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HOUSE BILL NO. 453

Offered January 9, 2002

Prefiled January 8, 2002

A *BILL to amend and reenact §§ 18.2-51.1, 18.2-52.1, 18.2-53.1, 18.2-85, 18.2-152.4, 19.2-11.01, 19.2-61, 19.2-66, 19.2-70.2, 19.2-215.1, 19.2-294, and 46.2-105.2 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 4 of Title 18.2 an article numbered 1.1, consisting of sections numbered 18.2-37.1 and 18.2-37.2, relating to terrorism; penalties.*

Patrons—Griffith, Kilgore, Moran and Wright; Senator: Norment

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-51.1, 18.2-52.1, 18.2-53.1, 18.2-85, 18.2-152.4, 19.2-11.01, 19.2-61, 19.2-66, 19.2-70.2, 19.2-215.1, 19.2-294, and 46.2-105.2 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 4 of Title 18.2 an article numbered 1.1, consisting of sections numbered 18.2-37.1 and 18.2-37.2 as follows:

Article 1.1.

Terrorism.

§ 18.2-37.1. Terrorism; penalties.

A. Any person who commits an act of terrorism is guilty of a Class 2 felony.

B. Any person who commits, or conspires, confederates, or combines with another to commit an act of terrorism, resulting in the willful, deliberate and premeditated killing of any person, is guilty of a Class 1 felony.

C. As used in this section, the term "act of terrorism" means any violent offense committed with the intent to intimidate or coerce (i) the State, any of its political subdivisions, officers, or agents, or (ii) all or part of the civilian population.

§ 18.2-37.2. Possession of chemical or nuclear substance; penalty.

Any person who possesses, with the intent to injure or place another in fear of injury, any chemical or nuclear substance capable of causing death is guilty of a Class 3 felony. For the purposes of this section, "chemical substance" includes any substance capable of causing death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors. For the purposes of this section, "nuclear substance" includes any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

§ 18.2-51.1. Malicious bodily injury to law-enforcement officers or firefighters; penalty; lesser included offense.

If any person maliciously causes bodily injury to another by any means including the means set out in § 18.2-52, with intent to maim, disfigure, disable or kill, and knowing or having reason to know that such other person is a law-enforcement officer, as defined hereinafter, or firefighter, as defined in § 65.2-102, search and rescue personnel, or emergency medical services personnel, as defined in § 32.1-111.1, engaged in the performance of his public duties as a law-enforcement officer or, firefighter, search and rescue personnel, or emergency medical services personnel, such person shall be guilty of a felony punishable by imprisonment for a period of not less than five years nor more than thirty years and, subject to subdivision (g) of § 18.2-10, a fine of not more than \$100,000. Upon conviction, the sentence of such person shall include a mandatory, minimum term of imprisonment of two years.

If any person unlawfully, but not maliciously, with the intent aforesaid, causes bodily injury to another by any means, knowing or having reason to know such other person is a law-enforcement officer as defined hereinafter, or firefighter, as defined in § 65.2-102, search and rescue personnel, or emergency medical services personnel engaged in the performance of his public duties as a law-enforcement officer, or firefighter, search and rescue personnel, or emergency medical services personnel, he shall be guilty of a Class 6 felony, and upon conviction, the sentence of such person shall include a mandatory, minimum term of imprisonment of one year.

Nothing in this section shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

As used in this section the term "mandatory, minimum" means that the sentence it describes shall be served with no suspension of sentence in whole or in part.

