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HOUSE BILL NO. 304

Offered January 15, 1998

A BILL to amend and reenact §§ 18.2-472.1, 19.2-390, 19.2-390.1, 46.2-323, 53.1-116.1 and 53.1-160.1 of the Code of Virginia, to amend the Code of Virginia by adding in Chapter 18 of Title 19.2 an article numbered 6, consisting of sections numbered 19.2-316.4 through 19.2-316.18, and to repeal §§ 19.2-298.1 through 19.2-298.4 of the Code of Virginia, relating to registration of and notification regarding sex offenders.

Patrons—Diamonstein, Abbitt, Almand, Armstrong, Baker, Behm, Bennett, Bloxom, Brink, Callahan, Christian, Clement, Councill, Crittenden, Croshaw, Darner, Davies, Deeds, Devolites, Dickinson, Grayson, Hamilton, Hull, Jackson, Joannou, Johnson, Keating, Landes, Melvin, Moran, Plum, Puller, Rhodes, Scott, Shuler, Spruill, Stump, Wagner, Watts and Woodrum; Senator: Norment

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-472.1, 19.2-390, 19.2-390.1, 46.2-323, 53.1-116.1 and 53.1-160.1 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 18 of Title 19.2 an article numbered 6, consisting of sections numbered 19.2-316.4 through 19.2-316.18, as follows:

§ 18.2-472.1. Providing false information or failing to provide registration information; penalty.

Any person subject to ~~§ 19.2-298.1~~ 19.2-316.4, other than a sexually violent offender, who knowingly fails to register or reregister, or who knowingly provides materially false information to the Sex Offender and Crimes Against Minors Registry shall be guilty of a Class 1 misdemeanor. However, any person convicted of a sexually violent offense, as defined in § 19.2-298.1, who knowingly fails to register or reregister, or who knowingly provides materially false information to the Registry established pursuant to § 19.2-390.1 shall be guilty of a Class 6 felony.

A prosecution pursuant to this section shall be brought in the city or county where the registrant can be found.

*Article 6.**Registration of and Notification Regarding Convicted Sex Offenders.*

§ 19.2-316.4. Registration required of persons convicted of certain offenses.

A. For purposes of this article:

"Offense for which registration is required" means a violation of or attempts of §§ 18.2-63, 18.2-64.1, 18.2-370, 18.2-370.1, or a "sexually violent offense," or where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, a violation of subsection A of § 18.2-47, clause (ii) or (iii) of § 18.2-48, subsection B of § 18.2-361 or subsection B of § 18.2-366, or subdivision B 1 of § 18.2-374.1.

"Sex offender" and "offender" mean a person who has been convicted of an offense for which registration is required.

"Sexually violent offense" means a violation of §§ 18.2-61, 18.2-67.1, 18.2-67.2 or subdivision A 1 of § 18.2-67.3.

B. Every person convicted on or after July 1, 1998, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as adults or juveniles, of an offense for which registration is required shall be required, as a part of the sentence imposed upon conviction, to register and reregister with the Department of State Police as provided in this section. The court shall remand the person to the custody of the local law-enforcement agency of the county or city for the purpose of obtaining the person's fingerprints and photographs of a type and kind specified by the Department of State Police for inclusion in the Sex Offender and Crimes Against Minors Registry established pursuant to § 19.2-390.1. The court shall order the person to provide to the local law-enforcement agency all information required by the State Police for inclusion in the Registry. It shall be the duty of the local law-enforcement agency to forward to the State Police all the necessary registration information within seven days of the date of sentencing.

C. Every person serving a sentence of confinement or under community supervision on July 1, 1998, for an offense for which registration is required shall be required to register with the Department of State Police and shall be given notice of the duty to register pursuant to § 53.1-116.1 or § 53.1-160.1 as appropriate.

D. Every person required to register shall register within ten days of his release from confinement in a state, local or juvenile correctional facility or, if a sentence of confinement is not imposed, within ten

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60 days of suspension of the sentence or in the case of a juvenile, of disposition. In addition, all persons
61 convicted of violations under the laws of the United States or any other state substantially similar to an
62 offense for which registration is required shall obtain from the local law-enforcement agency of the
63 jurisdiction in which he has established residence two sets of fingerprints and two photographs of a type
64 and kind specified by the State Police for inclusion in the Registry and shall provide to the local agency
65 all necessary information for inclusion in the Registry within ten days of establishing a residence within
66 the Commonwealth. The local law-enforcement agency shall advise the person of his duties regarding
67 reregistration, and shall promptly submit all necessary registration information to the State Police. Any
68 person required to register shall also be required to reregister within ten days following any change of
69 residence, whether within or without the Commonwealth. Whenever a person subject to registration
70 changes residence to another state, the State Police shall notify the designated law-enforcement agency
71 of that state.

