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SENATE BILL NO. 329

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 2, 2004)

(Patrons Prior to Substitute—Senators Stolle and Mims [SB 490])

A BILL to amend and reenact §§ 16.1-69.48:1.01, 16.1-247, 16.1-260, 17.1-275.11, 18.2-267, 18.2-268.2 through 18.2-268.5, 18.2-268.8, 18.2-268.9, 18.2-268.10, 18.2-270.1, 18.2-271, 18.2-271.1, 18.2-272, 19.2-187.02, 19.2-389, 46.2-301, 46.2-301.1, 46.2-316, 46.2-384, 46.2-389, 46.2-391.2, 46.2-391.4, 46.2-395, 46.2-411 and 46.2-411.1 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 18.2-266.2, relating to DUI; blood alcohol level; refusal.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-69.48:1.01, 16.1-247, 16.1-260, 17.1-275.11, 18.2-267, 18.2-268.2 through 18.2-268.5, 18.2-268.8, 18.2-268.9, 18.2-268.10, 18.2-270.1, 18.2-271, 18.2-271.1, 18.2-272, 19.2-187.02, 19.2-389, 46.2-301, 46.2-301.1, 46.2-316, 46.2-384, 46.2-389, 46.2-391.2, 46.2-391.4, 46.2-395, 46.2-411 and 46.2-411.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-266.2 as follows:

§ 16.1-69.48:1.01. Additional fee assessed for conviction of certain offenses.

Beginning May 1, 2003, the clerk shall assess a person, in addition to the fees provided for by § 16.1-69.48:1, a fee of \$100 upon conviction of any and each charge of a violation of §§ 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-266.2, 18.2-268.3, 46.2-341.24 or § 46.2-341.26:3, or any similar local ordinance.

§ 16.1-247. Duties of person taking child into custody.

A. A person taking a child into custody pursuant to the provisions of § 16.1-246 A, during such hours as the court is open, shall, with all practicable speed, and in accordance with the provisions of this law and the orders of court pursuant thereto, bring the child to the judge or intake officer of the court and the judge, intake officer or arresting officer shall, in the most expeditious manner practicable, give notice of the action taken, together with a statement of the reasons for taking the child into custody, orally or in writing to the child's parent, guardian, legal custodian or other person standing in loco parentis.

B. A person taking a child into custody pursuant to the provisions of subsection B, C or D of § 16.1-246, during such hours as the court is open, shall, with all practicable speed, and in accordance with the provisions of this law and the orders of court pursuant thereto:

1. Release the child to such child's parents, guardian, custodian or other suitable person able and willing to provide supervision and care for such child and issue oral counsel and warning as may be appropriate; or

2. Release the child to such child's parents, guardian, legal custodian or other person standing in loco parentis upon their promise to bring the child before the court when requested; or

3. If not released, bring the child to the judge or intake officer of the court and, in the most expeditious manner practicable, give notice of the action taken, together with a statement of the reasons for taking the child into custody, in writing to the judge or intake officer, and the judge, intake officer or arresting officer shall give notice of the action taken orally or in writing to the child's parent, guardian, legal custodian or other person standing in loco parentis. Nothing herein shall prevent the child from being held for the purpose of administering a blood or breath test to determine the alcoholic content of his blood where the child has been taken into custody pursuant to § 18.2-266 or § 18.2-266.2.

C. A person taking a child into custody pursuant to the provisions of subsections E and F of § 16.1-246, during such hours as the court is open, shall, with all practicable speed and in accordance with the provisions of this law and the orders of court pursuant thereto:

1. Release the child to the institution, facility or home from which he ran away or escaped; or

2. If not released, bring the child to the judge or intake officer of the court and, in the most expeditious manner practicable, give notice of the action taken, together with a statement of the reasons for taking the child into custody, in writing to the judge or intake officer, and the judge, intake officer or arresting officer shall give notice of the action taken orally or in writing to the institution, facility or home in which the child had been placed and orally or in writing to the child's parent, guardian, legal custodian or other person standing in loco parentis.

D. A person taking a child into custody pursuant to the provisions of § 16.1-246 A, during such hours as the court is not open, shall with all practicable speed and in accordance with the provisions of this law and the orders of court pursuant thereto:

1. Release the child taken into custody pursuant to a warrant on bail or recognizance pursuant to

60 Chapter 9 (§ 19.2-119 et seq.) of Title 19.2; or

61 2. Place the child in a detention home or in shelter care; or

62 3. Place the child in a jail subject to the provisions of § 16.1-249.

63 E. A person taking a child into custody pursuant to the provisions of subsection B, C or D of
64 § 16.1-246 during such hours as the court is not open, shall:

65 1. Release the child pursuant to the provisions of subdivision B 1 or B 2 of this section; or

66 2. Release the child on bail or recognizance pursuant to Chapter 9 of Title 19.2; or

67 3. Place the child taken into custody pursuant to § 16.1-246 B in shelter care after the issuance of a
68 detention order pursuant to § 16.1-255; or

69 4. Place the child taken into custody pursuant to subsection C or D of § 16.1-246 in shelter care or
70 in a detention home after the issuance of a warrant by a magistrate; or

71 5. Place the child in a jail subject to the provisions of § 16.1-249 after the issuance of a warrant by a
72 magistrate; or

73 6. In addition to any other provisions of this subsection, detain the child for a reasonably necessary
74 period of time in order to administer a breath or blood test to determine the alcohol content of his
75 blood, if such child was taken into custody pursuant to § 18.2-266 or § 18.2-266.2.

76 F. A person taking a child into custody pursuant to the provisions of § 16.1-246 E, during such hours
77 as the court is not open, shall:

78 1. Release the child to the institution or facility from which he ran away or escaped; or

79 2. Detain the child in a detention home or in a jail subject to the provisions of § 16.1-249 after the
80 issuance of a warrant by a magistrate.

81 G. A person taking a child into custody pursuant to the provisions of § 16.1-246 F, during such
82 hours as the court is not open, shall:

83 1. Release the child to the facility or home from which he ran away; or

84 2. Detain the child in shelter care after the issuance of a detention order pursuant to § 16.1-255 or
85 after the issuance of a warrant by a magistrate.

86 H. If a parent, guardian or other custodian fails, when requested, to bring the child before the court
87 as provided in subdivisions B 2 and E 1 hereof, the court may issue a detention order directing that the
88 child be taken into custody and be brought before the court.

89 I. A law-enforcement officer taking a child into custody pursuant to the provisions of § 16.1-246 G
90 shall notify the intake officer of the juvenile court of the action taken. The intake officer shall determine
91 if the child's conduct or situation is within the jurisdiction of the court and if a petition should be filed
92 on behalf of the child. If the intake officer determines that a petition should not be filed, the
93 law-enforcement officer shall as soon as practicable:

94 1. Return the child to his home;

95 2. Release the child to such child's parents, guardian, legal custodian or other person standing in loco
96 parentis;

97 3. Place the child in shelter care for a period not longer than twenty-four hours after the issuance of
98 a detention order pursuant to § 16.1-255; or

99 4. Release the child.

100 During the period of detention authorized by this subsection no child shall be confined in any
101 detention home, jail or other facility for the detention of adults.

102 J. If a child is taken into custody pursuant to the provisions of subsection B, F or G of § 16.1-246
103 by a law-enforcement officer during such hours as the court is not in session and the child is not
104 released or transferred to a facility or institution in accordance with subsection E, G, or I of this section,
105 the child shall be held in custody only so long as is reasonably necessary to complete identification,
106 investigation and processing. The child shall be held under visual supervision in a nonlocked,
107 multipurpose area which is not designated for residential use. The child shall not be handcuffed or
108 otherwise secured to a stationary object.

109 § 16.1-260. Intake; petition; investigation.

110 A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of
111 a petition, except as provided in subsection H of this section and in § 16.1-259. The form and content of
112 the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services
113 from the Department of Social Services prior to filing a petition seeking support for a child. Complaints,
114 requests and the processing of petitions to initiate a case shall be the responsibility of the intake officer.
115 However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own
116 motion with the clerk, (ii) the Department of Social Services may file support petitions on its own
117 motion with the clerk, and (iii) any attorney may file petitions on behalf of his client with the clerk
118 except petitions alleging that the subject of the petition is a child alleged to be in need of services, in
119 need of supervision or delinquent. Complaints alleging abuse or neglect of a child shall be referred
120 initially to the local department of social services in accordance with the provisions of Chapter 15
121 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed

122 directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall
123 inquire whether the petitioner is receiving child support services or public assistance. No individual who
124 is receiving support services or public assistance shall be denied the right to file a petition or motion to
125 establish, modify or enforce an order for support of a child. If the petitioner is seeking or receiving
126 child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of
127 the petition or motion, together with notice of the court date, to the Division of Child Support
128 Enforcement.

129 B. The appearance of a child before an intake officer may be by (i) personal appearance before the
130 intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic
131 video and audio communication is used, an intake officer may exercise all powers conferred by law. All
132 communications and proceedings shall be conducted in the same manner as if the appearance were in
133 person, and any documents filed may be transmitted by facsimile process. The facsimile may be served
134 or executed by the officer or person to whom sent, and returned in the same manner, and with the same
135 force, effect, authority, and liability as an original document. All signatures thereon shall be treated as
136 original signatures. Any two-way electronic video and audio communication system used for an
137 appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

138 When the court service unit of any court receives a complaint alleging facts which may be sufficient
139 to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may
140 proceed informally to make such adjustment as is practicable without the filing of a petition or may
141 authorize a petition to be filed by any complainant having sufficient knowledge of the matter to
142 establish probable cause for the issuance of the petition.

143 An intake officer may proceed informally on a complaint alleging a child is in need of services, in
144 need of supervision or delinquent only if the juvenile (i) is not alleged to have committed a violent
145 juvenile felony or (ii) has not previously been proceeded against informally or adjudicated in need of
146 supervision or delinquent. A petition alleging that a juvenile committed a violent juvenile felony shall be
147 filed with the court. A petition alleging that a juvenile is in need of supervision or delinquent shall be
148 filed with the court if the juvenile had previously been proceeded against informally by intake or had
149 been adjudicated in need of supervision or delinquent.

150 If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and
151 the attendance officer has provided documentation to the intake officer that the relevant school division
152 has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the
153 court. The intake officer may defer filing the complaint for 90 days and proceed informally by
154 developing a truancy plan. The intake officer may proceed informally only if the juvenile has not
155 previously been proceeded against informally or adjudicated in need of supervision for failure to comply
156 with compulsory school attendance as provided in § 22.1-254. The juvenile and his parent or parents,
157 guardian or other person standing in loco parentis must agree, in writing, for the development of a
158 truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents,
159 guardian or other person standing in loco parentis participate in such programs, cooperate in such
160 treatment or be subject to such conditions and limitations as necessary to ensure the juvenile's
161 compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer
162 the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an
163 interagency interdisciplinary team approach. The team may include qualified personnel who are
164 reasonably available from the appropriate department of social services, community services board, local
165 school division, court service unit and other appropriate and available public and private agencies and
166 may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the
167 90-day period the juvenile has not successfully completed the truancy plan or the truancy program, then
168 the intake officer shall file the petition.