As used in this section a law-enforcement officer means any full-time or part-time employee of a

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59 police department or sheriff's office which is part of or administered by the Commonwealth or any
60 political subdivision thereof, who is responsible for the prevention or detection of crime and the
61 enforcement of the penal, traffic or highway laws of this Commonwealth; any conservation officer of the
62 Department of Conservation and Recreation commissioned pursuant to § 10.1-115; and auxiliary police
63 officers appointed or provided for pursuant to §§ 15.1-159.2 and 15.1-159.4 and auxiliary deputy sheriffs
64 appointed pursuant to § 15.1-48. *As used in this section, "search and rescue personnel" means any*
65 *person, whether paid or acting in a volunteer capacity, who participates in an entity, organized and*
66 *conducted by law-enforcement or firefighting officials in response to an emergency, to locate and*
67 *recover people injured or killed as a result of the event giving rise to the emergency.*

68 The provisions of § 18.2-51 shall be deemed to provide a lesser included offense hereof.

69 § 18.2-52.1. Possession of infectious biological substances; penalties.

70 A. Any person who possesses, with the intent thereby to injure another, an infectious biological
71 substance capable of causing death, is guilty of a Class 54 felony.

72 B. Any person who destroys or damages, or attempts to destroy or damage, any facility, equipment
73 or material involved in the sale, manufacturing, storage or distribution of an infectious biological
74 substance capable of causing death, with the intent to injure another by releasing the substance, is guilty
75 of a Class 43 felony.

76 An "infectious biological substance" includes any bacteria, virus, fungi, protozoa, or rickettsiae
77 capable of causing death.

78 § 18.2-53.1. Use or display of firearm in committing felony.

79 It shall be unlawful for any person to use or attempt to use any pistol, shotgun, rifle, or other firearm
80 or display such weapon in a threatening manner while committing or attempting to commit murder,
81 rape, forcible sodomy, inanimate or animate object sexual penetration as defined in § 18.2-67.2, robbery,
82 carjacking, burglary, malicious wounding as defined in § 18.2-51, malicious bodily injury to a
83 law-enforcement officer as defined in § 18.2-51.1, aggravated malicious wounding as defined in
84 § 18.2-51.2, malicious wounding by mob as defined in § 18.2-41 ~~or~~, abduction *or while committing an*
85 *act of terrorism as defined in § 18.2-37.1.* Violation of this section shall constitute a separate and
86 distinct felony and any person found guilty thereof shall be sentenced to a term of imprisonment of
87 three years for a first conviction, and for a term of five years for a second or subsequent conviction
88 under the provisions of this section. Notwithstanding any other provision of law, the sentence prescribed
89 for a violation of the provisions of this section shall not be suspended in whole or in part, nor shall
90 anyone convicted hereunder be placed on probation. Such punishment shall be separate and apart from,
91 and shall be made to run consecutively with, any punishment received for the commission of the
92 primary felony.

93 § 18.2-85. Manufacture, possession, use, etc., of fire bombs or explosive materials or devices;
94 penalties.

95 For the purpose of this section:

96 "Fire bomb" means any container of a flammable material such as gasoline, kerosene, fuel oil, or
97 other chemical compound, having a wick or other substance or device which, if set or ignited, is capable
98 of igniting such flammable material or chemical compound but does not include a similar device
99 commercially manufactured and used solely for the purpose of illumination or cooking.

100 "Explosive material" means any chemical compound, mechanical mixture or device that is commonly
101 used or can be used for the purpose of producing an explosion and which contains any oxidizing and
102 combustive agents or other ingredients in such proportions, quantities or packaging that an ignition by
103 fire, friction, concussion, percussion, detonation or by any part of the compound or mixture may cause a
104 sudden generation of highly heated gases. These materials include, but are not limited to, gunpowder,
105 powders for blasting, high explosives, blasting materials, fuses (other than electric circuit breakers),
106 detonators, and other detonating agents and smokeless powder.

107 "Device" means any instrument, apparatus or contrivance, including its component parts, that is
108 capable of producing or intended to produce an explosion but shall not include fireworks as defined in
109 § 59.1-142.

110 "Hoax explosive device" means any device which by its design, construction, content or
111 characteristics appears to be or to contain a bomb or other destructive device or explosive but which is,
112 in fact, an imitation of any such device or explosive.