72 E. The registration shall be maintained in the Registry established pursuant to § 19.2-390.1 and shall
73 include the person's name, all aliases which he has used or under which he may have been known, the
74 date and locality of the conviction for which registration is required, his fingerprints and a photograph
75 of a type and kind specified by the State Police, his date of birth, social security number, current
76 address and a description of the offense or offenses for which he was convicted and shall, if applicable,
77 provide the same information on convictions prior to July 1, 1998, for any of the specified offenses or
78 under substantially similar laws of the United States or any other state.

79 F. Every person required to register under this section, other than a person convicted of a sexually
80 violent offense, shall reregister with the State Police on an annual basis from the date of the initial
81 registration. Every person convicted of a sexually violent offense shall reregister with the State Police
82 every ninety days from the date of initial registration. For purposes of this section, "reregistration"
83 means that the person has notified the State Police, confirmed his then current address and provided
84 such other information, including identifying information, which the State Police may, pursuant to this
85 section and by regulation, require. Upon registration and as may be necessary thereafter, the State
86 Police shall provide the person with an address verification form to be used for reregistration. The form
87 shall contain in bold print a statement indicating that failure to comply with the registration required is
88 punishable as a Class 1 misdemeanor or a Class 6 felony.

89 § 19.2-316.5. Duration of registration requirement.

90 Any person required by § 19.2-316.4 to register or reregister shall be required to register for a
91 period of ten years from the date of initial registration. However, any person who has been convicted of
92 (i) two or more offenses for which registration is required or (ii) any sexually violent offense shall have
93 a continuing duty to reregister, for life.

94 Any period of confinement in a state or local correctional facility, hospital or any other institution or
95 facility during the otherwise applicable ten-year period shall toll the registration period and the duty to
96 reregister shall be extended.

97 § 19.2-316.6. Expungement from Registry.

98 A. Any person required by § 19.2-316.4 to register, other than a person who has been convicted of
99 two or more offenses for which registration is required or who has been convicted of any sexually
100 violent offense as defined in § 19.2-316.4, may petition the circuit court in which he was convicted or
101 the circuit court in the jurisdiction where he then resides for removal of his name and all identifying
102 information from the Registry. A petition may not be filed earlier than ten years after the date of the
103 initial registration. The court shall hold a hearing on the petition at which the applicant and any
104 interested persons may present witnesses and other evidence. If, after such hearing, the court is satisfied
105 that such person no longer poses a risk to public safety, the court shall grant the petition. If the petition
106 is not granted, the person shall wait at least twenty-four months from the date of the denial to file a
107 new petition for removal from the registry. A petition for expungement shall not be granted to any
108 person convicted of two or more offenses for which registration is required or convicted of any sexually
109 violent offense.

110 B. The name of any person required to register under § 19.2-316.4 and all identifying information
111 shall be removed from the Registry by the Department of State Police upon receipt of an order granting
112 a petition pursuant to subsection A or at the end of the period for which the person is required to
113 register under § 19.2-316.5.

114 § 19.2-316.7. Relief from registration for sexually violent offenders.

115 Upon expiration of three years from the date upon which the duty to register is imposed, any person
116 convicted of a sexually violent offense as defined in § 19.2-316.4 may petition the court in which he was
117 convicted for relief from the requirement to reregister every ninety days. The court shall hold a hearing
118 on the petition, on notice to the attorney for the Commonwealth, to determine whether the person suffers
119 from a mental abnormality or a personality disorder that makes the person a menace to the health and
120 safety of others or significantly impairs his ability to control his sexual behavior. Prior to the hearing
121 the court shall order a comprehensive assessment of the applicant by a panel of three certified sex

offender treatment providers as defined in § 54.1-3600. A report of the assessment shall be filed with the court prior to the hearing. The costs of the assessment shall be taxed as costs of the proceeding.

If, after consideration of the report and such other evidence as may be presented at the hearing, the court finds by clear and convincing evidence that the person does not suffer from a mental abnormality or a personality disorder that makes the person a menace to the health and safety of others or significantly impairs his ability to control his sexual behavior, the petition shall be granted and the duty to reregister every ninety days shall be terminated. The person shall, however, be under a continuing duty to register annually in accordance with subsection F of § 19.2-316.4. If the petition is denied, the duty to reregister every ninety days shall continue. An appeal from the denial of a petition shall lie to the Supreme Court.

A petition for relief pursuant to this section may not be filed within three years from the date on which any previous petition for such relief was denied.

§ 19.2-316.8. Assessment scale.