169 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child
170 is in need of services, in need of supervision or delinquent, the intake officer shall (i) develop a plan for
171 the juvenile, which may include restitution and the performance of community service, based upon
172 community resources and the circumstances which resulted in the complaint, (ii) create an official record
173 of the action taken by the intake officer and file such record in the juvenile's case file, and (iii) advise
174 the juvenile and the juvenile's parent, guardian or other person standing in loco parentis and the
175 complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent
176 based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241
177 will result in the filing of a petition with the court.

178 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody,
179 visitation or support of a child is the subject of controversy or requires determination, (ii) a person has
180 deserted, abandoned or failed to provide support for any person in violation of law, (iii) a child or such
181 child's parent, guardian, legal custodian or other person standing in loco parentis is entitled to treatment,
182 rehabilitation or other services which are required by law, or (iv) family abuse has occurred and a

183 protective order is being sought pursuant to §§ 16.1-253.1, 16.1-253.4 or § 16.1-279.1. If any such
184 complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to
185 be abused, neglected, in need of services, in need of supervision or delinquent, if the intake officer
186 believes that probable cause does not exist, or that the authorization of a petition will not be in the best
187 interest of the family or juvenile or that the matter may be effectively dealt with by some agency other
188 than the court, he may refuse to authorize the filing of a petition.

189 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall
190 be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be
191 in need of supervision have utilized or attempted to utilize treatment and services available in the
192 community and have exhausted all appropriate nonjudicial remedies which are available to them. When
193 the intake officer determines that the parties have not attempted to utilize available treatment or services
194 or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the
195 petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility
196 or individual to receive treatment or services, and a petition shall not be filed. Only after the intake
197 officer determines that the parties have made a reasonable effort to utilize available community
198 treatment or services may he permit the petition to be filed.

199 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an
200 adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in
201 writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate
202 determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic
203 relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake
204 officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate
205 finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the
206 juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake
207 officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a
208 status offense, or a misdemeanor other than Class 1, his decision is final.

209 Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the
210 intake officer shall accept and file a petition founded upon the warrant.

211 F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition
212 which alleges facts of an offense which would be a felony if committed by an adult.

213 G. After a petition is filed alleging that a juvenile committed an act which would be a crime if
214 committed by an adult, the intake officer shall, as soon as practicable, provide notice by telephone of
215 the filing of the petition and the nature of the offense to the superintendent of the school division in
216 which the petitioner alleges the juvenile is or should be enrolled, provided the violation involves:

217 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299
218 et seq.), or 7 (§ 18.2-308 et seq.) of Chapter 7 of Title 18.2;

219 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

220 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of
221 Title 18.2;

222 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

223 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances,
224 pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

225 6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter
226 7 of Title 18.2;

227 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

228 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93; or

229 9. Robbery pursuant to § 18.2-58.

230 Promptly after filing a petition the intake officer shall also mail notice, by first-class mail, to the
231 superintendent. The failure to provide information regarding the school in which the juvenile who is the
232 subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

233 The information provided to a division superintendent pursuant to this section may be disclosed only
234 as provided in § 16.1-305.2.

235 H. The filing of a petition shall not be necessary:

236 1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and
237 other pedestrian offenses, game and fish laws or a violation of the ordinance of any city regulating
238 surfing or any ordinance establishing curfew violations or animal control violations. In such cases the
239 court may proceed on a summons issued by the officer investigating the violation in the same manner as
240 provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the
241 scene of the accident or at any other location where a juvenile who is involved in such an accident may
242 be located, proceed on a summons in lieu of filing a petition.

243 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subdivision
244 H of § 16.1-241.

3. In the case of a violation of § 18.2-266 or § 29.1-738, or the commission of any other alcohol-related offense, provided the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8 or § 16.1-278.9. If the juvenile so charged with a violation of §§ 18.2-266, 18.2-266.2 or § 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or § 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation of § 18.2-266 or § 29.1-738 is to be tried.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

§ 17.1-275.11. Additional fee assessed for conviction of certain offenses.

Beginning May 1, 2003, the clerk shall assess a person, in addition to the fees provided for by §§ 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.5, 17.1-275.7, 17.1-275.8, and 17.1-275.9, a fee of \$100 upon conviction of any and each charge of a violation of §§ 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-266.2, 18.2-268.3, 46.2-341.24 or § 46.2-341.26:3, or any similar local ordinance.

§ 18.2-266.2. *Previous offenders driving after consuming alcohol; penalty.*

A. Any person who operates any motor vehicle with a blood alcohol concentration of 0.02 percent or more by weight by volume or 0.02 grams or more per 210 liters of breath but less than 0.08 by weight by volume or less than 0.08 grams per 210 liters of breath as indicated by a chemical test administered as provided in this article is guilty of a Class 1 misdemeanor if within the five years prior to the offense the person was convicted, or in the case of a juvenile, found guilty, of: (i) the provisions of § 18.2-36.1 or the substantially similar laws of any other state or of the United States, (ii) the provisions of § 18.2-51.4 or § 18.2-266, or an ordinance of any county, city or town in this Commonwealth or the laws of any other state or of the United States substantially similar to the provisions of § 18.2-51.4 or § 18.2-266, or (iii) the provisions of subsection A of § 46.2-341.24 or the substantially similar laws of any other state or of the United States.

B. Any person convicted under this section shall be required by court order, as a condition of probation or otherwise, to enter into and successfully complete an alcohol safety action program upon such terms and conditions as the court may set forth.

C. A judgment of conviction under this section shall of itself operate to deprive the person so convicted of the privilege to drive or operate any motor vehicle, engine or train in the Commonwealth for a period of two years from the date of such judgment. This suspension period shall be in addition to any other suspension period otherwise imposed. After the completion of the first year of the suspension period imposed under this section and any other suspension period otherwise imposed, the court may provide that such person be issued a restricted license pursuant to subsection E of § 18.2-271.1.

§ 18.2-267. Preliminary analysis of breath to determine alcoholic content of blood.

A. Any person who is suspected of a violation of § 18.2-266 or ~~§~~ 18.2-266.1 or § 18.2-266.2 shall be entitled, if such equipment is available, to have his breath analyzed to determine the probable alcoholic content of his blood. The person shall also be entitled, upon request, to observe the process of analysis and to see the blood-alcohol reading on the equipment used to perform the breath test. His breath may be analyzed by any police officer of the Commonwealth, or of any county, city or town, or by any member of a sheriff's department in the normal discharge of his duties.

B. The Department of Criminal Justice Services, Division of Forensic Science, shall determine the proper method and equipment to be used in analyzing breath samples taken pursuant to this section and shall advise the respective police and sheriff's departments of the same.

C. Any person who has been stopped by a police officer of the Commonwealth, or of any county, city or town, or by any member of a sheriff's department and is suspected by such officer to be guilty of a violation of §§ 18.2-266 or ~~§~~ 18.2-266.1 or § 18.2-266.2, shall have the right to refuse to permit his breath to be so analyzed, and his failure to permit such analysis shall not be evidence in any prosecution under §§ 18.2-266 or ~~§~~ 18.2-266.1 or § 18.2-266.2.

D. Whenever the breath sample analysis indicates that alcohol is present in the person's blood, the officer may charge the person with a violation of §§ 18.2-266 or ~~§~~ 18.2-266.1 or § 18.2-266.2, or a

306 similar ordinance of the county, city or town where the arrest is made. The person so charged shall then
307 be subject to the provisions of §§ 18.2-268.1 through 18.2-268.12, or of a similar ordinance of a county,
308 city or town.

309 E. The results of the breath analysis shall not be admitted into evidence in any prosecution under §§
310 18.2-266 ~~or~~ §, 18.2-266.1 *or* § 18.2-266.2, the purpose of this section being to permit a preliminary
311 analysis of the alcoholic content of the blood of a person suspected of having violated the provisions of
312 §§ 18.2-266 ~~or~~ §, 18.2-266.1 *or* § 18.2-266.2.

313 F. Police officers or members of any sheriff's department shall, upon stopping any person suspected
314 of having violated the provisions of §§ 18.2-266 ~~or~~ §, 18.2-266.1 *or* § 18.2-266.2, advise the person of
315 his rights under the provisions of this section.

316 G. Nothing in this section shall be construed as limiting the provisions of §§ 18.2-268.1 through
317 18.2-268.12.

318 § 18.2-268.2. Implied consent to post-arrest chemical test to determine drug or alcohol content of
319 blood.

320 A. Any person, whether licensed by Virginia or not, who operates a motor vehicle upon a highway,
321 as defined in § 46.2-100, in this Commonwealth shall be deemed thereby, as a condition of such
322 operation, to have consented to have samples of his blood, breath, or both blood and breath taken for a
323 chemical test to determine the alcohol, drug, or both alcohol and drug content of his blood, if he is
324 arrested for violation of §§ 18.2-266 ~~or~~ §, 18.2-266.1 *or* § 18.2-266.2 or of a similar ordinance within
325 three hours of the alleged offense.

326 B. Any person so arrested for a violation of § 18.2-266 (i) or (ii) or both, ~~or~~ § 18.2-266.1, *or*
327 § 18.2-266.2 or of a similar ordinance shall submit to a breath test. If the breath test is unavailable or
328 the person is physically unable to submit to the breath test, a blood test shall be given. The accused
329 shall, prior to administration of the test, be advised by the person administering the test that he has the
330 right to observe the process of analysis and to see the blood-alcohol reading on the equipment used to
331 perform the breath test. If the equipment automatically produces a written printout of the breath test
332 result, the printout, or a copy, shall be given to the accused.

333 C. A person, after having been arrested for a violation of §§ 18.2-266 (iii) or (iv) ~~or~~ §, 18.2-266.1 *or*
334 § 18.2-266.2 or of a similar ordinance, may be required to submit to a blood test to determine the drug
335 or both drug and alcohol content of his blood. When a person, after having been arrested for a violation
336 of § 18.2-266 (i) or (ii) or both, submits to a breath test in accordance with subsection B of this section
337 or refuses to take or is incapable of taking such a breath test, he may be required to submit to tests to
338 determine the drug or both drug and alcohol content of his blood if the law-enforcement officer has
339 reasonable cause to believe the person was driving under the influence of any drug or combination of
340 drugs, or the combined influence of alcohol and drugs.

341 § 18.2-268.3. Refusal of tests; procedures.

