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HOUSE BILL NO. 939

Offered January 22, 1996

A BILL to amend and reenact § 19.2-390 of the Code of Virginia, relating to reports to be made to the Central Criminal Records Exchange.

Patron—McClure

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 19.2-390 of the Code of Virginia is amended and reenacted as follows:**

§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace, clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material submitted by other agencies.

A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police officials of cities and towns, and any other local law-enforcement officer or conservator of the peace having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange, on forms provided by it, of any arrest on any of the following charges:

1- a. Treason;

2- b. Any felony;

3- c. Any offense punishable as a misdemeanor under Title 54.1; or

4- d. Any misdemeanor punishable by confinement in jail under Title 18.2 or 19.2, except an arrest for a violation of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2, for violation of Article 2 (§ 18.2-415 et seq.) of Chapter 9 of Title 18.2, or § 18.2-119 or any similar ordinance of any county, city or town.

For the purposes of this section, arrests required to be reported include (i) the taking into custody of any person on charges resulting from an indictment, presentment or information, (ii) the arrest on a *capias* following the issuance of an indictment, presentment or information, (iii) the arrest on a warrant for failure to appear, and (iv) the service of a warrant for another jurisdiction, for any offense listed under this subsection.

The reports shall contain such information as is required by the Exchange and shall be accompanied by fingerprints of the individual arrested. Fingerprint cards prepared by a law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the Exchange for transmittal to the appropriate bureau.

2. For persons arrested and released on summonses in accordance with § 19.2-74, such report shall not be required until (i) after a conviction is entered and no appeal is noted or if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (ii) the court dismisses the proceeding pursuant to § 18.2-251; or (iii) after a verdict of acquittal by reason of insanity pursuant to § 19.2-182.2. Upon such conviction or acquittal, the court shall remand the individual to the custody of the office of the chief law-enforcement officer of the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be the arresting officer, to ensure that such report is completed after a determination of guilt or acquittal by reason of insanity. The court shall require the officer to complete the report immediately following his conviction or acquittal, and the individual shall be discharged from custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him committed to the custody of the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

B. Within seventy-two hours following the receipt of a warrant or *capias* for the arrest of any person on a charge of a felony, the law-enforcement agency which received the charge shall enter the accused's name and other appropriate information required by the Department of State Police into the "information system", known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. The report shall include the person's name, date of birth, social security number and such other known information which the State Police may require. Any unexecuted criminal process which has been entered into the VCIN system shall be removed forthwith by the entering law-enforcement agency when the criminal process has been ordered destroyed pursuant to § 19.2-76.1.

C. The clerk of each circuit court and district court shall make a report to the Central Criminal Records Exchange of (i) any dismissal, indefinite postponement or continuance, charge still pending due to mental incompetency, *nolle prosequi*, acquittal, or conviction of, *including any sentence imposed*, or failure of a grand jury to return a true bill as to, any person charged with an offense listed in subsection

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60 A of this section, *including any action which may have resulted from an indictment, presentment or*
61 *information*, and (ii) any adjudication of delinquency based upon an act which would be a felony if
62 committed by an adult, provided fingerprints and photographs of the juvenile were required to be taken
63 pursuant to subsection A of § 16.1-299. In the case of offenses not required to be reported to the
64 Exchange by subsection A of this section, the reports of any of the foregoing dispositions shall be filed
65 by the law-enforcement agency making the arrest with the arrest record required to be maintained by
66 § 15.1-135.1. Upon conviction of a felony in violation of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1,
67 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or § 18.2-370.1 or, where the victim is a minor or is physically
68 helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B
69 of § 18.2-366, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269,
70 whether sentenced as adults or juveniles, the clerk shall also submit a report to the Sex Offender
71 Registry. The report to the Sex Offender Registry shall include the name of the person convicted and all
72 aliases which he is known to have used, the date and locality of the conviction for which registration is
73 required, his date of birth, social security number, last known address, and specific reference to the
74 offense for which he was convicted. No report of conviction or adjudication in a district court shall be
75 filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event
76 that the records in the office of any clerk show that any conviction or adjudication has been nullified in
77 any manner, he shall also make a report of that fact to the Exchange and, if appropriate, to the Registry,
78 and each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court, shall
79 report to the Exchange or the Registry, or to the law-enforcement agency making the arrest in the case
80 of offenses not required to be reported to the Exchange, on forms provided by the Exchange or
81 Registry, as the case may be, any reversal or other amendment to a prior sentence or disposition
82 previously reported. When criminal process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall
83 report such action to the law-enforcement agency that entered the warrant or capias into the VCIN
84 system.

85 D. In addition to those offenses enumerated in subsection A of this section, the Central Criminal
86 Records Exchange may receive, classify and file any other fingerprints and records of arrest or
87 confinement submitted to it by any law-enforcement agency or any correctional institution.

88 E. Corrections officials, *sheriffs, and jail superintendents of regional jails*, responsible for
89 maintaining correctional status information, as required by the rules and regulations of the Department
90 of Criminal Justice Services, with respect to individuals about whom reports have been made under the
91 provisions of this chapter shall make reports of changes in correctional status information to the Central
92 Criminal Records Exchange. *The reports to the Exchange shall include any commitment to or release or*
93 *escape from a state or local correctional facility, including commitment to or release from a parole or*
94 *probation agency.*

95 F. *Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported to*
96 *the Exchange by the office of the Secretary of the Commonwealth.*

97 G. Officials responsible for reporting disposition of charges, and correctional changes of status of
98 individuals under this section, including those reports made to the Sex Offender Registry, shall adopt
99 procedures reasonably designed at a minimum (i) to ensure that such reports are accurately made as
100 soon as feasible by the most expeditious means and in no instance later than thirty days after occurrence
101 of the disposition or correctional change of status; and (ii) to report promptly any correction, deletion, or
102 revision of the information.

103 ~~G.~~ H. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records
104 Exchange shall notify all criminal justice agencies known to have previously received the information.

105 As used in this section, the term "chief law-enforcement officer" means the chief of police of cities
106 and towns and sheriffs of counties, unless a political subdivision has otherwise designated its chief
107 law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall
108 be controlling.