On or before January 1, 1999, the Director of the Department of Corrections shall develop an assessment scale which (i) assigns weights to the various factors listed in subsection G of § 19.2-316.9 and (ii) specifies the level to which offenders with various assessment scores shall be assigned. In developing this scale, the Commissioner shall consult with attorneys for the Commonwealth, treatment professionals, law-enforcement officials, and probation officers.

§ 19.2-316.9. End-of-confinement review committee.

A. Prior to January 1, 1999, the Director shall establish and administer end-of-confinement review committees at each state correctional facility and at each state treatment facility where sex offenders are confined. The committees shall assess on a case-by-case basis the public risk posed by sex offenders who are about to be released from confinement.

B. Each committee shall be a standing committee consisting of the following members appointed by the Director:

1. The warden, chief executive officer or other administrative head of the correctional or treatment facility where the offender is currently confined, or that person's designee;

2. A law-enforcement officer;

3. A treatment professional who is trained in the assessment of sex offenders;

4. A caseworker experienced in supervising sex offenders; and

5. An employee of the Department of Corrections with experience in victim's services.

Members of the committee, other than the facility's warden, chief executive officer or head, shall be appointed for two-year terms. The warden, chief executive officer or head of the facility or designee shall act as chair of the committee and shall use the facility's staff, as needed, to administer the committee, obtain necessary information from outside sources, and prepare risk assessment reports on offenders.

C. The committee shall have access to the following data on a sex offender only for the purposes of its assessment under this section:

1. Records relating to medical treatment of the offender which would otherwise be private;

2. Private and confidential court services data;

3. Private and confidential corrections data; and

4. Criminal history records data.

Such data collected and maintained by the committee may not be disclosed outside the committee. The sex offender has access to data on the offender collected and maintained by the committee, unless the data are confidential data received under this subsection.

D. At least ninety days before a sex offender is to be released from confinement, the appropriate end-of-confinement review committee for the facility in which the offender is confined shall convene for the purpose of assessing the offender and determining the level to which the offender shall be assigned under subsection E. The offender shall be notified of the time and place of the committee's meeting and has a right to be present and be heard at the meeting. The committee shall use the factors described in subsection G and the assessment scale developed under § 19.2-316.8 to determine the offender's risk assessment score and risk level.

E. The committee shall assign to level I a sex offender whose assessment score indicates a low likelihood of reoffense. The committee shall assign to level II an offender whose assessment score indicates a moderate likelihood of reoffense. The committee shall assign to level III an offender whose assessment score indicates a high likelihood of reoffense.

F. Before a sex offender is released from confinement, the committee shall prepare an assessment report which specifies the level to which the offender has been assigned and the reasons underlying the committee's assessment decision. The committee shall give the report to the offender and to the local law-enforcement agency of the jurisdiction where the offender intends to reside upon his release at least sixty days before an offender is released from confinement. The committee also shall inform the offender

183 of the availability of review under § 19.2-316.13.

184 G. Factors to be used in the assessment shall include, but are not limited to:

185 1. The possible seriousness of the offense should the offender reoffend. This factor includes
186 consideration of the following: (i) the degree of likely force or harm, (ii) the degree of likely physical
187 contact, and (iii) the age of the likely victim;

188 2. The offender's prior offense history. This factor includes consideration of the following: (i) the
189 relationship of prior victims to the offender, (ii) the number of prior offenses or victims, (iii) the
190 duration of the offender's prior offense history, (iv) the length of time since the offender's last prior
191 offense, while the offender was at risk to commit offenses, and (v) the offender's prior history of other
192 antisocial acts;

193 3. The offender's characteristics. This factor includes consideration of the following: (i) the offender's
194 response to prior treatment efforts and (ii) the offender's history of substance abuse;

195 4. The availability of community supports to the offender. This factor includes consideration of the
196 following: (i) the availability and likelihood that the offender will be involved in therapeutic treatment,
197 (ii) the availability of residential supports to the offender, such as a stable and supervised living
198 arrangement in an appropriate location, (iii) the offender's familial and social relationships, including
199 the nature and length of these relationships and the level of support that the offender may receive from
200 these persons, and (iv) the offender's education or employment stability;

201 5. Whether the offender has indicated, or credible evidence in the record indicates, that the offender
202 will reoffend if released into the community; and

203 6. Whether the offender demonstrates a physical condition that minimizes the risk of reoffense,
204 including but not limited to, advanced age or a debilitating illness or physical condition.

205 § 19.2-316.10. Reassessment.