342 A. If a person, after having been arrested for a violation of §§ 18.2-51.4, 18.2-266 ~~or~~ §, 18.2-266.1
343 *or* § 18.2-266.2 or of a similar ordinance and after having been advised by the arresting officer that (i) a
344 person who operates a motor vehicle upon a public highway in this Commonwealth is deemed thereby,
345 as a condition of such operation, to have consented to have samples of his blood and breath taken for
346 chemical tests to determine the alcohol or drug content of his blood, (ii) a finding of unreasonable
347 refusal to consent may be admitted as evidence at a criminal trial, ~~and~~ (iii) that the unreasonable refusal
348 to do so constitutes grounds for the revocation of the privilege of operating a motor vehicle upon the
349 highways of this Commonwealth, *and (iv) the criminal penalty for unreasonable refusal is a Class 1*
350 *misdemeanor*, refuses to permit blood or breath or both blood and breath samples to be taken for such
351 tests, the arresting officer shall take the person before a committing magistrate. If the person is unable to
352 be taken before a magistrate because the person is taken to a medical facility for treatment or evaluation
353 of his medical condition, the arresting officer at a medical facility, in the presence of a witness other
354 than a law-enforcement officer, shall again advise the person, at the medical facility, of the law
355 requiring blood or breath samples to be taken and the penalty for refusal. If he again so refuses after
356 having been further advised by the magistrate or by the arresting officer at a medical facility (i) of the
357 law requiring blood or breath samples to be taken, (ii) that a finding of unreasonable refusal to consent
358 may be admitted as evidence at a criminal trial, and (iii) the ~~penalty~~ *penalties* for refusal, and so
359 declares again his refusal in writing upon a form provided by the Supreme Court, or refuses or fails to
360 so declare in writing and such fact is certified as prescribed below, then no blood or breath samples
361 shall be taken even though he may later request them.

362 B. The form shall contain a brief statement of the law requiring the taking of blood or breath
363 samples, that a finding of unreasonable refusal to consent may be admitted as evidence at a criminal
364 trial, and the ~~penalty~~ *penalties* for refusal, a declaration of refusal, and lines for the signature of the
365 person from whom the blood or breath sample is sought, the date, and the signature of a witness to the
366 signing. If the person refuses or fails to execute the declaration, the magistrate or arresting officer at a
367 medical facility shall certify such fact and that the magistrate or arresting officer at a medical facility

advised the person that a refusal to permit a blood or breath sample to be taken, if found to be unreasonable, constitutes *a Class 1 misdemeanor and is grounds for revocation of the person's privilege to operate a motor vehicle on the highways of this Commonwealth*. The magistrate shall promptly issue a warrant or summons charging the person with a violation of subsection A. ~~The warrant or summons shall be executed in the same manner as criminal warrants or summonses.~~ If the person has been taken to a medical facility for treatment or evaluation of his medical condition, the arresting officer at a medical facility may issue, on the premises of the medical facility, a summons for a violation of subsection A in lieu of securing a warrant.

C. Venue for the trial of the warrant or summons shall lie in the court of the county or city in which the offense of driving under the influence of intoxicants *or the offense of violating § 18.2-266.2* is to be tried. The executed declaration of refusal or the certificate of the magistrate or arresting officer at a medical facility, as the case may be, shall be attached to the warrant or summons from the arresting officer and shall be forwarded by the magistrate or by the arresting officer to the aforementioned court.

D. When the court receives the declaration or certificate and the warrant or summons charging refusal, the court shall fix a date for the trial of the warrant or summons, at such time as the court designates.

E. The declaration of refusal or certificate of the magistrate or arresting officer at a medical facility shall be prima facie evidence that the defendant refused to allow a blood or breath sample to be taken to determine the alcohol or drug content of his blood. However, this shall not prohibit the defendant from introducing on his behalf evidence of the basis for his refusal. The court shall determine the reasonableness of such refusal.

§ 18.2-268.4. Appeal and trial; sanctions for refusal.

The procedure for appeal and trial shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.

If the ~~Any person whom the court or jury finds the defendant~~ guilty as charged in the warrant or summons issued pursuant to § 18.2-268.3, *is guilty of a Class 1 misdemeanor*. In addition, the court shall suspend the defendant's privilege to drive for a period of one year. This suspension period is in addition to the suspension period provided under § 46.2-391.2.

However, if the defendant pleads guilty to a violation of §§ 18.2-266 ~~or §~~—, 18.2-266.1 *or § 18.2-266.2* or of a similar ordinance, the court may dismiss the warrant or summons.

The court shall forward the defendant's license to the Commissioner of the Department of Motor Vehicles of Virginia as in other cases of similar nature for suspension of license. However, if the defendant appeals his conviction, the court shall return the license to him upon his appeal being perfected; however, the defendant's license shall not be returned during any period of suspension imposed under § 46.2-391.2.

§ 18.2-268.5. Qualifications and liability of persons authorized to take blood sample; procedure for taking samples.

For purposes of this article, only a physician, registered professional nurse, graduate laboratory technician or a technician or nurse designated by order of a circuit court acting upon the recommendation of a licensed physician, using soap and water, polyvinylpyrrolidone iodine or benzalkonium chloride to cleanse the part of the body from which the blood is taken and using instruments sterilized by the accepted steam sterilizer or some other sterilizer which will not affect the accuracy of the test, or using chemically clean sterile disposable syringes, shall withdraw blood for the purpose of determining its alcohol or drug or both alcohol and drug content. It is a Class 3 misdemeanor to reuse single-use-only needles or syringes. No civil liability shall attach to any person authorized to withdraw blood as a result of the act of withdrawing blood as provided in this section from any person submitting thereto, provided the blood was withdrawn according to recognized medical procedures. However, the person shall not be relieved from liability for negligence in the withdrawing of any blood sample.

No person arrested for a violation of §§ 18.2-266 ~~or §~~—, 18.2-266.1 *or § 18.2-266.2*, or a similar ordinance shall be required to execute in favor of any person or corporation a waiver or release of liability in connection with the withdrawal of blood and as a condition precedent to the withdrawal of blood as provided for in this section.

§ 18.2-268.8. Fees.

Payment for withdrawing blood shall not exceed \$25, which shall be paid out of the appropriation for criminal charges. If the person whose blood sample was withdrawn is subsequently convicted for a violation of §§ 18.2-266 ~~or §~~—, 18.2-266.1 *or § 18.2-266.2* or of a similar ordinance, or is placed under the purview of a probational, educational, or rehabilitational program as set forth in § 18.2-271.1, the amount charged by the person withdrawing the sample shall be taxed as part of the costs of the criminal

429 case and shall be paid into the general fund of the state treasury.

430 If the person whose blood sample was withdrawn is subsequently convicted for violation of §§
431 18.2-266 ~~or §~~, 18.2-266.1 *or* § 18.2-266.2 or a similar ordinance, a fee of \$25 for testing the first blood
432 sample by the Division shall be taxed as part of the costs of the criminal case and shall be paid into the
433 general fund of the state treasury.

434 § 18.2-268.9. Assurance of breath-test validity; use of test results as evidence.

435 To be capable of being considered valid as evidence in a prosecution under §§ 18.2-266, 18.2-266.1,
436 *or* § 18.2-266.2 or a similar ordinance, chemical analysis of a person's breath shall be performed by an
437 individual possessing a valid license to conduct such tests, with a type of equipment and in accordance
438 with methods approved by the Department of Criminal Justice Services, Division of Forensic Science.
439 The Division shall test the accuracy of the breath-testing equipment at least once every six months.

440 The Division shall establish a training program for all individuals who are to administer the breath
441 tests. Upon a person's successful completion of the training program, the Division may license him to
442 conduct breath-test analyses. Such license shall identify the specific types of breath test equipment upon
443 which the individual has successfully completed training.

444 Any individual conducting a breath test under the provisions of § 18.2-268.2 shall issue a certificate
445 which will indicate that the test was conducted in accordance with the Division's specifications, the
446 equipment on which the breath test was conducted has been tested within the past six months and has
447 been found to be accurate, the name of the accused, that prior to administration of the test the accused
448 was advised of his right to observe the process and see the blood alcohol reading on the equipment used
449 to perform the breath test, the date and time the sample was taken from the accused, the sample's
450 alcohol content, and the name of the person who examined the sample. This certificate, when attested by
451 the individual conducting the breath test, shall be admissible in any court in any criminal or civil
452 proceeding as evidence of the facts therein stated and of the results of such analysis. Any such
453 certificate of analysis purporting to be signed by a person authorized by the Division shall be admissible
454 in evidence without proof of seal or signature of the person whose name is signed to it. A copy of the
455 certificate shall be promptly delivered to the accused.

456 The officer making the arrest, or anyone with him at the time of the arrest, or anyone participating in
457 the arrest of the accused, if otherwise qualified to conduct such test as provided by this section, may
458 make the breath test or analyze the results.

459 § 18.2-268.10. Evidence of violation of §§ 18.2-266, 18.2-266.1 or § 18.2-266.2.

460 A. In any trial for a violation of §§ 18.2-266 ~~or §~~, 18.2-266.1 *or* § 18.2-266.2 or a similar ordinance,
461 the admission of the blood or breath test results shall not limit the introduction of any other relevant
462 evidence bearing upon any question at issue before the court, and the court shall, regardless of the result
463 of any blood or breath tests, consider other relevant admissible evidence of the condition of the accused.
464 If the test results indicate the presence of any drug other than alcohol, the test results shall be admissible
465 only if other competent evidence has been presented to relate the presence of the drug or drugs to the
466 impairment of the accused's ability to drive or operate any motor vehicle, engine or train safely.

467 B. The failure of an accused to permit a blood or breath sample to be taken to determine the alcohol
468 or drug content of his blood is not evidence and shall not be subject to comment by the Commonwealth
469 at the trial of the case, except in rebuttal or pursuant to subsection C; nor shall the fact that a blood or
470 breath test had been offered the accused be evidence or the subject of comment by the Commonwealth,
471 except in rebuttal or pursuant to subsection C.

472 C. Evidence of a finding against the defendant under § 18.2-268.3 for his unreasonable refusal to
473 permit a blood or breath sample to be taken to determine the alcohol or drug content of his blood shall
474 be admissible into evidence, upon the motion of the Commonwealth or the defendant, for the sole
475 purpose of explaining the absence at trial of a chemical test of such sample. When admitted pursuant to
476 this subsection such evidence shall not be considered evidence of the accused's guilt.

477 D. The court or jury trying the case involving a violation of clause (ii), (iii) or (iv) of § 18.2-266 ~~or~~ ,
478 § 18.2-266.1 *or* § 18.2-266.2 shall determine the innocence or guilt of the defendant from all the
479 evidence concerning his condition at the time of the alleged offense.

480 § 18.2-270.1. Ignition interlock systems; penalty.

481 A. For purposes of this section and § 18.2-270.2:

482 "Commission" means the Commission on VASAP.

483 "Department" means the Department of Motor Vehicles.

484 "Ignition interlock system" means a device that (i) connects a motor vehicle ignition system to an
485 analyzer that measures a driver's blood alcohol content; (ii) prevents a motor vehicle ignition from
486 starting if a driver's blood alcohol content *equals or exceeds* ~~0.025~~ 0.020 percent; and (iii) is equipped
487 with the ability to perform a rolling retest and to electronically log the blood alcohol content during
488 ignition, attempted ignition and rolling retest.

