periods, respectively as set forth in this section, shall be from the date such waiver is signed by the accused.

If an indictment or presentment is found against the accused but he has not been arrested for the

offense charged therein, the ~~five~~ ~~and~~ ~~nine~~ ~~months~~ *five-and nine-month* periods, respectively, shall commence to run from the date of his arrest thereon.

Where a case is before a circuit court on appeal from a conviction of a misdemeanor or traffic infraction in a district court, the accused shall be forever discharged from prosecution for such offense if the trial de novo in the circuit court is not commenced (i) within five months from the date of the conviction if the accused has been held continuously in custody or (ii) within nine months of the date of the conviction if the accused has been recognized for his appearance in the circuit court.

The provisions of this section shall not apply to such period of time as the failure to try the accused was caused *by*:

~~(1) By his~~*1. His* insanity or by reason of his confinement in a hospital for care and observation;

~~(2) By the~~*2. The* witnesses for the Commonwealth being enticed or kept away, or prevented from attending by sickness or accident;

~~(3) By the~~*3. The* granting of a separate trial at the request of a person indicted jointly with others for a felony;

~~(4) By~~*4. A* continuance granted on the motion of the accused or his counsel, or by concurrence of the accused or his counsel in such a motion by the attorney for the Commonwealth, or by reason of his escaping from jail or failing to appear according to his recognizance; or

~~(5) By the~~5. *The* inability of the jury to agree in their verdict.

But the time during the pendency of any appeal in any appellate court shall not be included as applying to the provisions of this section.

§ 19.2-262. (For effective date - See note) Waiver of jury trial; numbers of jurors in criminal cases; how jurors selected from panel.

~~(1)~~ In any criminal case in which trial by jury is dispensed with as provided by law, the whole matter of law and fact shall be heard and judgment given by the court. In appeals from juvenile and domestic relations district courts the infant, through his guardian ad litem or counsel, may waive a jury.

~~(2)~~ Twelve persons from a panel of twenty shall constitute a jury in a felony case. Seven persons from a panel of thirteen shall constitute a jury in a misdemeanor case. ~~(3)~~ The parties or their counsel, beginning with the attorney for the Commonwealth, shall alternately strike off one name from the panel until the number remaining shall be reduced to the number required for a jury.

~~(4)~~ In any case in which persons ~~indicted~~ ~~for~~ *charged with any* felony elect to be tried jointly, if counsel or the accused are unable to agree on the full number to be stricken, or, if for any other reason counsel or the accused fail or refuse to strike off the full number of jurors allowed such party, the clerk shall place in a box ballots bearing the names of the jurors whose names have not been stricken and shall cause to be drawn from the box such number of ballots as may be necessary to complete the number of strikes allowed the party or parties failing or refusing to strike. Thereafter, if the opposing side is entitled to further strikes, they shall be made in the usual manner.

§ 19.2-262. (Delayed effective date - See notes) Waiver of jury trial; numbers of jurors in criminal cases; how jurors selected from panel.

~~(1)~~ In any criminal case in which trial by jury is dispensed with as provided by law, the whole matter of law and fact shall be heard and judgment given by the court. In appeals from family courts the infant, through his guardian ad litem or counsel, may waive a jury.

~~(2)~~ Twelve persons from a panel of twenty shall constitute a jury in a felony case. Seven persons from a panel of thirteen shall constitute a jury in a misdemeanor case. ~~(3)~~ The parties or their counsel, beginning with the attorney for the Commonwealth, shall alternately strike off one name from the panel until the number remaining shall be reduced to the number required for a jury.

~~(4)~~ In any case in which persons ~~indicted~~ ~~for~~ *charged with any* felony elect to be tried jointly, if counsel or the accused are unable to agree on the full number to be stricken, or, if for any other reason counsel or the accused fail or refuse to strike off the full number of jurors allowed such party, the clerk shall place in a box ballots bearing the names of the jurors whose names have not been stricken and shall cause to be drawn from the box such number of ballots as may be necessary to complete the number of strikes allowed the party or parties failing or refusing to strike. Thereafter, if the opposing side is entitled to further strikes, they shall be made in the usual manner.