113 Any person who (i) possesses materials with which fire bombs or explosive materials or devices can
114 be made with the intent to manufacture fire bombs or explosive materials or devices or, (ii)
115 manufactures, transports, distributes, possesses or uses a fire bomb or explosive materials or devices
116 shall be guilty of a Class 5 4 felony. Any person who constructs, uses, places, sends, or causes to be
117 sent any hoax explosive device so as to intentionally cause another person to believe that such device is
118 a bomb or explosive shall be guilty of a Class 6 5 felony.

119 Nothing in this section shall prohibit the authorized manufacture, transportation, distribution, use or
120 possession of any material, substance, or device by a member of the armed forces of the United States,

fire fighters or law-enforcement officers, nor shall it prohibit the manufacture, transportation, distribution, use or possession of any material, substance or device to be used solely for scientific research, educational purposes or for any lawful purpose, subject to the provisions of §§ 27-97 and 27-97.2.

§ 18.2-152.4. Computer trespass; penalty.

A. It shall be unlawful for any person to use a computer or computer network without authority and with the intent to:

1. Temporarily or permanently remove, halt, or otherwise disable any computer data, computer programs, or computer software from a computer or computer network;

2. Cause a computer to malfunction, regardless of how long the malfunction persists;

3. Alter or erase any computer data, computer programs, or computer software;

4. Effect the creation or alteration of a financial instrument or of an electronic transfer of funds;

5. Cause physical injury to the property of another;

6. Make or cause to be made an unauthorized copy, in any form, including, but not limited to, any printed or electronic form of computer data, computer programs, or computer software residing in, communicated by, or produced by a computer or computer network; or

7. Falsify or forge electronic mail transmission information or other routing information in any manner in connection with the transmission of unsolicited bulk electronic mail through or into the computer network of an electronic mail service provider or its subscribers.

B. It shall be unlawful for any person knowingly to sell, give or otherwise distribute or possess with the intent to sell, give or distribute software which (i) is primarily designed or produced for the purpose of facilitating or enabling the falsification of electronic mail transmission information or other routing information; (ii) has only limited commercially significant purpose or use other than to facilitate or enable the falsification of electronic mail transmission information or other routing information; or (iii) is marketed by that person or another acting in concert with that person with that person's knowledge for use in facilitating or enabling the falsification of electronic mail transmission information or other routing information.

C. Any person who violates this section shall be guilty of computer trespass, which offense shall be punishable as a Class 3 misdemeanor. If there is damage to the property of another valued at \$2,500 or more caused by such person's reckless disregard for the consequences of his act in violation of this section, the offense shall be punished as a Class 1 misdemeanor. If there is damage to the property of another valued at \$2,500 or more caused by such person's malicious act in violation of this section, the offense shall be punishable as a Class 6 felony. *A violation of this section in the commission of an act of terrorism, as defined in § 18.2-37.1, is a Class 5 felony.*

D. Nothing in this section shall be construed to interfere with or prohibit terms or conditions in a contract or license related to computers, computer data, computer networks, computer operations, computer programs, computer services, or computer software or to create any liability by reason of terms or conditions adopted by, or technical measures implemented by, a Virginia-based electronic mail service provider to prevent the transmission of unsolicited electronic mail in violation of this article.

§ 19.2-11.01. Crime victim and witness rights.

A. In recognition of the Commonwealth's concern for the victims and witnesses of crime, it is the purpose of this chapter to ensure that the full impact of crime is brought to the attention of the courts of the Commonwealth; that crime victims and witnesses are treated with dignity, respect and sensitivity; and that their privacy is protected to the extent permissible under law. It is the further purpose of this chapter to ensure that victims and witnesses are informed of the rights provided to them under the laws of the Commonwealth; that they receive authorized services as appropriate; and that they have the opportunity to be heard by law-enforcement agencies, attorneys for the Commonwealth, corrections agencies and the judiciary at all critical stages of the criminal justice process to the extent permissible under law. Unless otherwise stated and subject to the provisions of § 19.2-11.1, it shall be the responsibility of a locality's crime victim and witness assistance program to provide the information and assistance required by this chapter.