489 "Rolling retest" means a test of the vehicle operator's blood alcohol content required at random
490 intervals during operation of the vehicle, which triggers the sounding of the horn and flashing of lights

if (i) the test indicates that the operator has a blood alcohol content which *equals or exceeds* 0.025 percent or (ii) the operator fails to take the test.

B. In addition to any penalty provided by law for conviction of a first offense under § 18.2-51.4 or § 18.2-266 or a substantially similar ordinance of any county, city or town, any court of proper jurisdiction may, or, for a second or subsequent offense shall, as a condition of a restricted license or as a condition of license restoration under subsection C of § 18.2-271.1 or § 46.2-391, prohibit an offender from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for any period of time not to exceed the period of license suspension and restriction, not less than six months, and shall require that such a system be installed on each motor vehicle, as defined in § 46.2-100, owned by or registered to the offender, in whole or in part, for such period of time. Such condition shall be in addition to any purposes for which a restricted license may be issued pursuant to § 18.2-271.1. The court may order the installation of an ignition interlock system to commence immediately upon conviction. A fee of ~~twenty dollars~~ \$20 to cover court and administrative costs related to the ignition interlock system shall be paid by any such offender to the clerk of the court. The court shall require the offender to install an electronic log device with the ignition interlock system on a vehicle designated by the court to measure the blood alcohol content at each attempted ignition and random rolling retest during operation of the vehicle. The offender shall be enrolled in and supervised by an alcohol safety action program pursuant to § 18.2-271.1 and to conditions established by regulation under § 18.2-270.2 by the Commission during the period for which the court has ordered installation of the ignition interlock system. The offender shall be further required to provide to such program, at least quarterly during the period of court ordered ignition interlock installation, a printout from such electronic log indicating the offender's blood alcohol content during such ignitions, attempted ignitions, and rolling retests, and showing attempts to circumvent or tamper with the equipment.

C. In any case in which the court requires the installation of an ignition interlock system, the court shall direct the offender not to operate any motor vehicle which is not equipped with such a system for the period of time that installation is ordered. The clerk of the court shall file with the Department of Motor Vehicles a copy of the order, which shall become a part of the offender's operator's license record maintained by the Department. The Department shall issue to the offender for the installation period required by the court, a restricted license which shall appropriately set forth the restrictions required by the court under this subsection and any other restrictions imposed upon the offender's driving privilege, and shall also set forth any exception granted by the court under subsection F.

D. The offender shall be ordered to provide the appropriate ASAP program, within ~~thirty~~ 30 days of the effective date of the order of court, proof of the installation of the ignition interlock system. The Program shall require the offender to have the system monitored and calibrated for proper operation at least every ~~thirty~~ 30 days by an entity approved by the Commission under the provisions of § 18.2-270.2 and to demonstrate proof thereof. The offender shall pay the cost of leasing or buying and monitoring and maintaining the ignition interlock system. Absent good cause shown, the court may revoke the offender's driving privilege for failing to (i) timely install such system or (ii) have the system properly monitored and calibrated.

E. No person shall start or attempt to start a motor vehicle equipped with an ignition interlock system for the purpose of providing an operable motor vehicle to a person who is prohibited under this section from operating a motor vehicle that is not equipped with an ignition interlock system. No person shall tamper with, or in any way attempt to circumvent the operation of, an ignition interlock system that has been installed in the motor vehicle of a person under this section. Except as authorized in subsection G, no person shall knowingly furnish a motor vehicle not equipped with a functioning ignition interlock system to any person prohibited under subsection B from operating any motor vehicle which is not equipped with such system. A violation of this subsection shall be punishable as a Class 1 misdemeanor.

F. Any person prohibited from operating a motor vehicle under subsection B may, solely in the course of his employment, operate a motor vehicle which is owned or provided by his employer without installation of an ignition interlock system, if the court expressly permits such operation as a condition of a restricted license at the request of the employer, but such person may not operate a commercial motor vehicle as defined in § 46.2-341.4. This subsection shall not apply if such employer is an entity wholly or partially owned or controlled by the person otherwise prohibited from operating a vehicle without an ignition interlock system.

G. The Commission shall promulgate such regulations and forms as are necessary to implement the procedures outlined in this section.

§ 18.2-271. Forfeiture of driver's license for driving while intoxicated.

A. Except as provided in § 18.2-271.1, the judgment of conviction if for a first offense under § 18.2-266 or for a similar offense under any county, city, or town ordinance, *or for an offense under § 18.2-266.2* or for a first offense under subsection A of § 46.2-341.24, shall of itself operate to deprive

552 the person so convicted of the privilege to drive or operate any motor vehicle, engine or train in the
553 Commonwealth for a period of one year from the date of such judgment. This suspension period shall
554 be in addition to the suspension period provided under § 46.2-391.2.

555 B. If a person (i) is tried on a process alleging a second offense of violating § 18.2-266 or subsection
556 A of § 46.2-341.24, or any substantially similar local ordinance, or law of any other jurisdiction, within
557 ten years of a first offense for which the person was convicted, or found guilty in the case of a juvenile,
558 under § 18.2-266 or subsection A of § 46.2-341.24 or any valid local ordinance or any law of any other
559 jurisdiction substantially similar to § 18.2-266 or subsection A of § 46.2-341.24 and (ii) is convicted
560 thereof, such conviction shall of itself operate to deprive the person so convicted of the privilege to
561 drive or operate any motor vehicle, engine or train in the Commonwealth for a period of three years
562 from the date of the judgment of conviction and such person shall have his license revoked as provided
563 in subsection A of § 46.2-391. The court trying such case shall order the surrender of the person's
564 driver's license, to be disposed of in accordance with § 46.2-398, and shall notify such person that his
565 license has been revoked for a period of three years and that the penalty for violating that revocation is
566 as set out in § 46.2-391. This suspension period shall be in addition to the suspension period provided
567 under § 46.2-391.2. Any period of license suspension or revocation imposed pursuant to this section, in
568 any case, shall run consecutively with any period of suspension for failure to permit a blood or breath
569 sample to be taken as required by §§ 18.2-268.1 through 18.2-268.12 or §§ 46.2-341.26:1 through
570 46.2-341.26:11.

571 C. If a person (i) is tried on a process alleging a third or subsequent offense of violating § 18.2-266
572 or subsection A of § 46.2-341.24, or any substantially similar local ordinance, or law of any other
573 jurisdiction, within ten years of two other offenses for which the person was convicted, or found not
574 innocent in the case of a juvenile, under § 18.2-266 or subsection A of § 46.2-341.24 or any valid local
575 ordinance or any law of any other jurisdiction substantially similar to § 18.2-266 or subsection A of
576 § 46.2-341.24 and (ii) is convicted thereof, such conviction shall of itself operate to deprive the person
577 so convicted of the privilege to drive or operate any motor vehicle, engine or train in the
578 Commonwealth and such person shall not be eligible for participation in a program pursuant to
579 § 18.2-271.1 and shall, upon such conviction, have his license revoked as provided in subsection B of
580 § 46.2-391. The court trying such case shall order the surrender of the person's driver's license, to be
581 disposed of in accordance with § 46.2-398, and shall notify such person that his license has been
582 revoked indefinitely and that the penalty for violating that revocation is as set out in § 46.2-391.

583 D. Notwithstanding any other provision of this section, the period of license revocation or suspension
584 shall not begin to expire until the person convicted has surrendered his license to the court or to the
585 Department of Motor Vehicles.

586 E. The provisions of this section shall not apply to, and shall have no effect upon, any
587 disqualification from operating a commercial motor vehicle imposed under the provisions of the
588 Commercial Driver's License Act (§ 46.2-341.1 et seq.).

589 § 18.2-271.1. Probation, education and rehabilitation of person charged or convicted; person
590 convicted under law of another state.

591 A. Any person convicted of a first or second offense of § 18.2-266 (i), (ii), (iii) or (iv), or any
592 ordinance of a county, city, or town similar to the provisions thereof, *or of § 18.2-266.2* or provisions of
593 subsection A of § 46.2-341.24, shall be required by court order, as a condition of probation or otherwise,
594 to enter into and successfully complete an alcohol safety action program in the judicial district in which
595 such charge is brought or in any other judicial district upon such terms and conditions as the court may
596 set forth. However, upon motion of a person convicted of any such offense following an assessment of
597 the person conducted by an alcohol safety action program, the court, for good cause, may decline to
598 order participation in such a program if the assessment by the alcohol safety action program indicates
599 that intervention is not appropriate for such person. In no event shall such persons be permitted to enter
600 any such program which is not certified as meeting minimum standards and criteria established by the
601 Commission on the Virginia Alcohol Safety Action Program (VASAP) pursuant to subsection H of this
602 section and to § 18.2-271.2. However, any person charged with a violation of a first or second offense
603 of § 18.2-266 (i), (ii), (iii) or (iv), or any ordinance of a county, city, or town similar to the provisions
604 thereof, *or § 18.2-266.2* or provisions of subsection A of § 46.2-341.24, may, at any time prior to trial,
605 enter into an alcohol safety action program in the judicial district in which such charge is brought or in
606 any other judicial district.

607 B. The court shall require the person entering such program under the provisions of this section to
608 pay a fee of no less than \$250 but no more than \$300. A reasonable portion of such fee, as may be
609 determined by the Commission on VASAP, but not to exceed 10 percent, shall be forwarded monthly to
610 be deposited with the State Treasurer for expenditure by the Commission on VASAP, and the balance
611 shall be held in a separate fund for local administration of driver alcohol rehabilitation programs. Upon
612 a positive finding that the defendant is indigent, the court may reduce or waive the fee. In addition to
613 the costs of the proceeding, fees as may reasonably be required of defendants referred for intervention

under any such program may be charged.

C. Upon conviction of a violation of § 18.2-266 or any ordinance of a county, city or town similar to the provisions thereof, or subsection A of § 46.2-341.24, the court shall impose the sentence authorized by § 18.2-270 or § 46.2-341.28 and the license revocation as authorized by § 18.2-271. In addition, if the conviction was for a second offense committed within less than five years after a first such offense, the court shall order that restoration of the person's license to drive be conditioned upon the installation of an ignition interlock system on each motor vehicle, as defined in § 46.2-100, owned by or registered to the person, in whole or in part, for a period of six months beginning at the end of the three year license revocation, unless such a system has already been installed for six months prior to that time pursuant to a restricted license order under subsection E of this section. Upon a finding that a person so convicted is required to participate in the program described herein, the court shall enter the conviction on the warrant, and shall note that the person so convicted has been referred to such program. The court may then proceed to issue an order in accordance with subsection E of this section, if the court finds that the person so convicted is eligible for a restricted license. If the court finds good cause for a person not to participate in such program or subsequently that such person has violated, without good cause, any of the conditions set forth by the court in entering the program, the court shall dispose of the case as if no program had been entered, in which event the revocation provisions of § 46.2-389 and subsection A of § 46.2-391 shall be applicable to the conviction. The court shall, upon final disposition of the case, send a copy of its order to the Commissioner of the Department of Motor Vehicles. If such order provides for the issuance of a restricted license, the Commissioner of the Department of Motor Vehicles, upon receipt thereof, shall issue a restricted license. Appeals from any such disposition shall be allowed as provided by law. The time within which an appeal may be taken shall be calculated from the date of the final disposition of the case or any motion for rehearing, whichever is later.