§ 19.2-264.3. Procedure for trial by jury.

A. In any case in which the offense may be punishable by death which is tried before a jury the court shall first submit to the jury, the issue of guilt or innocence of the defendant of the offense charged ~~in the indictment~~, or any other offense supported by the evidence for which a lesser punishment is provided by law and the penalties therefor.

B. If the jury finds the defendant guilty of an offense for which the death penalty may not be imposed, it shall fix the punishment as provided in § 19.2-295.1.

C. If the jury finds the defendant guilty of an offense which may be punishable by death, then a separate proceeding before the same jury shall be held as soon as is practicable on the issue of the

penalty, which shall be fixed as is provided in § 19.2-264.4.

If the sentence of death is subsequently set aside or found invalid, and the defendant or the Commonwealth requests a jury for purposes of resentencing, the court shall impanel a different jury on the issue of penalty.

§ 19.2-266.1. Conviction of lesser offense on a charge of homicide.

In any trial upon ~~an indictment charging~~ *a charge of* homicide, the jury or the court may find the accused not guilty of the specific offense charged ~~in the indictment~~, but guilty of any degree of homicide supported by the evidence for which a lesser punishment is provided by law.

§ 19.2-285. Accused guilty of part of offense charged; sentence; on new trial what tried.

If a person indicted ~~of~~ *for or otherwise charged with* a felony ~~be~~ *is acquitted* by the jury ~~acquitted~~ of part of the offense charged, he shall be sentenced for such part as he is so convicted ~~of~~, if the same ~~be~~ *is* substantially charged in the indictment *or charge*, whether it ~~be~~ *is a* felony or misdemeanor. If the verdict ~~be~~ *is* set aside and a new trial granted, the accused~~, he~~ shall not be tried for any higher offense than that of which he was convicted on the last trial.

§ 19.2-286. Conviction of attempt or as accessory on indictment for felony; effect of general verdict of not guilty.

On an indictment for *a* felony, the jury may find the accused not guilty of the felony but guilty of an attempt to commit such felony, or of being an accessory thereto~~; and a~~ . *A* general verdict of not guilty, upon such indictment *or other charge*, shall be a bar to a subsequent prosecution for an attempt to commit such felony, or of being an accessory thereto.

§ 19.2-288. Verdict when accused found guilty of punishable homicide.

If a person ~~indicted for~~ *charged with* murder ~~be~~ *is* found by the jury *to be* guilty of any punishable homicide, ~~they~~ *the jury* shall in ~~their~~ *its* verdict fix the degree thereof and ascertain the extent of the punishment to be inflicted within the bounds prescribed by §§ 18.2-30 to 18.2-36.

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

A. When a person is tried upon a felony charge and is adjudged guilty of such charge, the court may, or on the motion of the defendant shall, before imposing sentence direct a probation officer of such court to thoroughly investigate and report upon the history of the accused, including a report of the accused's criminal record as an adult and available juvenile court records, and all other relevant facts, to fully advise the court so the court may determine the appropriate sentence to be imposed. The probation officer, after having furnished a copy of this report at least five days prior to sentencing to counsel for the accused and the attorney for the Commonwealth for their permanent use, shall submit his report in advance of the sentencing hearing to the judge in chambers, who shall keep such report confidential. The probation officer shall be available to testify from this report in open court in the presence of the accused, who shall have been advised of its contents and be given the right to cross-examine the investigating officer as to any matter contained therein and to present any additional facts bearing upon the matter. The report of the investigating officer shall at all times be kept confidential by each recipient, and shall be filed as a part of the record in the case. Any report so filed shall be sealed upon the entry of the sentencing order by the court and made available only by court order, except that such reports or copies thereof shall be available at any time to any criminal justice agency, as defined in § 9-169, of this or any other state or of the United States; and to any agency where the accused is referred for treatment by the court or by probation and parole services, and shall be made available to counsel for any person who has been ~~indicted~~*charged* jointly for the same felony as the person subject to the report. Any report prepared pursuant to the provisions hereof shall without court order be made available to counsel for the person who is the subject of the report if that person is charged with a felony subsequent to the time of the preparation of the report. The presentence report shall be in a form prescribed by the Department of Corrections. In all cases where such report is not ordered, a simplified report shall be prepared on a form prescribed by the Department of Corrections.