Following a crime, law-enforcement personnel shall provide the victim with a standardized form listing the specific rights afforded to crime victims. The form shall include a telephone number by which the victim can receive further information and assistance in securing the rights afforded crime victims.

1. Victim and witness protection.

a. In order that victims and witnesses receive protection from harm and threats of harm arising out of their cooperation with law-enforcement, or prosecution efforts, they shall be provided with information as to the level of protection which may be available pursuant to § 52-35 or to any other federal, state or local program providing protection, and shall be assisted in obtaining this protection from the appropriate authorities.

182 b. Victims and witnesses shall be provided, where available, a separate waiting area during court
183 proceedings that affords them privacy and protection from intimidation.

184 2. Financial assistance.

185 a. Victims shall be informed of financial assistance and social services available to them as victims
186 of a crime, including information on their possible right to file a claim for compensation from the Crime
187 Victims' Compensation Fund pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) of this title and on other
188 available assistance and services.

189 b. Victims shall be assisted in having any property held by law-enforcement agencies for evidentiary
190 purposes returned promptly in accordance with §§ 19.2-270.1 and 19.2-270.2.

191 c. Victims shall be advised that restitution is available for damages or loss resulting from an offense
192 and shall be assisted in seeking restitution in accordance with §§ 19.2-305, 19.2-305.1, Chapter 21.1
193 (§ 19.2-368.1 et seq.) of this title, Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1, and other
194 applicable laws of the Commonwealth.

195 3. Notices.

196 a. Victims and witnesses shall be (i) provided with appropriate employer intercession services to
197 ensure that employers of victims and witnesses will cooperate with the criminal justice process in order
198 to minimize an employee's loss of pay and other benefits resulting from court appearances and (ii)
199 advised that pursuant to § 18.2-465.1 it is unlawful for an employer to penalize an employee for
200 appearing in court pursuant to a summons or subpoena.

201 b. Victims shall receive advance notification when practicable from the attorney for the
202 Commonwealth of judicial proceedings relating to their case and shall be notified when practicable of
203 any change in court dates in accordance with § 19.2-265.01 if they have provided their names, current
204 addresses and telephone numbers.

205 c. Victims shall receive notification, if requested, subject to such reasonable procedures as the
206 Attorney General may require pursuant to § 2.2-511, from the Attorney General of the filing and
207 disposition of any appeal or habeas corpus proceeding involving their case.

208 d. Victims shall be notified by the Department of Corrections or a sheriff or jail superintendent in
209 whose custody an escape, change of name, transfer, release or discharge of a prisoner occurs pursuant to
210 the provisions of §§ 53.1-133.02 and 53.1-160 if they have provided their names, current addresses and
211 telephone numbers in writing.

212 e. Victims shall be advised that, in order to protect their right to receive notices and offer input, all
213 agencies and persons having such duties must have current victim addresses and telephone numbers
214 given by the victims.

215 4. Victim input.

216 a. Victims shall be given the opportunity, pursuant to § 19.2-299.1, to prepare a written victim
217 impact statement prior to sentencing of a defendant and may provide information to any individual or
218 agency charged with investigating the social history of a person or preparing a victim impact statement
219 under the provisions of §§ 16.1-273 and 53.1-155 or any other applicable law.

220 b. Victims shall have the right to remain in the courtroom during a criminal trial or proceeding
221 pursuant to the provisions of § 19.2-265.01.

222 c. On motion of the attorney for the Commonwealth, victims shall be given the opportunity, pursuant
223 to §§ 19.2-264.4 and 19.2-295.3, to testify prior to sentencing of a defendant regarding the impact of the
224 offense.