D. Any person who has been convicted in another state of the violation of a law of such state substantially similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24, and whose privilege to operate a motor vehicle in this Commonwealth is subject to revocation under the provisions of § 46.2-389 and subsection A of § 46.2-391, may petition the general district court of the county or city in which he resides that he be given probation and assigned to a program as provided in subsection A of this section and that, upon entry into such program, he be issued an order in accordance with subsection E of this section. If the court finds that such person would have qualified therefor if he had been convicted in this Commonwealth of a violation of § 18.2-266 or subsection A of § 46.2-341.24, the court may grant the petition and may issue an order in accordance with subsection E of this section as to the period of license suspension or revocation imposed pursuant to § 46.2-389 or subsection A of § 46.2-391. Such order shall be conditioned upon the successful completion of a program by the petitioner. If the court subsequently finds that such person has violated any of the conditions set forth by the court, the court shall dispose of the case as if no program had been entered and shall notify the Commissioner, who shall revoke the person's license in accordance with the provisions of § 46.2-389 or subsection A of § 46.2-391. A copy of the order granting the petition or subsequently revoking or suspending such person's license to operate a motor vehicle shall be forthwith sent to the Commissioner of the Department of Motor Vehicles.

No period of license suspension or revocation shall be imposed pursuant to this subsection which, when considered together with any period of license suspension or revocation previously imposed for the same offense in any state, results in such person's license being suspended for a period in excess of the maximum periods specified in this subsection.

E. Except as otherwise provided herein, whenever a person enters a certified program pursuant to this section, and such person's license to operate a motor vehicle, engine or train in the Commonwealth has been suspended or revoked, the court may, in its discretion and for good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle for any of the following purposes: (i) travel to and from his place of employment; (ii) travel to and from an alcohol rehabilitation or safety action program; (iii) travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (iv) travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education; (v) travel for health care services, including medically necessary transportation of an elderly parent with a serious medical problem upon written verification of need by a licensed health professional; (vi) travel necessary to transport a minor child under the care of such person to and from school, day care, and facilities housing medical service providers; (vii) travel to and from court-ordered visitation with a child of such person; or (viii) travel to a screening, evaluation and education program entered pursuant to § 18.2-251 or subsection H of § 18.2-258.1. No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall order the surrender of such person's license to operate a motor vehicle to be disposed of in accordance with the provisions of

§ 46.2-398 and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person so convicted who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, if the order provides for a restricted license for that time period. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be guilty of a violation of § 18.2-272. Such restricted license shall be conditioned upon enrollment within ~~fifteen~~ 15 days in, and successful completion of, a program as described in subsection A of this section. No restricted license shall be issued during the first four months of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within 10 years of a first such offense. No restricted license shall be issued during the first year of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within five years of a first such offense. *No restricted license shall be issued during the first 12 months of a revocation imposed pursuant to § 18.2-266.2.* No restricted license shall be issued during any revocation period imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391. Notwithstanding the provisions of § 46.2-411, the fee charged pursuant to § 46.2-411 for reinstatement of the driver's license of any person whose privilege or license has been suspended or revoked as a result of a violation of § 18.2-266, § 18.2-266.2, subsection A of § 46.2-341.24 or of any ordinance of a county, city or town, or of any federal law or the laws of any other state similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24 shall be \$105. Forty dollars of such reinstatement fee shall be retained by the Department of Motor Vehicles as provided in § 46.2-411, \$40 shall be transferred to the Commission on VASAP, and \$25 shall be transferred to the Commonwealth Neurotrauma Initiative Trust Fund.

F. The court shall have jurisdiction over any person entering such program under any provision of this section until such time as the case has been disposed of by either successful completion of the program, or revocation due to ineligibility or violation of a condition or conditions imposed by the court, whichever shall first occur. Revocation proceedings shall be commenced by notice to show cause why the court should not revoke the privilege afforded by this section. Such notice shall be made by first-class mail to the last known address of such person, and shall direct such person to appear before the court in response thereto on a date contained in such notice, which shall not be less than 10 days from the date of mailing of the notice. Failure to appear in response to such notice shall of itself be grounds for revocation of such privilege. Notice of revocation under this subsection shall be sent forthwith to the Commissioner of the Department of Motor Vehicles.

G. For the purposes of this section, any court which has convicted a person of a violation of § 18.2-266, § 18.2-266.2, subsection A of § 46.2-341.24 or any ordinance of a county, city or town similar to the provisions of § 18.2-266 shall have continuing jurisdiction over such person during any period of license revocation related to that conviction, for the limited purposes of (i) referring such person to a certified alcohol safety action program, (ii) providing for a restricted permit for such person in accordance with the provisions of subsection E, and (iii) imposing terms, conditions and limitations for actions taken pursuant to clauses (i) and (ii), whether or not it took either such action at the time of the conviction. This continuing jurisdiction is subject to the limitations of subsection E that provide that no restricted license shall be issued during a revocation imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391 or during the first four months or first year, whichever is applicable, of the revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391. The provisions of this subsection shall apply to a person convicted of a violation of § 18.2-266, § 18.2-266.2, subsection A of § 46.2-341.24 or any ordinance of a county, city or town similar to the provisions of § 18.2-266 on, after and at any time prior to July 1, 2003.

H. The State Treasurer, the Commission on VASAP or any city or county is authorized to accept any gifts or bequests of money or property, and any grant, loan, service, payment or property from any source, including the federal government, for the purpose of driver alcohol education. Any such gifts, bequests, grants, loans or payments shall be deposited in the separate fund provided in subsection B.

I. The Commission on VASAP, or any county, city, town, or any combination thereof may establish and, if established, shall operate, in accordance with the standards and criteria required by this subsection, alcohol safety action programs in connection with highway safety. Each such program shall operate under the direction of a local independent policy board chosen in accordance with procedures approved and promulgated by the Commission on VASAP. Local sitting or retired district court judges who regularly hear or heard cases involving driving under the influence and are familiar with their local alcohol safety action programs may serve on such boards. The Commission on VASAP shall establish minimum standards and criteria for the implementation and operation of such programs and shall

establish procedures to certify all such programs to ensure that they meet the minimum standards and criteria stipulated by the Commission. The Commission shall also establish criteria for the administration of such programs for public information activities, for accounting procedures, for the auditing requirements of such programs and for the allocation of funds. Funds paid to the Commonwealth hereunder shall be utilized in the discretion of the Commission on VASAP to offset the costs of state programs and local programs run in conjunction with any county, city or town and costs incurred by the Commission. The Commission shall submit an annual report as to actions taken at the close of each calendar year to the Governor and the General Assembly.

J. Notwithstanding any other provisions of this section or of § 18.2-271, nothing in this section shall permit the court to suspend, reduce, limit, or otherwise modify any disqualification from operating a commercial motor vehicle imposed under the provisions of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

§ 18.2-272. Driving after forfeiture of license.

If any person so convicted shall, during the time for which he is deprived of his right so to do, drive or operate any motor vehicle, engine or train in this Commonwealth, he shall be guilty of a Class 1 misdemeanor. Nothing in this section or §§ 18.2-266, 18.2-266.2, 18.2-270 or § 18.2-271, shall be construed as conflicting with or repealing any ordinance or resolution of any city, town or county which restricts still further the right of such persons to drive or operate any such vehicle or conveyance.

§ 19.2-187.02. Admissibility of written results of blood alcohol tests conducted in the regular course of providing emergency medical treatment.

A. Notwithstanding any other provision of law, the written results of blood alcohol tests conducted upon persons receiving medical treatment in a hospital emergency room are admissible in evidence as a business records exception to the hearsay rule in prosecutions for any violation of § 18.2-266 (driving while intoxicated) or a substantially similar local ordinance, § 18.2-36.1 (involuntary manslaughter resulting from driving while intoxicated), § 18.2-51.4 (maiming resulting from driving while intoxicated), § 18.2-266.2 or § 46.2-341.24 (driving a commercial vehicle while intoxicated).

B. The provisions of law pertaining to confidentiality of medical records and medical treatment shall not be applicable to blood alcohol tests performed under the provisions of this section in prosecutions as specified in subsection A. No person who is involved in taking blood or conducting blood alcohol tests shall be liable for civil damages for breach of confidentiality or unauthorized release of medical records because of the evidentiary use of blood alcohol test results under this section, or as a result of that person's testimony given pursuant to this section.

§ 19.2-389. Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements and/or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government that are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth for the conduct of investigations of

798 applicants for public employment, permit, or license whenever, in the interest of public welfare or
799 safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a
800 person with a conviction record would be compatible with the nature of the employment, permit, or
801 license under consideration;

802 8. Public or private agencies when and as required by federal or state law or interstate compact to
803 investigate (i) applicants for foster or adoptive parenthood or (ii) any individual with whom the agency
804 is considering placing a child on an emergency, temporary or permanent basis pursuant to § 63.2-901.1,
805 subject to the restriction that the data shall not be further disseminated by the agency to any party other
806 than a federal or state authority or court as may be required to comply with an express requirement of
807 law for such further dissemination;

808 9. To the extent permitted by federal law or regulation, public service companies as defined in
809 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
810 personal contact with the public or when past criminal conduct of an applicant would be incompatible
811 with the nature of the employment under consideration;

812 10. The appropriate authority for purposes of granting citizenship and for purposes of international
813 travel, including but not limited to, issuing visas and passports;

814 11. A person requesting a copy of his own criminal history record information as defined in
815 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
816 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
817 America, (ii) a volunteer fire company or volunteer rescue squad, (iii) the Volunteer Emergency
818 Families for Children, (iv) any affiliate of Prevent Child Abuse, Virginia, or (v) any Virginia affiliate of
819 Compeer;

820 12. Administrators and board presidents of and applicants for licensure or registration as a child
821 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
822 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
823 volunteers at such facilities, caretakers, and other adults living in family day-care homes or homes
824 approved by family day-care systems, and foster and adoptive parent applicants of private child-placing
825 agencies, pursuant to §§ 63.2-1719 to 63.2-1721, subject to the restriction that the data shall not be
826 further disseminated by the facility or agency to any party other than the data subject, the Commissioner
827 of Social Services' representative or a federal or state authority or court as may be required to comply
828 with an express requirement of law for such further dissemination;

829 13. The school boards of the Commonwealth for the purpose of screening individuals who are
830 offered or who accept public school employment and those current school board employees for whom a
831 report of arrest has been made pursuant to § 19.2-83.1;