206 Upon the request of the local law-enforcement agency of the jurisdiction in which the offender
207 intends to reside or the offender's probation officer, the Director may reconvene the end-of-confinement
208 review committee for the purpose of reassessing the level to which an offender has been assigned under
209 subsection E of § 19.2-316.9. The law-enforcement agency or agent shall list the facts and circumstances
210 arising after the initial assignment which support the request for a reassessment. Upon review of the
211 request, the end-of-confinement review committee may reassign an offender to a different level. If the
212 offender is reassigned to a higher level, the offender has the right to seek review of the committee's
213 determination under § 19.2-316.13.

214 An offender may request the end-of-confinement review committee to reassess the offender's assigned
215 level after two years have elapsed since the committee's initial assessment and may renew the request
216 once every two years following subsequent denials. In a request for reassessment, the offender shall list
217 the facts and circumstances which demonstrate that the offender no longer poses the same degree of risk
218 to the community. The committee shall follow the process outlined in subsections A through E and G of
219 § 19.2-316.9 in the reassessment.

220 § 19.2-316.11. Law-enforcement agency; disclosure of information to public.

221 A. A local law-enforcement agency in the area where the sex offender resides, expects to reside, is
222 employed, or is regularly found, is authorized to disclose information to the public regarding the
223 offender if the agency determines that disclosure of the information is relevant and necessary to protect
224 the public and to counteract the offender's dangerousness. The extent of the information disclosed and
225 the community to whom disclosure is made must relate to the level of danger posed by the offender, to
226 the offender's pattern of offending behavior, and to the need of community members for information to
227 enhance their individual and collective safety.

228 B. The law-enforcement agency shall consider the following guidelines in determining the scope of
229 disclosure made under this section:

230 1. If the offender is assigned to level I, the agency may maintain information regarding the offender
231 within the agency and may disclose it to other law-enforcement agencies and to any victims of or
232 witnesses to the offense committed by the offender. The agency shall disclose the information to victims
233 of the offense committed by the offender who have requested disclosure;

234 2. If the offender is assigned to level II, the agency also may disclose the information to the
235 following agencies and groups that the offender is likely to encounter: public and private educational
236 institutions; day care establishments; and establishments and organizations that primarily serve
237 individuals likely to be victimized by the offender;

238 3. If the offender is assigned to level III, the agency also may disclose the information to other
239 members of the community whom the offender is likely to encounter.

240 Notwithstanding the assignment of a sex offender to level II or III, a law-enforcement agency may
241 not make the disclosures permitted by subdivision 2 or 3 if the offender is placed or resides in a
242 licensed residential facility or a residential program, and the facility and its staff are trained in the
243 supervision of sex offenders. However, if an offender is placed or resides in a licensed facility, the head
244 of the facility shall notify the law-enforcement agency before the end of the offender's placement or

residence in the facility. Upon receiving this notification, the law-enforcement agency may make the disclosures permitted by subdivision 2 or 3, as appropriate.

C. As used in this section, "likely to encounter" means that (i) the organizations or community members are in a location or in close proximity to a location where the offender lives or is employed, or which the offender visits or is likely to visit on a regular basis, other than the location of the offender's outpatient treatment program and (ii) the types of interaction which ordinarily occur at that location and other circumstances indicate that contact with the offender is reasonably certain.

D. A law-enforcement agency or official who discloses information under this section shall make a good faith effort to make the notification at least fourteen days before an offender is released from confinement or accepted for supervision. If a change occurs in the release plan, this notification provision does not require an extension of the release date.

E. A law-enforcement agency or official who discloses information under this section shall make a good faith effort to conceal the identity of the victim of the offender's offense.

F. A law-enforcement agency may continue to disclose information on an offender under this section for as long as the offender is required to register pursuant to § 19.2-316.5.

§ 19.2-316.12. Information provided to law enforcement.

At least sixty days before a sex offender is released from confinement, the Department of Corrections shall provide the appropriate law-enforcement agency with all relevant information that the Department has concerning the offender, including information on risk factors in the offender's history.

§ 19.2-316.13. Administrative review.

A. An offender assigned or reassigned to level II or III under subsection E of § 19.2-316.9 or § 19.2-316.10, has the right to seek administrative review of an end-of-confinement review committee's assessment determination. The offender must exercise this right within fourteen days of receiving notice of the committee's decision by notifying the chair of the committee. Upon receiving the request for administrative review, the chair shall notify the offender, any victim of the offender's offense or their designee, the law-enforcement agency, and any other individuals the chair may select, of the time and place of the hearing. A request for a review hearing shall not interfere with or delay the notification process under § 19.2-316.11 or § 19.2-316.12.

