

# VIRGINIA ACTS OF ASSEMBLY -- 2014 SESSION

## CHAPTER 566

*An Act to amend and reenact § 24.2-233 of the Code of Virginia, relating to elected and certain appointed officers; misdemeanor sexual offenses as a basis for removal.*

[H 451]

Approved April 4, 2014

**Be it enacted by the General Assembly of Virginia:**

**1. That § 24.2-233 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-233. Removal of elected and certain appointed officers by courts.**

Upon petition, a circuit court may remove from office any elected officer or officer who has been appointed to fill an elective office, residing within the jurisdiction of the court:

1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the conduct of the office, or

2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving the:

a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or distribute a controlled substance, marijuana, or synthetic cannabinoids as defined in § 18.2-248.1:1, or

b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug paraphernalia, or

c. Possession of any controlled substance, marijuana, or synthetic cannabinoids as defined in § 18.2-248.1:1, and such conviction under a, b, or c has a material adverse effect upon the conduct of such office, or

3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a "hate crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the conduct of such office, or

4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to expose himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the conduct of such office.

The petition must be signed by a number of registered voters who reside within the jurisdiction of the officer equal to ten percent of the total number of votes cast at the last election for the office that the officer holds.

Any person removed from office under the provisions of subdivision 2 or 3, or 4 may not be subsequently subject to the provisions of this section for the same criminal offense.