832 14. The State Lottery Department for the conduct of investigations as set forth in the State Lottery
833 Law (§ 58.1-4000 et seq.);

834 15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations
835 of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital
836 pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to
837 the limitations set out in subsection E;

838 16. Licensed homes for adults, licensed district homes for adults, and licensed adult day-care centers
839 for the conduct of investigations of applicants for compensated employment in licensed homes for adults
840 pursuant to § 63.2-1720, ~~in licensed district homes for adults pursuant to § 63.1-189.1~~, and in licensed
841 adult day-care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

842 17. The Alcoholic Beverage Control Board for the conduct of investigations as set forth in
843 § 4.1-103.1;

844 18. The State Board of Elections and authorized officers and employees thereof in the course of
845 conducting necessary investigations with respect to registered voters, limited to any record of felony
846 convictions;

847 19. The Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse
848 Services for those individuals who are committed to the custody of the Commissioner pursuant to
849 §§ 19.2-169.2, 19.2-169.6, 19.2-176, 19.2-177.1, 19.2-182.2, 19.2-182.3, 19.2-182.8 and 19.2-182.9 for
850 the purpose of placement, evaluation, and treatment planning;

851 20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety
852 Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first
853 offenders under § 18.2-251, or (iii) services to offenders under §§ 18.2-51.4, 18.2-266 ~~or~~ § 18.2-266.1,
854 or § 18.2-266.2;

855 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
856 Department of Education, or the Department of Mental Health, Mental Retardation and Substance Abuse
857 Services for the purpose of determining applicants' fitness for employment or for providing volunteer or
858 contractual services;

859 22. The Department of Mental Health, Mental Retardation and Substance Abuse Services and

facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private or parochial elementary or secondary schools which are accredited by a statewide accrediting organization recognized, prior to January 1, 1996, by the State Board of Education or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public and nonprofit private colleges and universities for the purpose of screening individuals who are offered or accept employment;

25. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment pursuant to § 37.1-197.2;

26. Executive directors of behavioral health authorities as defined in § 37.1-243 for the purpose of determining an individual's fitness for employment pursuant to § 37.1-197.2;

27. The Commissioner of the Department of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released;

28. Authorized officers or directors of agencies licensed pursuant to Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 by the Department of Mental Health, Mental Retardation and Substance Abuse Services for the purpose of determining if any applicant who accepts employment in any direct consumer care position has been convicted of a crime that affects their fitness to have responsibility for the safety and well-being of persons with mental illness, mental retardation and substance abuse pursuant to §§ 37.1-183.3 and 37.1-197.2;

29. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants for a motor carrier certificate or license subject to the provisions of Chapters 20 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

30. The chairmen of the Committees for Courts of Justice of the Senate or the House of Delegates for the purpose of determining if any person being considered for election to any judgeship has been convicted of a crime;

31. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1. Dissemination of criminal history record information to the agencies shall be limited to those positions generally described as directly responsible for the health, safety and welfare of the general populace or protection of critical infrastructures; and

32. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.

921 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
922 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

923 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
924 organizations pursuant to subdivision 15 of subsection A shall be limited to the convictions on file with
925 the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02 and 32.1-162.9:1.

926 F. Criminal history information provided to licensed assisted living facilities, licensed district homes
927 for adults, and licensed adult day-care centers pursuant to subdivision 16 of subsection A shall be
928 limited to the convictions on file with the Exchange for any offense specified in § 63.1-189.1 or
929 § 63.2-1720.

930 § 46.2-301. Driving while license, permit, or privilege to drive suspended or revoked.

931 A. In addition to any other penalty provided by this section, any motor vehicle administratively
932 impounded or immobilized under the provisions of § 46.2-301.1 may, in the discretion of the court, be
933 impounded or immobilized for an additional period of up to ~~ninety~~ 90 days upon conviction of an
934 offender for driving while his driver's license, learner's permit, or privilege to drive a motor vehicle has
935 been suspended or revoked for (i) a violation of §§ 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-266.2 or
936 § 46.2-341.24 or a substantially similar ordinance or law in any other jurisdiction or (ii) driving after
937 adjudication as an habitual offender, where such adjudication was based in whole or in part on an
938 alcohol-related offense, or where such person's license has been administratively suspended under the
939 provisions of § 46.2-391.2. However, if, at the time of the violation, the offender was driving a motor
940 vehicle owned by another person, the court shall have no jurisdiction over such motor vehicle but may
941 order the impoundment or immobilization of a motor vehicle owned solely by the offender at the time
942 of arrest. All costs of impoundment or immobilization, including removal or storage expenses, shall be
943 paid by the offender prior to the release of his motor vehicle.

944 B. Except as provided in §§ 46.2-304 and 46.2-357, no resident or nonresident (i) whose driver's
945 license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked or (ii) who
946 has been directed not to drive by any court, by the Commissioner, or by operation of law pursuant to
947 this title or (iii) who has been forbidden, as prescribed by law, by the Commissioner, the State
948 Corporation Commission, the Commonwealth Transportation Commissioner, any court, or the
949 Superintendent of State Police, to operate a motor vehicle in the Commonwealth shall thereafter drive
950 any motor vehicle or any self-propelled machinery or equipment on any highway in the Commonwealth
951 until the period of such suspension or revocation has terminated. A clerk's notice of suspension of
952 license for failure to pay fines or costs given in accordance with § 46.2-395 shall be sufficient notice for
953 the purpose of maintaining a conviction under this section. For the purposes of this section, the phrase
954 "motor vehicle or any self-propelled machinery or equipment" shall not include mopeds.

955 C. A first or second offense of violating this section shall constitute a Class 1 misdemeanor. A third
956 or subsequent offense shall constitute a Class 1 misdemeanor punishable by a minimum, mandatory term
957 of confinement in jail of ten days which shall not be suspended in whole or in part. However, the court
958 shall not be required to impose a minimum, mandatory term of confinement in any case where a motor
959 vehicle is operated in violation of this section in a situation of apparent extreme emergency which
960 requires such operation to save life or limb.

961 In addition, the court shall suspend the person's driver's license for the same period for which it had
962 been previously suspended or revoked when the person violated this section.

963 D. In the event the person has violated this section by driving during a period of suspension or
964 revocation which was not for a definite period of time, the court shall suspend the person's license,
965 permit or privilege to drive for an additional period not to exceed ninety days. Any additional
966 suspension ordered under the provisions of this section shall commence upon the expiration of the
967 previous suspension or revocation unless the previous suspension or revocation has expired prior to the
968 ordering of an additional suspension or revocation.

969 § 46.2-301.1. Administrative impoundment of motor vehicle for certain driving while license
970 suspended or revoked offenses; judicial impoundment upon conviction; penalty for permitting violation
971 with one's vehicle.

972 A. The motor vehicle being driven by any person (i) whose driver's license, learner's permit or
973 privilege to drive a motor vehicle has been suspended or revoked for a violation of § 18.2-51.4 or
974 driving while under the influence in violation of §§ 18.2-266, 18.2-266.2, 46.2-341.24 or a substantially
975 similar ordinance or law in any other jurisdiction, (ii) driving after adjudication as an habitual offender,
976 where such adjudication was based in whole or in part on an alcohol-related offense, or where such
977 person's license has been administratively suspended under the provisions of § 46.2-391.2, or (iii) driving
978 after such person's driver's license, learner's permit or privilege to drive a motor vehicle has been
979 suspended or revoked for unreasonable refusal of tests in violation of §§ 18.2-268.3, 46.2-341.26:3 or a
980 substantially similar ordinance or law in any other jurisdiction, shall be impounded or immobilized by
981 the arresting law-enforcement officer at the time the person is arrested for driving after his driver's
982 license, learner's permit or privilege to drive has been so revoked or suspended. The impoundment or

immobilization shall be for a period of ~~thirty~~ 30 days.

The arresting officer, acting on behalf of the Commonwealth, shall serve notice of the impoundment upon the arrested person. The notice shall include information on the person's right to petition for review of the impoundment pursuant to subsection B. A copy of the notice of impoundment shall be delivered to the magistrate and thereafter promptly forwarded to the clerk of the general district court of the jurisdiction where the arrest was made and to the Commissioner. Transmission of the notice may be by electronic means.

At least five days prior to the expiration of the period of impoundment imposed pursuant to this section or § 46.2-301, the clerk shall provide the offender with information on the location of the motor vehicle and how and when the vehicle will be released.

All reasonable costs of impoundment or immobilization, including removal and storage expenses, shall be paid by the offender prior to the release of his motor vehicle. Notwithstanding the above, where the arresting law-enforcement officer discovers that the vehicle was being rented or leased from a vehicle renting or leasing company, the officer shall not impound the vehicle or continue the impoundment but shall notify the rental or leasing company that the vehicle is available for pickup and shall notify the clerk and the Commissioner if they have previously been notified of the impoundment.

B. Any driver who is the owner of the motor vehicle that is impounded or immobilized under subsection A may, during the period of the impoundment, petition the general district court of the jurisdiction in which the arrest was made to review that impoundment. The court shall review the impoundment within the same time period as the court hears an appeal from an order denying bail or fixing terms of bail or terms of recognizance, giving this matter precedence over all other matters on its docket. If the person proves to the court by a preponderance of the evidence that the arresting law-enforcement officer did not have probable cause for the arrest, or that the magistrate did not have probable cause to issue the warrant, the court shall rescind the impoundment. Upon rescission, the motor vehicle shall be released and the Commonwealth shall pay or reimburse the person for all reasonable costs of impoundment or immobilization, including removal or storage costs paid or incurred by him. Otherwise, the court shall affirm the impoundment. If the person requesting the review fails to appear without just cause, his right to review shall be waived.

The court's findings are without prejudice to the person contesting the impoundment or to any other potential party as to any proceedings, civil or criminal, and shall not be evidence in any proceedings, civil or criminal.

C. The owner or co-owner of any motor vehicle impounded or immobilized under subsection A who was not the driver at the time of the violation, may petition the general district court in the jurisdiction where the violation occurred for the release of his motor vehicle. The motor vehicle shall be released if the owner or co-owner proves by a preponderance of the evidence that he (i) did not know that the offender's driver's license was suspended or revoked when he authorized the offender to drive such motor vehicle or (ii) did not consent to the operation of the motor vehicle by the offender. If the owner proves by a preponderance of the evidence that his immediate family has only one motor vehicle and will suffer a substantial hardship if that motor vehicle is impounded or immobilized for ~~thirty~~ 30 days, the court, in its discretion, may release the vehicle after some period of less than ~~thirty~~ 30 days.

D. Notwithstanding any provision of this section, a subsequent dismissal or acquittal of the charge of driving on a suspended or revoked license shall result in an immediate rescission of the impoundment or immobilization provided in subsection A. Upon rescission, the motor vehicle shall be released and the Commonwealth shall pay or reimburse the person for all reasonable costs of impoundment or immobilization, including removal or storage costs, incurred or paid by him.