225 d. In a felony case, the attorney for the Commonwealth, upon the victim's written request, shall
226 consult with the victim either verbally or in writing (i) to inform the victim of the contents of a
227 proposed plea agreement and (ii) to obtain the victim's views concerning plea negotiations. However,
228 nothing in this section shall limit the ability of the attorney for the Commonwealth to exercise his
229 discretion on behalf of the citizens of the Commonwealth in the disposition of any criminal case. The
230 court shall not accept the plea agreement unless it finds that, except for good cause shown, the
231 Commonwealth has complied with clauses (i) and (ii). Good cause shown shall include, but not be
232 limited to, the unavailability of the victim due to incarceration, hospitalization, failure to appear at trial
233 when subpoenaed, or change of address without notice.

234 Upon the victim's written request, the victim shall be notified in accordance with subdivision A 3 b
235 of any proceeding in which the plea agreement will be tendered to the court.

236 The responsibility to consult with the victim under this subdivision shall not confer upon the
237 defendant any substantive or procedural rights and shall not affect the validity of any plea entered by the
238 defendant.

239 5. Courtroom assistance.

240 a. Victims and witnesses shall be informed that their addresses and telephone numbers may not be
241 disclosed, pursuant to the provisions of §§ 19.2-11.2 and 19.2-269.2, except when necessary for the
242 conduct of the criminal proceeding.

243 b. Victims and witnesses shall be advised that they have the right to the services of an interpreter in

accordance with §§ 19.2-164 and 19.2-164.1.

c. Victims and witnesses of certain sexual offenses shall be advised that there may be a closed preliminary hearing in accordance with § 18.2-67.8 and, if a victim was fourteen years of age or younger on the date of the offense and is sixteen or under at the time of the trial, or a witness to the offense is fourteen years of age or younger at the time of the trial, that two-way closed-circuit television may be used in the taking of testimony in accordance with § 18.2-67.9.

B. For purposes of this chapter, "victim" means (i) a person who has suffered physical, psychological or economic harm as a direct result of the commission of a felony or of assault and battery in violation of §§ 18.2-57, 18.2-57.1 or § 18.2-57.2, stalking in violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, maiming or driving while intoxicated in violation of § 18.2-51.4 or, § 18.2-266, *or an act of terrorism in violation of § 18.2-37.1*, (ii) a spouse or child of such a person, (iii) a parent or legal guardian of such a person who is a minor, or (iv) a spouse, parent, sibling or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide; however, "victim" does not mean a parent, child, spouse, sibling or legal guardian who commits a felony or other enumerated criminal offense against a victim as defined in clause (i).

C. Officials and employees of the judiciary, including court services units, law-enforcement agencies, the Department of Corrections, attorneys for the Commonwealth and public defenders, shall be provided with copies of this chapter by the Department of Criminal Justice Services or a crime victim and witness assistance program. Each agency, officer or employee who has a responsibility or responsibilities to victims under this chapter or other applicable law shall make reasonable efforts to become informed about these responsibilities and to ensure that victims and witnesses receive such information and services to which they may be entitled under applicable law, provided that no liability or cause of action shall arise from the failure to make such efforts or from the failure of such victims or witnesses to receive any such information or services.

§ 19.2-61. Definitions.

As used in this chapter:

"Wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection, including the use of such connection in a switching station, furnished or operated by any person engaged in providing or operating such facilities for the transmission of communications and includes electronic storage of such communication;

"Oral communication" means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectations but does not include any electronic communication;

"Intercept" means any aural or other means of acquisition of the contents of any wire, electronic or oral communication through the use of any electronic, mechanical or other device;

"Electronic, mechanical or other device" means any device or apparatus which can be used to intercept a wire, electronic or oral communication other than:

(a) Any telephone or telegraph instrument, equipment or facility, or any component thereof, (i) furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by the subscriber or user for connection to the facilities of such service and used in the ordinary course of the subscriber's or user's business; or (ii) being used by a communications common carrier in the ordinary course of its business, or by an investigative or law-enforcement officer in the ordinary course of his duties;

(b) A hearing aid or similar device being used to correct subnormal hearing to not better than normal;