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

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

§ 19.2-386.10. Trial.

A. A party defendant who fails to appear as provided in § 19.2-386.9 shall be in default. The forfeiture shall be deemed established as to the interest of any party in default upon entry of judgment

as provided in § 19.2-386.11. Within twenty-one days after entry of judgment, any party defendant against whom judgment has been so entered may petition the Department of Criminal Justice Services for remission of his interest in the forfeited property. For good cause shown and upon proof that the party defendant's interest in the property is exempt under subdivision 2, 3 or 4 of § 19.2-386.8, the Department of Criminal Justice Services shall grant the petition and direct the state treasury to either (i) remit to the party defendant an amount not exceeding the party defendant's interest in the proceeds of sale of the forfeited property after deducting expenses incurred and payable pursuant to subsection B of § 19.2-386.12 or (ii) convey clear and absolute title to the forfeited property in extinguishment of such interest.

If any party defendant appears in accordance with § 19.2-386.9, the court shall proceed to trial of the case, unless trial by jury is demanded by the Commonwealth or any party defendant. At trial, the Commonwealth has the burden of proving that the property is subject to forfeiture under this chapter. Upon such a showing by the Commonwealth, the claimant has the burden of proving that the claimant's interest in the property is exempt under subdivision 2, 3 or 4 of § 19.2-386.8. The proof of all issues shall be by a preponderance of the evidence.

B. The information and trial thereon shall be independent of any criminal proceeding against any party or other person for violation of law. However, upon motion and for good cause shown, the court may stay a forfeiture proceeding that is related to any indictment ~~or~~ , information *or other criminal charge* .

§ 20-67. (For effective date - See note) Jurisdiction.

Proceedings under this chapter shall be had in the juvenile and domestic relations district courts, which shall have exclusive original jurisdiction in all cases arising under this chapter, except that ~~any grand jury of any circuit court may indict for desertion and nonsupport~~ in any case ~~wherein the defendant is~~ *of desertion or nonsupport involving* a fugitive from the Commonwealth, ~~and any defendant so indicted or presented~~ *the person charged* and apprehended may be tried by the *circuit* court in which the ~~indictment or presentment is found~~ *charge is found, made, or filed* or, in the discretion of the court, referred to the juvenile and domestic relations district court.

§ 20-67. (Delayed effective date - See notes) Jurisdiction.

Proceedings under this chapter shall be had in the family courts, which shall have exclusive original jurisdiction in all cases arising under this chapter, except that ~~any grand jury of any circuit court may indict for desertion and nonsupport~~ in any case ~~wherein the defendant is~~ *of desertion or nonsupport involving* a fugitive from the Commonwealth, ~~and any defendant so indicted or presented~~ *the person charged* and apprehended may be tried by the *circuit* court in which the ~~indictment or presentment~~ *charge* is found, *made or filed* or, in the discretion of the court, referred to the family court.

§ 44-146.25. Certain persons not to be employed or associated in emergency services organizations; loyalty oath required.

No person shall be employed or associated in any emergency services organization established under this chapter who advocates or has advocated a change by force or violence in the constitutional form of government of the United States or in this Commonwealth or the overthrow of any government in the United States by force, or violence, or who has been convicted of, or is under indictment ~~or~~, information *or other formal accusation* charging any subversive act against the United States. Each person who is appointed to serve in an organization for emergency services shall, before entering upon his duties, take an oath, in writing, before a person authorized to administer oaths in this Commonwealth, which shall be substantially as follows:

"I ..... do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the Commonwealth of Virginia, against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

"And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the Government of the United States or of this ~~State~~ *Commonwealth* by force or violence and that during such time as I am a member of the (name of emergency services organization), I will not advocate, nor become a member of any political party or organization that advocates the overthrow of the Government of the United States or of this ~~State~~*Commonwealth* by force or violence."