E. Any person who knowingly authorizes the operation of a motor vehicle by a person he knows has had his driver's license, learner's permit or privilege to drive a motor vehicle suspended or revoked for any of the reasons set forth in subsection A, shall be guilty of a Class 1 misdemeanor.

F. Notwithstanding the provisions of this section or § 46.2-301, nothing in this section shall impede or infringe upon a valid lienholder's rights to cure a default under an existing security agreement. Furthermore, such lienholder shall not be liable for any cost of impoundment or immobilization, including removal or storage expenses which may accrue pursuant to the provisions of this section or § 46.2-301. In the event a lienholder repossesses or removes a vehicle from storage pursuant to an existing security agreement, the Commonwealth shall pay all reasonable costs of impoundment or immobilization, including removal and storage expenses, to any person or entity providing such services to the Commonwealth, except to the extent such costs or expenses have already been paid by the offender to such person or entity. Such payment shall be made within seven calendar days after a request is made by such person or entity to the Commonwealth for payment. Nothing herein, however, shall relieve the offender from liability to the Commonwealth for reimbursement or payment of all such reasonable costs and expenses.

§ 46.2-316. Persons convicted or found not innocent of certain offenses; requirement of proof of

1044 financial responsibility for certain offenses.

1045 A. The Department shall not issue a driver's license or learner's permit to any resident or nonresident
1046 person while his license or other privilege to drive is suspended or revoked because of his conviction, or
1047 finding of not innocent in the case of a juvenile, or forfeiture of bail upon the following charges of
1048 offenses committed in violation of either a law of the Commonwealth or a valid local ordinance or of
1049 any federal law or law of any other state or any valid local ordinance of any other state:

1050 1. Voluntary or involuntary manslaughter resulting from the operation of a motor vehicle.

1051 2. Perjury, the making of a false affidavit to the Department under any law requiring the registration
1052 of motor vehicles or regulating their operation on the highways, or the making of a false statement in
1053 any application for a driver's license.

1054 3. Any crime punishable as a felony under the motor vehicle laws or any felony in the commission
1055 of which a motor vehicle is used.

1056 4. Violation of the provisions of § 18.2-51.4, pertaining to maiming while under the influence,
1057 § 18.2-266, or § 18.2-266.2, pertaining to driving while under the influence of intoxicants or drugs, or of
1058 § 18.2-272, pertaining to driving while the driver's license has been forfeited for a conviction, or finding
1059 of not innocent in the case of a juvenile, under §§ 18.2-51.4, 18.2-266, 18.2-266.2 or § 18.2-272, or for
1060 violation of the provisions of any federal law or law of any other state or any valid local ordinance
1061 similar to §§ 18.2-51.4, 18.2-266, 18.2-266.2 or § 18.2-272.

1062 5. Failure of a driver of a motor vehicle, involved in an accident resulting in death or injury to
1063 another person, to stop and disclose his identity at the scene of the accident.

1064 6. On a charge of operating or permitting the operation, for the second time, of a passenger
1065 automobile for the transportation of passengers for rent or for hire, without having first obtained a
1066 license for the privilege as provided in § 46.2-694.

1067 B. The Department shall not issue a driver's license or learner's permit to any person convicted of a
1068 crime mentioned in subsection A of this section for a further period of three years after he otherwise
1069 becomes entitled to a license or permit until he proves to the Commissioner his ability to respond in
1070 damages as provided in Article 15 (§ 46.2-435 et seq.) of Chapter 3 of this title or any other law of the
1071 Commonwealth requiring proof of financial responsibility.

1072 § 46.2-384. Law-enforcement officers arresting drivers for certain offenses to request abstracts or
1073 transcripts of drivers' conviction records.

1074 Every law-enforcement officer who has arrested any person for (i) driving while under the influence
1075 of intoxicants or drugs in violation of § 18.2-51.4 or § 18.2-266 or a parallel local ordinance,
1076 § 18.2-266.2, or § 46.2-341.24, (ii) reckless driving in violation of §§ 46.2-852 through 46.2-865 or a
1077 parallel local ordinance, (iii) failure to stop at the scene of an accident in violation of §§ 46.2-894
1078 through 46.2-899 or a parallel local ordinance or (iv) driving without a license or while his license has
1079 been suspended or revoked in violation of § 18.2-51.4 or § 18.2-272, or §§ 46.2-300 through 46.2-302 or
1080 a parallel local ordinance or while he is disqualified in violation of § 46.2-341.21 of the Commercial
1081 Vehicle Driver's License Act (§ 46.2-341.1 et seq.), shall request from the Department an abstract or
1082 transcript of the person's driver's conviction record on file at the Department. The Department shall
1083 furnish the abstract or transcript to the attorney for the Commonwealth of the jurisdiction in which the
1084 case will be heard, to be held available for the court in which the person is to be tried for the violation
1085 or charge. However, the failure of the attorney for the Commonwealth to receive the abstract or
1086 transcript in any case shall not constitute grounds for the granting of a continuance of such case. In any
1087 such prosecution wherein a necessary element of the offense charged is that the defendant was
1088 previously convicted of the same or similar offense, a copy, certified as provided in § 46.2-215, of (1)
1089 the abstract of the relevant prior conviction, certified as provided in § 46.2-386, or (2) that portion of
1090 the transcript relating to the relevant prior conviction, shall be prima facie evidence of the facts stated
1091 therein with respect to the prior offense.

1092 § 46.2-389. Required revocation for one year upon conviction or finding of guilty of certain offenses;
1093 exceptions.

1094 A. The Commissioner shall forthwith revoke, and not thereafter reissue for a period of time specified
1095 in subsection B, except as provided in § 18.2-271 or § 18.2-271.1, the driver's license of any resident or
1096 nonresident on receiving a record of his conviction or a record of his having been found guilty in the
1097 case of a juvenile of any of the following crimes, committed in violation of a state law or a valid
1098 county, city, or town ordinance or law of the United States, or a law of any other state, substantially
1099 paralleling and substantially conforming to a like state law and to all changes and amendments of it:

1100 1. Voluntary or involuntary manslaughter resulting from the driving of a motor vehicle;

1101 2. Violation of §§ 18.2-266, 18.2-266.2 or § 18.2-272, or subsection A of § 46.2-341.24 or violation
1102 of a substantially similar local ordinance;

1103 3. Perjury or the making of a false affidavit to the Department under this chapter or any other law of
1104 the Commonwealth requiring the registration of motor vehicles or regulating their operation on the
1105 highways;

4. The making of a false statement to the Department on any application for a driver's license;
 5. Any crime punishable as a felony under the motor vehicle laws of the Commonwealth or any other felony in the commission of which a motor vehicle is used;

6. Failure to stop and disclose his identity at the scene of the accident, on the part of a driver of a motor vehicle involved in an accident resulting in the death of or injury to another person; or

7. Violation of § 18.2-36.1 or § 18.2-51.4.

B. Upon conviction of an offense set forth in subsection A, the person's driver's license shall be revoked for one year; however, for a violation of subdivision A 1 or A 7, the driver's license shall be revoked as provided in subsection B of § 46.2-391. However, in no such event shall the Commissioner reinstate the driver's license of any person convicted of a violation of § 18.2-266, 18.2-266.2, or of a substantially similar valid local ordinance or law of another jurisdiction, until receipt of notification that such person has successfully completed an alcohol safety action program if such person was required by a court to do so unless the requirement for completion of the program has been waived by the court for good cause shown.

§ 46.2-391.2. Administrative suspension of license or privilege to operate a motor vehicle.

A. If a breath test is taken pursuant to § 18.2-268.2 or any similar ordinance of any county, city or town and (i) the results show a blood alcohol content of 0.08 percent or more by weight by volume or 0.08 grams or more per 210 liters of breath, or (ii) the results, for persons under 21 years of age, show a blood alcohol concentration of 0.02 percent or more by weight by volume or 0.02 grams or more per 210 liters of breath. *or (iii) the results, for persons subject to § 18.2-266.2, show a blood alcohol concentration of 0.02 percent or more by weight by volume or 0.02 grams or more per 210 liters of breath* or ~~(iii)~~ (iv) the person refuses to submit to the breath test in violation of § 18.2-268.3 or any similar local ordinance, and upon issuance of a petition or summons, or upon issuance of a warrant by the magistrate, for a violation of §§ 18.2-51.4, 18.2-266, ~~or § 18.2-266.1~~ *or § 18.2-266.2*, or any substantially similar local ordinance, or upon the issuance of a warrant or summons by the magistrate or by the arresting officer at a medical facility for a violation of § 18.2-268.3, or any similar local ordinance, the person's license shall be suspended immediately for seven days or in the case of (i) an unlicensed person, (ii) a person whose license is otherwise suspended or revoked, or (iii) a person whose driver's license is from a jurisdiction other than the Commonwealth, such person's privilege to operate a motor vehicle in the Commonwealth shall be suspended immediately for seven days.

A law-enforcement officer, acting on behalf of the Commonwealth, shall serve a notice of suspension personally on the arrested person. When notice is served, the arresting officer shall promptly take possession of any driver's license held by the person and issued by the Commonwealth and shall promptly deliver it to the magistrate. Any driver's license taken into possession under this section shall be forwarded promptly by the magistrate to the clerk of the general district court or, as appropriate, the court with jurisdiction over juveniles of the jurisdiction in which the arrest was made together with any petition, summons or warrant, the results of the breath test, if any, and the report required by subsection B. A copy of the notice of suspension shall be forwarded forthwith to both (a) the general district court or, as appropriate, the court with jurisdiction over juveniles of the jurisdiction in which the arrest was made and (b) the Commissioner. Transmission of this information may be made by electronic means.

The clerk shall promptly return the suspended license to the person at the expiration of the seven-day suspension. Whenever a suspended license is to be returned under this section or § 46.2-391.4, the person may elect to have the license returned in person at the clerk's office or by mail to the address on the person's license or to such other address as he may request.

B. Promptly after arrest and service of the notice of suspension, the arresting officer shall forward to the magistrate a sworn report of the arrest that shall include (i) information which adequately identifies the person arrested and (ii) a statement setting forth the arresting officer's grounds for belief that the person violated §§ 18.2-51.4, 18.2-266, ~~or § 18.2-266.1~~ *or § 18.2-266.2*, or a similar local ordinance or refused to submit to a breath test in violation of § 18.2-268.3 or a similar local ordinance. The report required by this subsection shall be submitted on forms supplied by the Supreme Court.

C. Any person whose license or privilege to operate a motor vehicle has been suspended under subsection A may, during the period of the suspension, request the general district court or, as appropriate, the court with jurisdiction over juveniles of the jurisdiction in which the arrest was made to review that suspension. The court shall review the suspension within the same time period as the court hears an appeal from an order denying bail or fixing terms of bail or terms of recognizance, giving this matter precedence over all other matters on its docket. If the person proves to the court by a preponderance of the evidence that the arresting officer did not have probable cause for the arrest, that the magistrate did not have probable cause to issue the warrant, or that there was not probable cause for issuance of the petition, the court shall rescind the suspension, and the clerk of the court shall forthwith (i) return the suspended license, if any, to the person unless the license has been otherwise suspended or revoked, (ii) deliver to the person a notice that the suspension under § 46.2-391.2 has been rescinded,

and (iii) forward to the Commissioner a copy of the notice that the suspension under § 46.2-391.2 has been rescinded. Otherwise, the court shall affirm the suspension. If the person requesting the review fails to appear without just cause, his right to review shall be waived.

