

974671428

## SENATE BILL NO. 894

Offered January 15, 1997

A BILL to amend and reenact § 19.2-390 of the Code of Virginia, relating to Governor's warrants; use of VCIN.

Patrons—Reynolds and Goode; Delegate: Armstrong

Referred to the 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, including those arrests involving the taking into custody of, or service of process upon, any person on charges resulting from an indictment, presentment or information, the arrest on *capias* or warrant for failure to appear, and the service of a warrant for another jurisdiction, on any of the following charges:

a. Treason;

b. Any felony;

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

d. Any misdemeanor punishable by confinement in jail under Title 18.2 or 19.2, except an arrest for a violation of § 18.2-119, 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.

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 an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. 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 the person's 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 (i) a warrant or *capias* for the arrest of any person on a charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the law-enforcement agency which received the charge warrant shall enter the accused's person'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 A of this section, including any action which may have resulted from an indictment, presentment or

INTRODUCED

SB894

60 information, and (ii) any adjudication of delinquency based upon an act which, if committed by an  
61 adult, would require fingerprints to be filed pursuant to subsection A. In the case of offenses not  
62 required to be reported to the Exchange by subsection A of this section, the reports of any of the  
63 foregoing dispositions shall be filed by the law-enforcement agency making the arrest with the arrest  
64 record required to be maintained by § 15.1-135.1. Upon conviction of a felony in violation of  
65 §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or § 18.2-370.1 or,  
66 where the victim is a minor or is physically helpless or mentally incapacitated as defined in  
67 § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366, including juveniles tried and  
68 convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as adults or juveniles, the  
69 clerk shall also submit a report to the Sex Offender Registry. The report to the Sex Offender Registry  
70 shall include the name of the person convicted and all aliases which he is known to have used, the date  
71 and locality of the conviction for which registration is required, his date of birth, social security number,  
72 last known address, and specific reference to the offense for which he was convicted. No report of  
73 conviction or adjudication in a district court shall be filed unless the period allowed for an appeal has  
74 elapsed and no appeal has been perfected. In the event that the records in the office of any clerk show  
75 that any conviction or adjudication has been nullified in any manner, he shall also make a report of that  
76 fact to the Exchange and, if appropriate, to the Registry; ~~and~~ . *In addition*, each clerk of a circuit court,  
77 upon receipt of certification thereof from the Supreme Court, shall report to the Exchange or the  
78 Registry, or to the law-enforcement agency making the arrest in the case of offenses not required to be  
79 reported to the Exchange, on forms provided by the Exchange or Registry, as the case may be, any  
80 reversal or other amendment to a prior sentence or disposition previously reported. When criminal  
81 process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall report such action to the  
82 law-enforcement agency that entered the warrant or capias into the VCIN system.

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

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

93 F. Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported to  
94 the Exchange by the ~~office~~ *Office* of the Secretary of the Commonwealth.

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

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

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