§ 46.2-220. Special counsel for defense of law-enforcement officers.

If any law-enforcement officer appointed by the Commissioner is arrested, ~~indicted~~, *charged* or prosecuted on any charge arising out of any act committed in the discharge of his official duties, the Commissioner may employ special counsel approved by the Attorney General to defend him. The compensation for special counsel employed pursuant to this section shall, subject to approval of the Attorney General, be paid out of the funds appropriated for the administration of the Department.

§ 53.1-17. Defense of Department of Corrections employees.

If any employee of the Department ~~shall be~~*is* brought before any regulatory or administrative body, summoned before any regular or special grand jury, or~~,~~ arrested, ~~indicted~~ *charged*, or prosecuted on any charge arising out of any act committed in the discharge of his official duties, the Director may, with the approval of the Governor, pay, in whole or in part, counsel employed by such employee to represent him, provided he is neither convicted nor terminated from his employment. Such compensation shall be paid from funds appropriated to the Department.

§ 55-374. Public offering statement.

A. The developer shall prepare and distribute to each prospective purchaser prior to the execution thereby of a contract a copy of the current public offering statement. The public offering statement shall fully and accurately disclose the characteristics of each time-share project registered under this chapter and the products offered, and shall make known to each prospective purchaser all material circumstances affecting each such time-share project. A developer need not make joint disclosures concerning two or more time-share projects owned by the developer or any related entity unless such projects are included in the same time-share program and marketed jointly at any of the time-share projects. The proposed public offering statement shall be filed with the Board, shall be in a form prescribed by its regulations, and shall include the following:

1. The name and principal address of the developer and each time-share project registered with the Board, including:

a. The name, principal occupation and address of every director, partner, or trustee of the developer;

b. The name and address of each person owning or controlling an interest of twenty percent or more in each time-share project registered with the Board;

c. The particulars of any ~~indictment~~ *felony charge*, conviction, judgment, decree or order of any court or administrative agency against the developer or managing entity for violation of a federal, state, local or foreign country law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements or any similar or related activity;

d. The nature of each unsatisfied judgment, if any, against the developer or the managing entity~~,~~*;* the status of each pending suit involving the sale or management of real estate to which the developer, the managing entity, or any general partner, executive officer, director, or majority stockholder thereof, is a defending party~~,~~*;* and the status of each pending suit, if any, of significance to any time-share project registered with the Board; and

e. The name and address of the developer's agent for service of process.

2. A general description of each time-share project registered with the Board and the units and amenities available to purchasers, including, without limitation, the developer's estimated schedule of commencement and completion of all units and amenities or, if the units and amenities have been completed, the year of such completion.

3. As to all products offered by the developer:

a. The form of time-share ownership offered in each project registered with the Board;

b. The types, duration, and number of units and time-shares in each project registered with the Board;

c. Identification of units that are subject to the time-share program;

d. The estimated number of units that may become subject to the time-share program;

e. Provisions, if any, that have been made for public utilities in each time-share project registered with the Board including water, electricity, telephone, and sewerage facilities;

f. A description of each incidental benefit and each alternative purchase which is registered with the Board and offered by the developer including all rights the purchaser acquires, all obligations undertaken thereby, and all other significant characteristics of such benefits; and

g. A statement to the effect of whether or not the developer has reserved the right to add to or delete from the time-share program a time-share project or any incidental benefit or alternative purchase that has been registered with the Board.

4. In a time-share estate program where the developer control period has not terminated, a copy of the annual report required by § 55-370.1, which copy may take the form of an exhibit to the public offering statement. In the case where multiple time-share projects are registered with the Board, the copy or exhibit may be in summary form.

5. In a time-share use program where the developer's net worth is less than $250,000, a current audited balance sheet and where the developer's net worth exceeds such amount, a statement by such developer that its equity in the time-share program exceeds that amount.

6. Any initial or special fee due from the purchaser at settlement together with a description of the purpose and method of calculating the fee.

7. A description of any liens, defects, or encumbrances affecting the time-share project and in particular the time-share offered to the purchaser.