The court's findings are without prejudice to the person contesting the suspension or to any other potential party as to any proceedings, civil or criminal, and shall not be evidence in any proceedings, civil or criminal.

D. If a person whose license or privilege to operate a motor vehicle is suspended under subsection A is convicted under §§ 18.2-51.4, 18.2-266, ~~or § 18.2-266.1~~ or § 18.2-266.2, or any similar local ordinance during the seven-day suspension imposed by subsection A, and if the court decides to issue the person a restricted permit under subsection E of § 18.2-271.1, such restricted permit shall not be issued to the person before the expiration of the seven-day suspension imposed under subsection A.

§ 46.2-391.4. When suspension to be rescinded.

Notwithstanding any other provision of § 46.2-391.2, a subsequent dismissal or acquittal of all the charges under §§ 18.2-51.4, 18.2-266, 18.2-266.2 and 18.2-268.3 or any similar local ordinances, for the same offense for which a person's driver's license or privilege to operate a motor vehicle was suspended under § 46.2-391.2 shall result in the immediate rescission of the suspension. In any such case, the clerk of the court shall forthwith (i) return the suspended license, if any, to the person unless the license has been otherwise suspended or revoked, (ii) deliver to the person a notice that the suspension under § 46.2-391.2 has been rescinded and (iii) forward to the Commissioner a copy of the notice that the suspension under § 46.2-391.2 has been rescinded.

§ 46.2-395. Suspension of license for failure or refusal to pay fines or costs.

A. Any person, whether licensed by Virginia or not, who drives a motor vehicle on the highways in the Commonwealth shall thereby, as a condition of such driving, consent to pay all lawful fines, court costs, forfeitures, restitution, and penalties assessed against him for violations of the laws of the Commonwealth; of any county, city, or town; or of the United States. For the purpose of this section, such fines and costs shall be deemed to include any fee assessed by the court under the provisions of § 18.2-271.1 for entry by a person convicted of a violation of §§ 18.2-51.4 ~~or §~~ 18.2-266 or § 18.2-266.2 into an alcohol safety action program.

B. In addition to any penalty provided by law, when any person is convicted of any violation of the law of the Commonwealth or of the United States or of any valid local ordinance and fails or refuses to provide for immediate payment in full of any fine, costs, forfeitures, restitution, or penalty lawfully assessed against him, or fails to make deferred payments or installment payments as ordered by the court, the court shall forthwith suspend the person's privilege to drive a motor vehicle on the highways in the Commonwealth. The driver's license of the person shall continue suspended until the fine, costs, forfeiture, restitution, or penalty has been paid in full. However, if the defendant, after having his license suspended, pays the reinstatement fee to the Department of Motor Vehicles and enters into an agreement under § 19.2-354 that is acceptable to the court to make deferred payments or installment payments of unpaid fines, costs, forfeitures, restitution, or penalties as ordered by the court, the defendant's driver's license shall thereby be restored. If the person has not obtained a license as provided in this chapter, or is a nonresident, the court may direct in the judgment of conviction that the person shall not drive any motor vehicle in Virginia for a period to coincide with the nonpayment of the amounts due.

C. Before transmitting to the Commissioner a record of the person's failure or refusal to pay all or part of any fine, costs, forfeiture, restitution, or penalty or a failure to comply with an order issued pursuant to § 19.2-354, the clerk of the court that convicted the person shall provide or cause to be sent to the person written notice of the suspension of his license or privilege to drive a motor vehicle in Virginia, effective 15 days from the date of conviction, if the fine, costs, forfeiture, restitution, or penalty is not paid prior to the effective date of the suspension as stated on the notice. Notice shall be provided to the person at the time of trial or shall be mailed by first-class mail to the address certified on the summons or bail recognizance document as the person's current mailing address, or to such mailing address as the person has subsequently provided to the court as a change of address. If so mailed on the date of conviction or within five business days thereof, or if delivered to the person at the time of trial, such notice shall be adequate notice of the license suspension and of the person's ability to avoid suspension by paying the fine, costs, forfeiture, restitution, or penalty prior to the effective date. No other notice shall be required to make the suspension effective. A record of the person's failure or refusal and of the license suspension shall be sent to the Commissioner if the fine, costs, forfeiture, restitution, or penalty remains unpaid on the effective date of the suspension specified in the notice or on the failure to make a scheduled payment.

C1. Whenever a person provides for payment of a fine, costs, forfeiture, restitution or penalty other than by cash and such provision for payment fails, the clerk of the court that convicted the person shall cause to be sent to the person written notice of the failure and of the suspension of his license or privilege to drive in Virginia. The license suspension shall be effective 10 days from the date of the notice. The notice shall be effective notice of the suspension and of the person's ability to avoid the

suspension by paying the full amount owed by cash, cashier's check or certified check prior to the effective date of the suspension if the notice is mailed by first class mail to the address provided by the person to the court pursuant to subsection C or § 19.2-354. Upon such a failure of payment and notice, the fine, costs, forfeiture, restitution or penalty due shall be paid only in cash, cashier's check or certified check, unless otherwise ordered by the court, for good cause shown.

D. If the person pays the amounts assessed against him subsequent to the time the suspended license has been transmitted to the Department, and his license is not under suspension or revocation for any other lawful reason, except pursuant to this section, then the Commissioner shall return the license to the person on presentation of the official report of the court evidencing the payment of the fine, costs, forfeiture, restitution, or penalty.

E. If the court has suspended or revoked the driver's license for any lawful reason other than this section, or the conviction is one for which revocation or suspension is required under any provision of this title, except for this section, then the suspension permitted under this section shall be in addition to, and run consecutively with, the revocation or suspension. The period of suspension shall be calculated from the date of the assessment of the fine, costs, forfeiture, restitution, or penalty until the date it has been paid.

§ 46.2-411. Reinstatement of suspended or revoked license or other privilege to operate or register a motor vehicle; proof of financial responsibility; reinstatement fee.

The Commissioner may refuse, after a hearing if demanded, to issue to any person whose license has been suspended or revoked any new or renewal license, or to register any motor vehicle in the name of the person, whenever he deems or in case of a hearing finds it necessary for the safety of the public on the highways in the Commonwealth.

Before granting or restoring a license or registration to any person whose driver's license or other privilege to drive motor vehicles or privilege to register a motor vehicle has been revoked or suspended pursuant to §§ 46.2-389, 46.2-391, 46.2-391.1 or § 46.2-417, the Commissioner shall require proof of financial responsibility in the future as provided in Article 15 (§ 46.2-435 et seq.) of this chapter, but no person shall be licensed who may not be licensed under the provisions of §§ 46.2-389 through 46.2-431.

Whenever the driver's license or registration cards, license plates and decals, or other privilege to drive or to register motor vehicles of any resident or nonresident person is suspended or revoked by the Commissioner or by a district court or circuit court pursuant to the provisions of Title 18.2 or this title, or any valid local ordinance, the order of suspension or revocation shall remain in effect and the driver's license, registration cards, license plates and decals, or other privilege to drive or register motor vehicles shall not be reinstated and no new driver's license, registration cards, license plates and decals, or other privilege to drive or register motor vehicles shall be issued or granted unless such person, in addition to complying with all other provisions of law, pays to the Commissioner a reinstatement fee of thirty dollars. The reinstatement fee shall be increased by ~~thirty dollars~~ \$30 whenever such suspension or revocation results from conviction of involuntary manslaughter in violation of § 18.2-36.1; conviction of maiming resulting from driving while intoxicated in violation of § 18.2-51.4; conviction of driving while intoxicated in violation of § 18.2-266 or § 46.2-341.24; conviction of driving after illegally consuming alcohol in violation of § 18.2-266.1, *driving in violation of § 18.2-266.2* or failure to comply with court imposed conditions pursuant to subsection D of § 18.2-271.1; unreasonable refusal to submit to drug or alcohol testing in violation of § 18.2-268.2; conviction of driving while a license, permit or privilege to drive was suspended or revoked in violation of § 46.2-301 or § 46.2-341.21; disqualification pursuant to § 46.2-341.20; violation of driver's license probation pursuant to § 46.2-499; failure to attend a driver improvement clinic pursuant to § 46.2-503 or habitual offender interventions pursuant to former § 46.2-351.1; conviction of eluding police in violation of § 46.2-817; conviction of hit and run in violation of § 46.2-894; conviction of reckless driving in violation of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 or a conviction, finding or adjudication under any similar local ordinance, federal law or law of any other state. Five dollars of the additional amount shall be retained by the Department as provided in this section and ~~twenty-five dollars~~ \$25 shall be transferred to the Commonwealth Neurotrauma Initiative Trust Fund established pursuant to Chapter 3.1 (§ 51.5-12.1 et seq.) of Title 51.5. When three years have elapsed from the termination date of the order of suspension or revocation and the person has complied with all other provisions of law, the Commissioner may relieve him of paying the reinstatement fee.

No reinstatement fee shall be required when the suspension or revocation of license results from the person's suffering from mental or physical infirmities or disabilities from natural causes not related to the use of self-administered intoxicants or drugs. No reinstatement fee shall be collected from any person whose license is suspended by a court of competent jurisdiction for any reason, other than a cause for mandatory suspension as provided in this title, provided the court ordering the suspension is not required by § 46.2-398 to forward the license to the Department during the suspended period.

Except as otherwise provided in this section and § 18.2-271.1, reinstatement fees collected under the

1290 provisions of this section shall be paid by the Commissioner into the state treasury and shall be set aside
1291 as a special fund to be used to meet the expenses of the Department.

1292 § 46.2-411.1. Reinstatement of driver's license suspended or revoked for a conviction of driving
1293 while intoxicated.

1294 A. Before restoring a driver's license to any person (i) whose license to drive a motor vehicle has
1295 been suspended or revoked as a result of a conviction for driving while intoxicated in violation of
1296 § 18.2-266, or of any substantially similar valid local ordinance or law of another jurisdiction, , *a*
1297 *violation of § 18.2-266.2* or of subsection A of § 46.2-341.24 and (ii) who has been required by a court
1298 order to successfully complete an alcohol safety action program pursuant to § 18.2-271.1 because of that
1299 conviction, the Commissioner shall require written confirmation that the person has successfully
1300 completed such program unless the requirement for completion of the program has been waived by the
1301 court for good cause shown.

1302 B. Any person who drives a motor vehicle in the Commonwealth after the period of license
1303 suspension has expired and after all requirements for reinstatement have been satisfied except for
1304 successful completion of such program shall be guilty of a violation of § 46.2-300.