"Person" means any employee or agent of the Commonwealth or a political subdivision thereof, and any individual, partnership, association, joint stock company, trust or corporation;

"Investigative or law-enforcement officer" means any officer of the United States or of a state or political subdivision thereof, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this chapter, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

"Contents" when used with respect to any wire, electronic or oral communication, includes any information concerning the substance, purport or meaning of that communication;

"Judge of competent jurisdiction" means a judge of any circuit court of the Commonwealth with general criminal jurisdiction;

"Communications common carrier" means any person engaged as a common carrier for hire in communication by wire or radio or in radio transmission of energy;

"Aggrieved person" means a person who was a party to any intercepted wire, electronic or oral

305 communication or a person against whom the interception was directed;

306 "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or
307 intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic,
308 photoelectronic or photooptical system. The term does not include:

309 1. Any wire communication or oral communication as defined herein;

310 2. Any communication made through a tone-only paging device; or

311 3. Any communication from an electronic or mechanical device which permits the tracking of the
312 movement of a person or object;

313 "User" means any person or entity who uses an electronic communication service and is duly
314 authorized by the provider of such service to engage in such use;

315 "Electronic communication system" means any wire, radio, electromagnetic, photooptical or
316 photoelectronic facilities for the transmission of *wire or* electronic communications, and any computer
317 facilities or related electronic equipment for the electronic storage of such communications;

318 "Electronic communication service" means any service which provides to users thereof the ability to
319 send or receive wire or electronic communications;

320 "Readily accessible to the general public" means, with respect to a radio communication, that such
321 communication is not (i) scrambled or encrypted, (ii) transmitted using modulation techniques whose
322 essential parameters have been withheld from the public with the intention of preserving the privacy of
323 such communication; (iii) carried on a subcarrier or other signal subsidiary to a radio transmission, (iv)
324 transmitted over a communication system provided by a communications common carrier, unless the
325 communication is a tone-only paging system communication; or (v) transmitted on frequencies allocated
326 under Part 25, subpart D, E, or F of Part 74, or Part 94 of the Rules of the Federal Communications
327 Commission, unless, in the case of a communication transmitted on a frequency allocated under Part 74
328 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice
329 communication by radio;

330 "Electronic storage" means any temporary, intermediate storage of a wire or electronic
331 communication incidental to the electronic transmission thereof and any storage of such communication
332 by an electronic communication service for purposes of backup protection of such communication;

333 "Aural transfer" means a transfer containing the human voice at any point between and including the
334 point of origin and the point of reception;

335 "Pen register" means a device which records or decodes ~~electronic or other impulses which identify~~
336 ~~the numbers dialed or otherwise transmitted on the telephone line to which such device is~~
337 ~~attached~~ dialing, routing, addressing or signaling information transmitted by an instrument or facility
338 ~~from which a wire or electronic communication is transmitted.~~ The term does not include any device or
339 process used by a provider or customer of a wire or electronic communication service for billing, or
340 recording as an incident to billing, for communications services provided by such provider or any device
341 used by a provider or customer of a wire communication service for cost accounting or other like
342 purposes in the ordinary course of the provider's or customer's business;

343 "Trap and trace device" means a device *or process* which captures the incoming electronic or other
344 impulses identifying the originating number ~~of an instrument or device from which a wire or electronic~~
345 ~~communication was transmitted; and/or other dialing, routing, addressing and signaling information~~
346 *reasonably likely to identify the source of a wire or electronic communication;*

347 "Remote computing service" means the provision to the public of computer storage or processing
348 services by means of an electronic communications system.

349 § 19.2-66. When Attorney General or Chief Deputy Attorney General may apply for order
350 authorizing interception of communications.