B. An offender who requests a review hearing shall be given a reasonable opportunity to prepare for the hearing. The review hearing shall be conducted on the record before an administrative law judge. The offender has the burden of proof to show, by a preponderance of the evidence, that the end-of-confinement review committee's assessment determination was erroneous. The Attorney General or a designee shall defend the end-of-confinement review committee's determination. The offender has the right to be present and be represented by counsel at the hearing, to present evidence in support of the offender's position, to call supporting witnesses and to cross-examine witnesses testifying in support of the committee's determination. Counsel shall be provided for indigent offenders.

C. The administrative law judge shall decide whether the end-of-confinement review committee's assessment determination was erroneous and shall uphold or modify the review committee's determination. The judge's decision shall be in writing and shall include the judge's reasons for the decision. A copy of the decision shall be given to the offender, the victim, the law-enforcement agency, and the chair of the end-of-confinement review committee. The decision is final and subject to appeal as otherwise provided by law.

§ 19.2-316.14. Immunity from liability; limitation.

A state or local agency or official, or a private organization or individual authorized to act on behalf of a state or local agency or official, shall not be civilly or criminally liable for disclosing or failing to disclose, in good faith, information as permitted in this article about whom notification is made under this section.

§ 19.2-316.15. Notice of impending release.

At least sixty days before the release of any inmate convicted of an offense requiring registration, the Director shall send written notice of the impending release to the sheriff or chief of police of the county or city in which the inmate will reside and to the sheriff or chief of police of the county or city where the offender was convicted.

The same notice shall be sent to the following persons at the last address provided by such persons to the Director:

1. Any victim of the crime for which the inmate was convicted or a deceased victim's next of kin if the victim or deceased victim's next of kin requests the notice in writing;

2. Any witnesses who testified against the inmate in any court proceedings involving the offense, if the witness requests the notice in writing; and

3. Any person specified in writing by the attorney for the Commonwealth for the county or city in which the offender was convicted.

The notice to victims shall inform the person that he has the right to request and receive information

306 about the offender authorized for disclosure under the community notification provisions of § 19.2-316.8
307 and 19.2-316.14..

308 If the victim or witness is under the age of sixteen, the notice required by this section shall be sent
309 to the parents or legal guardian of the child. The requesting party shall furnish the Director with a
310 current address. Information regarding witnesses requesting the notice, any other person specified in
311 writing by the attorney for the Commonwealth to receive the notice, and the notice is confidential and
312 shall not be made available to the offender.

313 The notice required under this section does not limit the victim's right to request notice of release
314 under any other provision of law.

315 The notice requirements of this section shall in no event require an extension of the release date.

316 § 19.2-316.16. Notice of information regarding sex offenders.

317 A. In any case in which a person is convicted of an offense which requires registration and the
318 sentence under the sentencing guidelines is commitment to the custody of the Department of Corrections,
319 if the court grants a dispositional departure and stays imposition or execution of sentence, the probation
320 or court services officer who is assigned to supervise the offender shall provide written notice to the
321 following persons that the offender is on probation and the terms and conditions of probation:

322 1. Any victim of and any witness to the offense committed by the offender, if the victim or the witness
323 has requested notice; and

324 2. The chief law-enforcement officer of the county or city where the offender resides or intends to
325 reside.

326 The law-enforcement officer, in consultation with the offender's probation officer, may provide all or
327 part of this information to any of the following agencies or groups the offender is likely to encounter:
328 public and private educational institutions, day care establishments, and establishments or organizations
329 that primarily serve individuals likely to be victimized by the offender.

330 The probation officer is not required under this section to provide any notice while the offender is
331 placed or resides in a residential facility if the facility staff is trained in the supervision of sex offenders.

332 B. The notice authorized by subsection A shall be limited to the name, date of birth, address and
333 other public information regarding the offender and the date, place and nature of the offense for which
334 registration is required, unless the offender provides informed consent to authorize the release of
335 nonpublic data or unless a court order authorizes the release of nonpublic data.

336 C. Nothing in this section shall be interpreted to impose a duty on any person to use any information
337 regarding an offender about whom notification is made under this section.

338 § 19.2-316.17. Model policy.

339 A. On or before January 1, 1999, the Department of Criminal Justice Services shall by regulation
340 establish a model policy for law-enforcement agencies to follow upon disclosure of information on sex
341 offenders to the public. The model policy shall be designed to further the objectives of providing
342 adequate notice to the community concerning sex offenders who are or will be residing in the
343 neighborhood and of helping community members develop constructive plans to prepare themselves and
344 their children for residing near these sex offenders.