8. A general description of any financing offered by or available through the developer.

9. A statement of the purchaser's nonwaivable right of cancellation provided by § 55-376.

10. Any restraints on alienation of any number or portion of any time-shares.

11. A description of the insurance coverage provided for the benefit of time-share owners.

12. The extent to which financial arrangements, if any, have been provided for completion of any incomplete time-share unit being then offered for sale, including a statement of the developer's obligation to complete planned improvements to the time-share project which have not begun, or begun but not yet completed.

13. The extent to which a time-share unit may become subject to a tax or other lien arising out of claims against other owners of the same unit.

14. The name of the managing entity and the significant terms of any management contract, including, but not limited to, the manner whereby the developer or the time-share estate owners' association may terminate the management contract.

15. Copies of the project instrument and the association's articles of incorporation and bylaws, each of which may be a supplement to the public offering statement.

16. Any services which the developer provides or expense it pays and which it expects may become at any subsequent time a time-share expense of the owners, and the projected time-share expense liability attributable to each of those services or expenses for each time-share.

17. A description of the terms of the deposit escrow requirements, including a statement that deposits may be removed from escrow at the termination of the cancellation period.

18. A description of the facilities, if any, provided by the developer to the association for the management of the project.

19. Any other information required by the Board to assure full and fair meaningful disclosure to prospective purchasers.

B. If any prospective purchaser is offered the opportunity to subscribe to or participate in any exchange program, the public offering statement shall include as an exhibit or supplement, the disclosure document prepared by the exchange company in accordance with § 55-374.2 and a brief narrative description of the exchange program which shall include the following:

1. A statement of whether membership or participation in the program is voluntary or mandatory;

2. The name and address of the exchange company together with the names of its top three officers and directors of the exchange company;

3. A statement of whether the exchange company or any of its top three officers, directors, or holders of a ten percent or greater interest in the exchange company has any interest in the developer, managing entity or the time-share project;

4. A statement that the purchaser's contract with the exchange company is a contract separate and distinct from the purchaser's contract with the developer; and

5. A brief narrative description of the procedure whereby exchanges are conducted.

C. The public offering statement of a conversion time-share project shall also include the following, which may take the form of an exhibit to the public offering statement:

1. A specific statement of the amount of any initial or special fee, if any, due from the purchaser of a time-share on or before settlement of the purchase contract and the basis of such fee occasioned by the fact that the project is a conversion time-share project;

2. Information on the actual expenditures, if available, made on all repairs, maintenance, operation, or upkeep of the building or buildings within the last three years. This information shall be set forth in a tabular manner within the proposed budget of the project. If such building or buildings have not been occupied for a period of three years, then the information shall be set forth for the period during which such building or buildings were occupied;

3. A description of any provisions made in the budget for reserves for capital expenditures and an explanation of the basis for such reserves occasioned by the fact that the project is a conversion time-share project, or, if no provision is made for such reserves, a statement to that effect; and

4. A statement of the present condition of all structural components and major utility installations in the building, which statement shall include the approximate dates of construction, installations, and major repairs as well as the expected useful life of each such item, together with the estimated cost, in current dollars, of replacing each such component.

D. In the case of a conversion project, the developer shall give at least ninety days' notice to each of the tenants of the building or buildings which the developer intends to submit to the provisions of this chapter. During the first sixty days of such ninety-day period, each of these tenants shall have the exclusive right to contract for the purchase of a time-share from the unit he occupies, but only if such unit is to be retained in the conversion project without substantial alteration in its physical layout. Such notice shall be hand delivered or sent by first-class mail, return receipt requested, and shall inform the tenants of the developer's intent to create a conversion project. Such notice may also constitute the

notice to terminate the tenancy as provided for in § 55-222, except that, despite the provisions of § 55-222, a tenancy from month to month may only be terminated upon 120 days' notice as set forth herein when such termination is in regard to the creation of a conversion project. If, however, a tenant so notified remains in possession of the unit he occupies after the expiration of the 120-day period with the permission of the developer, in order to then terminate the tenancy, such developer shall give the tenant a further notice as provided in § 55-222.