351 A. The Attorney General or Chief Deputy Attorney General, if the Attorney General so designates in
352 writing, in any case where the Attorney General is authorized by law to prosecute or pursuant to a
353 request in his official capacity of an attorney for the Commonwealth in any city or county, may apply to
354 a judge of competent jurisdiction for the jurisdiction where the proposed intercept is to be made for an
355 order authorizing the interception of wire, electronic or oral communications by the Department of State
356 Police, when such interception may reasonably be expected to provide evidence of the commission of a
357 felonious offense of extortion, bribery, kidnapping, murder, any felony violation of § 18.2-248 or
358 § 18.2-248.1, any felony violation of Chapter 29 (§ 59.1-364 et seq.) of Title 59.1, *any violation of*
359 *Article 1.1 (§ 18.2-37.1 et seq.) of Chapter 4 of Title 18.2*, or any conspiracy to commit any of the
360 foregoing offenses. The Attorney General or Chief Deputy Attorney General may apply for authorization
361 for the observation or monitoring of the interception by a police department of a county or city or by
362 law-enforcement officers of the United States. Such application shall be made, and such order may be
363 granted, in conformity with the provisions of § 19.2-68. Application for installation of a mobile
364 interception device may be made to and granted by any court of competent jurisdiction in the
365 Commonwealth.

366 § 19.2-70.2. Application for and issuance of order for a pen register or trap and trace device;

assistance in installation and use.

A. An investigative or law-enforcement officer may make application for an order or an extension of an order authorizing or approving the installation and use of a pen register or a trap and trace device, in writing under oath or equivalent affirmation, to a court of competent jurisdiction. The application shall include:

1. The identity of the officer making the application and the identity of the law-enforcement agency conducting the investigation; and

2. A certification by the applicant that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by that agency.

The application may include a request that the order require information, facilities and technical assistance necessary to accomplish the installation be furnished.

B. Upon application, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court if the court finds that the investigative or law-enforcement officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.

The order shall specify:

1. The identity, if known, of the person in whose name the telephone line *or other facility* to which the pen register or trap and trace device is to be attached *or applied* is listed or to whom the line *or other facility* is leased;

2. The identity, if known, of the person who is the subject of the criminal investigation;

3. ~~The number and, if known, the physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order.~~ *The attributes of the communications to which the order applies, including the number or other identifier and, if known, the location of the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied;* and

4. A statement of the offense to which the information likely to be obtained by the pen register or trap and trace device relates.

C. Installation and use of a pen register or a trap and trace device shall be authorized for a period not to exceed sixty days. Extensions of the order may be granted, but only upon application made and order issued in accordance with this section. The period of an extension shall not exceed sixty days.

D. An order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct that:

1. The order and application be sealed until otherwise ordered by the court;

2. Information, facilities and technical assistance necessary to accomplish the installation be furnished if requested in the application; and

3. The person owning or leasing the line *or other facility* to which the pen register or trap and trace device is attached; ~~or who has been ordered by the court~~ *or applied, or who is obligated by the order* to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

E. Upon request of an investigative or a law-enforcement officer authorized by the court to install and use a pen register, a provider of wire or electronic communication service, a landlord, custodian or any other person so ordered by the court shall, as soon as practicable, furnish the officer with all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place.

F. Upon request of an investigative or law-enforcement officer authorized by the court to receive the results of a trap and trace device under this section, a provider of wire or electronic communication service, a landlord, custodian or any other person so ordered by the court shall, as soon as practicable, install the device on the appropriate line and furnish the officer with all additional information, facilities and technical assistance, including installation and operation of the device, unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the investigative or law-enforcement officer designated by the court at reasonable intervals during regular business hours for the duration of the order.

G. A provider of a wire or electronic communication service, a landlord, custodian or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for reasonable and actual expenses incurred in providing such facilities and assistance. The expenses shall be paid out of the criminal fund.

H. No cause of action shall lie in any court against a provider of a wire or electronic communication

428 service, its officers, employees, agents or other specified persons for providing information, facilities, or
429 assistance in accordance with the terms of a court order issued pursuant to this section. Good faith
430 reliance on a court order, a legislative authorization or a statutory authorization is a complete defense
431 against any civil or criminal action based upon a violation of this chapter.