345 B. The model policy shall, at a minimum, address the following matters:

346 1. Contents and form of community notification documents, including recommended ways of
347 protecting the privacy of victims of the offender's crime;

348 2. Scope of disclosure for offenders classified at each level, including: (i) specific factors, if any, that
349 would justify a law-enforcement agency in engaging in broader disclosure than that recommended in the
350 policy and (ii) methods to ensure that the scope of disclosure is closely tailored to the risk to the
351 community posed by the offender;

352 3. Methods of distributing community notification documents;

353 4. Methods of providing follow-up notifications to community residents at specified intervals and of
354 disclosing information about offenders to law-enforcement agencies in other jurisdictions when
355 necessary to protect the public;

356 5. Methods of educating community residents at public meetings on how to use the information in the
357 notification document in a reasonable manner to enhance their individual and collective safety;

358 6. Procedures for ensuring that community members are educated regarding the right of sex
359 offenders not to be subjected to harassment or criminal acts because of the notification process;

360 7. Ways of educating sex offenders before they are released from incarceration on the nature and
361 scope of the notification process, the likely reaction of community residents to their presence in the
362 community, and their right to be free from harassment or criminal acts committed by community
363 residents because of the notification process; and

364 8. Other matters that the board deems necessary to ensure the effective and fair administration of the
365 community notification law.

366 § 19.2-316.18. Local policy.

367 On or before January 1, 1999, all chief law-enforcement officers shall establish and implement a

368 *written policy governing the public disclosure of information on sex offenders under this article. The*
 369 *policy shall be substantially similar to the model policy developed by the board under § 19.2-316.17.*

370 § 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace, clerks
 371 of court, Secretary of the Commonwealth and Corrections officials to State Police; material submitted by
 372 other agencies.

373 A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police
 374 officials of cities and towns, and any other local law-enforcement officer or conservator of the peace
 375 having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange,
 376 on forms provided by it, of any arrest, including those arrests involving the taking into custody of, or
 377 service of process upon, any person on charges resulting from an indictment, presentment or
 378 information, the arrest on *capias* or warrant for failure to appear, and the service of a warrant for
 379 another jurisdiction, on any of the following charges:

- 380 a. Treason;
- 381 b. Any felony;
- 382 c. Any offense punishable as a misdemeanor under Title 54.1; or
- 383 d. Any misdemeanor punishable by confinement in jail under Title 18.2 or 19.2, except an arrest for
- 384 a violation of § 18.2-119, Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2, Article 2 (§ 18.2-415
- 385 et seq.) of Chapter 9 of Title 18.2, or any similar ordinance of any county, city or town.

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

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

402 B. Within seventy-two hours following the receipt of (i) a warrant or *capias* for the arrest of any
 403 person on a charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to
 404 § 19.2-92, the law-enforcement agency which received the warrant shall enter the person's name and
 405 other appropriate information required by the Department of State Police into the "information system"
 406 known as the Virginia Criminal Information Network (VCIN), established and maintained by the
 407 Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. The report shall include the person's
 408 name, date of birth, social security number and such other known information which the State Police
 409 may require. Any unexecuted criminal process which has been entered into the VCIN system shall be
 410 removed forthwith by the entering law-enforcement agency when the criminal process has been ordered
 411 destroyed pursuant to § 19.2-76.1.

412 C. The clerk of each circuit court and district court shall make a report to the Central Criminal
 413 Records Exchange of (i) any dismissal, indefinite postponement or continuance, charge still pending due
 414 to mental incompetency or incapacity, *nolle prosequi*, acquittal, or conviction of, including any sentence
 415 imposed, or failure of a grand jury to return a true bill as to, any person charged with an offense listed
 416 in subsection A of this section, including any action which may have resulted from an indictment,
 417 presentment or information, and (ii) any adjudication of delinquency based upon an act which, if
 418 committed by an adult, would require fingerprints to be filed pursuant to subsection A. In the case of
 419 offenses not required to be reported to the Exchange by subsection A of this section, the reports of any
 420 of the foregoing dispositions shall be filed by the law-enforcement agency making the arrest with the
 421 arrest record required to be maintained by ~~§ 15.1-135.1~~ 15.2-1722. Upon conviction of any person,
 422 including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced
 423 as adults or juveniles, for an offense for which registration is required as defined in §
 424 ~~19.2-298.1~~ 19.2-316.4, the clerk shall within seven days of sentencing submit a report to the Sex
 425 Offender and Crimes Against Minors Registry. The report to the Registry shall include the name of the
 426 person convicted and all aliases which he is known to have used, the date and locality of the conviction
 427 for which registration is required, his date of birth, social security number, last known address, and
 428 specific reference to the offense for which he was convicted. No report of conviction or adjudication in

429 a district court shall be filed unless the period allowed for an appeal has elapsed and no appeal has been
430 perfected. In the event that the records in the office of any clerk show that any conviction or
431 adjudication has been nullified in any manner, he shall also make a report of that fact to the Exchange
432 and, if appropriate, to the Registry. In addition, each clerk of a circuit court, upon receipt of certification
433 thereof from the Supreme Court, shall report to the Exchange or the Registry, or to the law-enforcement
434 agency making the arrest in the case of offenses not required to be reported to the Exchange, on forms
435 provided by the Exchange or Registry, as the case may be, any reversal or other amendment to a prior
436 sentence or disposition previously reported. When criminal process is ordered destroyed pursuant to
437 § 19.2-76.1, the clerk shall report such action to the law-enforcement agency that entered the warrant or
438 capias into the VCIN system.