The developer of a conversion project, shall, in addition to the requirements of § 55-391.1, include with the application for registration a copy of the notice required by this subsection and a certified statement that such notice which fully complies with the provisions of this subsection shall be, at the time of the registration of the conversion project, mailed or delivered to each of the tenants in the building or buildings for which registration is sought.

E. The developer shall amend the public offering statement to reflect any material change in the time-share program or time-share project. If the developer has reserved in the time-share instrument the right to add to or delete incidental benefits or alternative purchases, the addition or deletion thereof shall not constitute a material change. Prior to distribution, the developer shall file with the Board the public offering statement amended to reflect any material change.

F. The Board may at any time require a developer to alter or supplement the form or substance of the public offering statement to assure full and fair disclosure to prospective purchasers. A developer may, in its discretion, prepare and distribute a public offering statement for each product offered or one public offering statement for all products offered.

G. In the case of a time-share project located outside this Commonwealth, similar disclosure statements required by other situs laws governing time-sharing may be acceptable alternative disclosure statements.

§ 58.1-1009. Preparation, design and sale of stamps; unlawful sale of stamps a felony.

The Department is hereby authorized and directed to have prepared and to sell stamps suitable for denoting the tax on all cigarettes. The Department shall design, adopt and promulgate the form and kind of stamps to be used. Stamps so adopted and promulgated shall be known as and termed "Virginia revenue stamps," and in any ~~information or indictment~~ *criminal charge* , it shall be sufficient to describe the stamps as "Virginia revenue stamps."

Any person other than the Department who sells such revenue stamps, not affixed to cigarettes sold and delivered by them, whether the said stamps ~~be~~ *are* genuine or counterfeit, shall be guilty of a Class 6 felony. When wholesalers have qualified as such with the Department, as provided in § 58.1-1011, and purchase stamps as prescribed herein for use on taxable cigarettes sold and delivered by them, the Department shall allow on such sales of revenue stamps a discount of two and one-half cents per carton. As used herein "carton" shall mean ten packs of cigarettes, each containing twenty cigarettes.

§ 59.1-326. Membership camping operator's disclosure statement.

A. Every membership camping operator, salesperson, or other person who is in the business of offering for sale or transfer the rights under existing membership camping contracts for a fee shall deliver to his purchaser a current membership camping operator's disclosure statement before execution by the purchaser of the membership camping contract and no later than the date shown on such contract.

B. The membership camping operator's disclosure statement shall consist of the following:

1. A cover page stating:

a. The words "Membership Camping Operator's Disclosure Statement" printed in boldfaced type of a minimum size of ten points, followed by,

b. The name and principal business address of the membership camping operator, followed by,

c. A statement that the membership camping operator is in the business of offering for sale membership camping contracts, followed by,

d. The following, in printed boldfaced type of a minimum size of ten points:

THIS DISCLOSURE STATEMENT CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN THE EXECUTION OF A MEMBERSHIP CAMPING CONTRACT. THE MEMBERSHIP CAMPING OPERATOR IS REQUIRED BY LAW TO DELIVER TO YOU A COPY OF THIS DISCLOSURE STATEMENT BEFORE YOU EXECUTE A MEMBERSHIP CAMPING CONTRACT. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. YOU AS A PROSPECTIVE PURCHASER SHOULD REVIEW ALL REFERENCES, EXHIBITS, CONTRACT DOCUMENTS, AND SALES MATERIALS. YOU SHOULD NOT RELY UPON ANY ORAL REPRESENTATIONS AS BEING CORRECT. REFER TO THIS DOCUMENT AND TO THE ACCOMPANYING EXHIBITS FOR CORRECT REPRESENTATIONS. THE MEMBERSHIP CAMPING OPERATOR IS PROHIBITED FROM MAKING ANY REPRESENTATIONS WHICH CONFLICT WITH THOSE CONTAINED IN THE CONTRACT AND THIS DISCLOSURE STATEMENT.

e. The following language, printed in boldfaced type of a minimum size of ten points after the appearance of the items required in subdivisions a through d above:

SHOULD YOU EXECUTE A MEMBERSHIP CAMPING CONTRACT, YOU HAVE THE UNQUALIFIED RIGHT TO CANCEL SUCH CONTRACT. THIS RIGHT OF CANCELLATION CANNOT BE WAIVED. THE RIGHT TO CANCEL EXPIRES AT MIDNIGHT ON THE 7TH CALENDAR DAY FOLLOWING THE DATE ON WHICH THE CONTRACT WAS EXECUTED. TO CANCEL THE MEMBERSHIP CAMPING CONTRACT, YOU AS THE PURCHASER MUST MAIL NOTICE OF YOUR INTENT TO CANCEL BY CERTIFIED UNITED STATES MAIL TO THE MEMBERSHIP CAMPING OPERATOR AT THE ADDRESS SHOWN IN THE MEMBERSHIP CAMPING CONTRACT, POSTAGE PREPAID. THE CAMPING OPERATOR IS REQUIRED BY LAW TO RETURN ALL MONEYS PAID BY YOU IN CONNECTION WITH THE EXECUTION OF THE MEMBERSHIP CAMPING CONTRACT, UPON YOUR PROPER AND TIMELY CANCELLATION OF THE CONTRACT. IN ADDITION, AFTER THE INITIAL 7-CALENDAR-DAY CANCELLATION PERIOD, YOU THE PURCHASER OR YOUR SUCCESSOR IN INTEREST MAY TERMINATE YOUR LIABILITY UNDER THE MEMBERSHIP CAMPING CONTRACT INCLUDING PAYMENT OF ANY MEMBERSHIP FEES, DUES, AND ASSESSMENTS UPON YOUR GIVING PROPER AND EFFECTIVE NOTICE TO THE MEMBERSHIP CAMPING OPERATOR. TO BE EFFECTIVE, THE NOTICE MUST BE IN WRITING AND SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED AND IT MUST CONTAIN: (1) YOUR TRANSFER OF ANY AND ALL RIGHTS, TITLE, AND INTEREST YOU HAVE IN THE MEMBERSHIP CAMPING CONTRACT AND CAMPGROUND BACK TO THE MEMBERSHIP CAMPING OPERATOR; (2) A RECORDABLE DEED, DULY EXECUTED AND NOTARIZED, AND THE RECORDING FEE, IF YOU RECEIVED A RECORDED DEED FROM THE MEMBERSHIP CAMPING OPERATOR; (3) PAYMENTS OF (i) THE UNPAID BALANCE OF THE PURCHASE PRICE AND ANY ACCRUED UNPAID INTEREST THEREON AND (ii) ALL UNPAID MEMBERSHIP FEES, DUES, AND ASSESSMENTS WITH ACCRUED INTEREST THEREON PERMITTED BY THE MEMBERSHIP CAMPING CONTRACT; AND (4) PAYMENT OF ALL OTHER UNPAID FINANCIAL OBLIGATIONS OWED BY YOU THE PURCHASER PURSUANT TO THE MEMBERSHIP CAMPING CONTRACT.

f. The following language below all statements required in subdivisions a through e above:

"Registration of the membership camping operator with the Commissioner of the Virginia Department of Agriculture and Consumer Services does not constitute an approval or endorsement by the Commissioner of the membership camping operator, his membership camping contract, or his campground."

2. The name of the membership camping operator and the address of his principal place of business:

a. The name, principal occupation and address of every director, partner, or trustee of the membership camping operator;

b. The name and address of each person owning or controlling an interest of ten percent or more in the membership camping operator;

c. The particulars of any ~~indictment~~ *felony charge*, conviction, judgment, decree or order of any court or administrative agency against the membership camping operator or its managing entity arising out of the violation or alleged violation of any federal, state, local or foreign law or regulation in connection with activities relating to the sale of campground memberships, land sales, land investments, security sales, construction or sale of homes or improvements or any similar or related activity; and

d. A statement of any unsatisfied judgments against the membership camping operator or its managing entity, the status of any pending suits involving the sale of membership camping contracts or the management of campgrounds to which the membership camping operator or its managing entity is a party and the status of any pending suits, administrative proceedings, or indictments of significance to the campground;