432 § 19.2-215.1. Functions of a multijurisdiction grand jury.

433 The functions of a multijurisdiction grand jury are:

434 1. To investigate any condition which involves or tends to promote criminal violations of:

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

436 b. § 13.1-520;

437 c. §§ 18.2-47 and 18.2-48;

438 d. §§ 18.2-111 and 18.2-112;

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

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

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

442 h. Article 1 (§ 18.2-325 et seq.) and Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2,

443 Chapter 29 (§ 59.1-364 et seq.) of Title 59.1 or any other provision prohibiting, limiting, regulating, or
444 otherwise affecting gaming or gambling activity;

445 i. § 18.2-434, when violations occur before a multijurisdiction grand jury;

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

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

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

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

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

451 o. Article 6 (§ 3.1-796.122 et seq.) of Chapter 27.4 of Title 3.1;

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

453 q. Article 1.1 (§ 18.2-37.1 et seq.) of Chapter 4 of Title 18.2; and

454 qr. Any other provision of law when such condition is discovered in the course of an investigation
455 which a multijurisdiction grand jury is otherwise authorized to undertake and to investigate any
456 condition which involves or tends to promote any attempt, solicitation or conspiracy to violate the laws
457 enumerated in this section.

458 2. To report evidence of any criminal offense enumerated in subdivision 1 to the attorney for the
459 Commonwealth or United States attorney of any jurisdiction where such offense could be prosecuted or
460 investigated and, when appropriate, to the Attorney General.

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

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

466 § 19.2-294. Offense against two or more statutes or ordinances.

467 If the same act be a violation of two or more statutes, or of two or more ordinances, or of one or
468 more statutes and also one or more ordinances, conviction under one of such statutes or ordinances shall
469 be a bar to a prosecution or proceeding under the other or others. Furthermore, if the same act be a
470 violation of both a state and a federal statute a prosecution under the federal statute shall be a bar to a
471 prosecution under the state statute. *The provisions of this section shall not apply to any offense involving*
472 *terrorism as defined in § 18.2-37.1.*

473 For purposes of this section, a prosecution under a federal statute shall be deemed to be commenced
474 with the return of an indictment by a grand jury or the filing of an information by a United States
475 attorney.

476 § 46.2-105.2. Obtaining documents from the Department when not entitled thereto; penalty.

477 A. It shall be unlawful for any person to obtain a Virginia driver's license, special identification card,
478 vehicle registration, certificate of title, or other document issued by the Department if such person has
479 not satisfied all legal and procedural requirements for the issuance thereof, or is otherwise not legally
480 entitled thereto.

481 B. It shall be unlawful to aid any person to obtain any driver's license, special identification card,
482 vehicle registration, certificate of title, or other document in violation of the provisions of subsection A.

483 C. It shall be unlawful to knowingly possess or use for any purpose any driver's license, special
484 identification card, vehicle registration, certificate of title, or other document obtained in violation of the
485 provisions of subsection A.

486 D. A violation of any provision of this section shall constitute a Class 2 misdemeanor; however, if a
487 person is charged and convicted of a violation of subsection B which involved aid to five or more
488 persons, such offense shall constitute a Class 4 felony. *A violation of this section as part of, in*
489 *conjunction with, or in support of an act of terrorism, as defined in § 18.2-37.1, is a Class 4 felony.*

490 E. Whenever it appears to the satisfaction of the Commissioner that any driver's license, special
491 identification card, vehicle registration, certificate of title, or other document issued by the Department
492 has been obtained in violation of this section, it may be cancelled by the Commissioner, who shall mail
493 notice of the cancellation to the address of record maintained by the Department.
494 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
495 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot**
496 **be determined for periods of imprisonment in state adult correctional facilities and is \$0 for**
497 **periods of commitment to the custody of the Department of Juvenile Justice.**