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

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

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

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

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

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

463 § 19.2-390.1. Sex Offender and Crimes Against Minors Registry; maintenance; access.

464 A. The Department of State Police shall keep and maintain a Sex Offender and Crimes Against
465 Minors Registry, separate and apart from all other records maintained by it. The purpose of the Registry
466 shall be to assist the efforts of law-enforcement agencies to protect their communities from repeat sex
467 offenders and to protect children from becoming victims of criminal offenders by helping to prevent
468 such individuals from being hired or allowed to volunteer to work directly with children. The Registry
469 shall include conviction data received from the courts, including the disposition records for juveniles
470 tried and convicted in the circuit courts pursuant to § 16.1-269.1, on convictions for offenses for which
471 registration is required as defined in § ~~19.2-298.1~~ 19.2-316.4 and registrations and reregistrations
472 received from persons required to do so by § ~~19.2-298.1~~ 19.2-316.4.

473 The Registry shall also include a separate indication that a person has been convicted of a sexually
474 violent offense.

475 Upon receipt of a registration or reregistration pursuant to § ~~19.2-298.1~~ 19.2-316.4 the State Police
476 shall forthwith notify the chief law-enforcement officer of the county, city or town of the locality listed
477 as the person's address on the registration or reregistration and forthwith transmit the appropriate
478 information as required by the Federal Bureau of Investigation for the inclusion in the National Sex
479 Offender Registry. The State Police shall promulgate regulations governing the giving of notice to the
480 chief local law-enforcement officer, the operation and maintenance of the Registry and the expungement
481 of records on persons who are deceased, whose convictions have been reversed or who have been
482 pardoned, and those for whom an order of expungement or relief from frequent registration has been
483 entered pursuant to §§ ~~19.2-298.3, 19.2-298.4~~ 19.2-316.5, 19.2-316.6, or § 19.2-392.1.

484 B. Except as provided in subsection A *and Article 6 (§ 19.2-316.4 et seq.) of Chapter 18 or Title*
485 *19.2*, Registry information shall be disseminated, upon request, only to authorized officers or employees
486 of (i) a criminal justice agency, as defined by § 9-169; (ii) a public school division; (iii) a private,
487 denominational or parochial school; or (iv) a child-welfare agency or a registered or unregistered small
488 family day-care home as defined in § 63.1-195. The Department of State Police shall make Registry
489 information available, upon request, to criminal justice agencies including local law-enforcement
490 agencies through the Virginia Criminal Information Network (VCIN). Registry information provided

under this section shall be used only for the purposes of the administration of criminal justice or for the screening of current or prospective employees or volunteers. Further dissemination of such information or use of the information for purposes not authorized by this section is prohibited and a willful violation of this section shall be punished as a Class 1 misdemeanor. The VCIN and any form or document used by the Department of State Police to disseminate information from the Registry shall provide notice that any further or unauthorized dissemination of the information is a crime punishable as a Class 1 misdemeanor. The Department of State Police may by regulation establish a fee not to exceed fifteen dollars for responding to requests for information from the Registry. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the Registry.

C. Notwithstanding subsection B, Registry information regarding a specific person shall be disseminated, upon receipt of an official request form, to any person who is seeking child-minding or day-care services. The official request form shall include the name and address of the person requesting the information and the name, address, social security number and signed consent of the person about whom information is sought and such other information as the State Police may require to ensure reliable identification. Registry information provided under this section shall be used only for the purposes of screening current or prospective employees or volunteers seeking to provide child-minding or day-care services. Further dissemination of such information or use of the information for purposes not authorized by this section is prohibited and a willful violation of this section shall be punished as a Class 1 misdemeanor.

For purposes of this section, the term "day-care services" means provision of supplementary care and protection during a part of the day for the minor child of another, and "child-minding services" means provision of temporary custodial care or supervisory services for the minor child of another.

No liability shall be imposed upon any law-enforcement official who disseminates information or fails to disseminate information in good faith compliance with the requirements of this section, but this provision shall not be construed to grant immunity for gross negligence or willful misconduct.