3. A brief description of the nature of the purchaser's right or license to use the campground and the facilities which are to be available for use by purchasers;

4. A brief description of the membership camping operator's experience in the membership camping business, including the length of time such operator has been in the membership camping business;

5. The location of each of the campgrounds which is to be available for use by purchasers and a brief description of the facilities at each campground which are currently available for use by purchasers. Facilities which are planned, incomplete, or not yet available for use shall be clearly identified as incomplete or unavailable. A brief description of any facilities that are or will be available to nonpurchasers shall also be provided;

6. As to all memberships offered by the membership camping operator at each campground:

a. The form of membership offered;

b. The types and duration of memberships along with a summary of the major privileges, restrictions, and limitations applicable to each type; and

c. Provisions, if any, that have been made for public utilities at each campsite including water,

electricity, telephone and sewerage facilities;

7. Any initial or special fee due from the purchaser together with a description of the purpose and method of calculating the fee;

8. A description of any liens, defects, or encumbrances affecting the campground;

9. A general description of any financing offered or available through the membership camping operator;

10. A statement that the purchaser has until midnight of the seventh calendar day following the signing of the membership campground contract to cancel the contract by proper notice to the membership camping operator;

11. A description of the insurance coverage that the membership camping operator provides for the benefit of purchasers, if any;

12. Any fees or charges that purchasers are or may be required to pay for the use of the campground or any facilities;

13. The extent to which financial arrangements, if any, have been provided for the completion of facilities together with a statement of the membership camping operator's obligation to complete planned facilities. The statement shall include a description of any restrictions or limitations on the membership camping operator's obligation to begin or to complete such facilities;

14. The name of the managing entity, if there is one, and the significant terms of any management contract, including but not limited to, the circumstances under which the membership camping operator may terminate the management contract;

15. Any services which the membership camping operator currently provides or expenses he pays which are expected to become the responsibility of the purchasers, including the projected liability which each such service or expense may impose on each purchaser;

16. A brief description of the ownership in or other right to use the campground which is to be transferred to each purchaser, together with the duration of any lease, license, franchise or reciprocal agreement entitling the membership camping operator or purchasers from him to use the campground, and any provisions in any such agreements which restrict or limit a purchaser's use of the campground;

17. a. A copy, whether by way of supplement or otherwise, of the rules, restrictions or covenants regulating the purchaser's use of the campground in Virginia and its facilities which are to be available for use by the purchasers, including a statement of whether and how the rules, restrictions or covenants may be changed;

b. A summary, whether by way of supplement or otherwise, of the rules, restrictions, or covenants regulating the purchaser's use of any other campgrounds, facilities, or any other amenities resulting from the purchase of, or used as an inducement to influence the purchase of, the membership camping contract;

18. A description of any restraints on the transfer of the membership camping contract;

19. A brief description of the policies covering the availability of camping sites, the availability of reservations and the conditions under which they are made;

20. A brief description of any grounds for forfeiture of a purchaser's membership camping contract;

21. A statement of whether the membership camping operator has the right to withdraw permanently from use all or any portion of any campground devoted to membership camping and, if so, the conditions under which such withdrawal is to be permitted;

22. A statement describing the material terms and conditions of any reciprocal program to be available to the purchaser including a statement concerning whether the purchaser's participation in any reciprocal program is dependent upon the continued affiliation of the membership camping operator with that reciprocal program and whether the membership camping operator reserves the right to terminate such affiliation;

23. The following language, printed in boldfaced type of a minimum size of ten points:

"The purchase of this membership camping contract should not be based on any representations that it is an investment or that it can be resold. The resale of a membership may be difficult"; and

24. A statement that contains in boldfaced type the name, address, and telephone number of the Virginia Department of Agriculture and Consumer Services, State Division of Consumer Affairs and that states that that agency is the regulatory agency that handles consumer complaints regarding membership campgrounds.

C. The membership camping operator shall promptly amend his membership camping operator's disclosure statement to reflect any material change in the campground or its facilities. He shall also promptly file any such amendments with the Commissioner.

2. That § 19.2-242 of the Code of Virginia is repealed.