§ 46.2-323. Application for driver's license; proof of completion of driver education program; penalty.

A. Every application for a driver's license, temporary driver's permit, or learner's permit shall be made on a form prescribed by the Department and the applicant shall write his usual signature in ink in the space provided on the form. The form shall include notice to the applicant of the duty to register with the Department of State Police as provided in § 19.2-298.19.2-316.4, if the applicant has been convicted of a felony in violation of §§ 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, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1 whether sentenced as adults or juveniles, or a felony under a substantially similar law of the United States or any other state.

B. Every application shall state the name, year, month and date of birth, social security number, sex, and residence address of the applicant; whether or not the applicant has previously been licensed as a driver and, if so, when and by what state, and whether or not his license has ever been suspended or revoked and, if so, the date of and reason for such suspension or revocation. The Department, as a condition for the issuance of any driver's license, temporary driver's permit, or learner's permit, may require the surrender of any driver's license issued by another state and held by the applicant. The applicant shall also answer any questions on the application form or otherwise propounded by the Department incidental to the examination. The applicant may also be required to present to the person conducting the examination a birth certificate or other evidence, reasonably acceptable to the Department, of his name and date of birth.

The applicant shall also certify that he is a resident of the Commonwealth by signing a certification statement, on a form prescribed by the Commissioner, and by providing satisfactory proof that he is a resident of the Commonwealth. The Commissioner may adopt regulations to determine the process by which applicants prove that they are residents of the Commonwealth.

If the applicant either (i) fails or refuses to sign the certification statement or (ii) fails to follow the process determined by the Commissioner for proving residency, the Department shall not issue the applicant a driver's license, temporary driver's permit, or learner's permit.

Any applicant who knowingly makes a false certification of Virginia residency or supplies false or fictitious evidence of Virginia residency shall be punished as provided in § 46.2-348.

The Commissioner may, on a case-by-case basis, waive any provision of such regulations for good cause shown.

C. Every application for a driver's license shall include a color photograph of the applicant supplied under arrangements made by the Department. The photograph shall be processed by the Department so that the photograph can be made part of the issued license. Photographs, for applicants under twenty-one years of age, shall be profile photographs; such photographs, for applicants twenty-one years of age and

552 older, shall be front face view photographs.

553 D. Notwithstanding the provisions of subsection C, the first and subsequent photographs for persons
554 under twenty-one years of age shall be profile photographs until the original issued license has expired.

555 E. Notwithstanding the provisions of § 46.2-334, every unlicensed applicant for a driver's license who
556 is under nineteen years of age shall furnish the Department with satisfactory proof of his successful
557 completion of a driver education program approved by the State Department of Education.

558 § 53.1-116.1. Jailer to give notice of release of certain prisoners.

559 Prior to the release or discharge of any prisoner serving a sentence upon a conviction of an offense
560 for which registration is required as defined in § ~~19.2-298.1~~ 19.2-316.4, the sheriff, jail superintendent or
561 other jail administrator shall give notice to the prisoner of his duty to register with the State Police in
562 accordance with § ~~19.2-298.1~~ 19.2-316.4. The sheriff, jail superintendent or other jail administrator shall
563 also obtain from that person all necessary registration information, including fingerprints and
564 photographs of a type and kind approved by the Department of State Police; inform the person of his
565 duties regarding reregistration and change of address; and inform the person of his duty to register under
566 this section. The sheriff, jail superintendent or other jail administrator shall forward the registration
567 information to the Department of State Police within seven days of receipt.

568 § 53.1-160.1. Department to give notice of release of certain prisoners.

569 Prior to the release or discharge of any prisoner serving a sentence upon a conviction of an offense
570 for which registration is required as defined in § ~~19.2-298.1~~ 19.2-316.4, the Department shall give notice
571 to the prisoner of his duty to register with the State Police in accordance with § ~~19.2-298.1~~ 19.2-316.4.
572 The Department shall also obtain from that person all necessary registration information, including
573 fingerprints and photographs of a type and kind approved by the Department of State Police, inform the
574 person of his duties regarding reregistration and change of address, and inform the person of his duty to
575 register under this section. The Department shall forward the registration information to the Department
576 of State Police within seven days of receipt.

577 **2. That §§ 19.2-298.1 through 19.2-298.4 of the Code of Virginia are repealed.**

578 **3. That the assessment and notification provisions of this act apply to sex offenders convicted of an**
579 **offense for which registration is required on or after July 1, 1998, or who were convicted of such**
580 **an offense prior to that date and are confined in a state or local correctional facility or are subject**
581 **to supervised probation for that offense on July 1, 1998.**