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HOUSE BILL NO. 414

Offered January 10, 2018

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A *BILL to amend and reenact §§ 6.2-1526, 6.2-1527, 11-8, 13.1-435, 20-88.59, 20-89.1, 20-91, 20-97, 20-106, 20-146.31, 32.1-69.1, 32.1-127, 32.1-134.01, 32.1-257, 32.1-258.1, 32.1-271, 37.2-714, 38.2-302, 38.2-2204, 38.2-2212, 59.1-332, 63.2-510, 63.2-1519, 64.2-200, 64.2-905, 64.2-2401, 65.2-512, and 65.2-515 of the Code of Virginia and to repeal §§ 20-45.2 and 20-45.3 of the Code of Virginia, relating to same-sex marriage; marriage laws; gender-neutral terms.*

Patron—Simon

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 6.2-1526, 6.2-1527, 11-8, 13.1-435, 20-88.59, 20-89.1, 20-91, 20-97, 20-106, 20-146.31, 32.1-69.1, 32.1-127, 32.1-134.01, 32.1-257, 32.1-258.1, 32.1-271, 37.2-714, 38.2-302, 38.2-2204, 38.2-2212, 59.1-332, 63.2-510, 63.2-1519, 64.2-200, 64.2-905, 64.2-2401, 65.2-512, and 65.2-515 of the Code of Virginia are amended and reenacted as follows:

§ 6.2-1526. Wage assignments.

A. A valid assignment or order for the payment of future salary, wages, commissions, or other compensation for services may be given as security for a loan made by any licensee, notwithstanding the provisions of any other law to the contrary.

B. No assignment of, or order for payment of, any salary, wages, commissions, or other compensation for services, earned or to be earned, given to secure any loan made by any licensee shall be valid unless:

1. The amount of the loan is paid to the borrower simultaneously with its execution; and

2. The assignment or order is in writing, signed in person by the borrower, and not by an attorney, or if the borrower is married unless it is signed in person by both ~~husband and wife~~ spouses, and not by an attorney. Written assent of a spouse shall not be required when ~~husband and wife~~ the spouses have been living separate and apart for a period of at least five months prior to the giving of the assignment or order. The provisions of this section are in addition to, and not in derogation of, the general statutes pertaining to the subject.

C. Under the assignment or order, an amount equal to not more than 10 percent of the borrower's salary, wages, commissions, or other compensation for services shall be collectible from the employer of the borrower by the licensee at the time of each payment to the borrower of the salary, wages, commission, or other compensation for services, from the time that a copy of the assignment, verified by the oath of the licensee or his agent, together with a similarly verified statement of the amount unpaid upon the loan and a printed copy of this section, is served upon the employer.

§ 6.2-1527. Liens on household furniture.

No chattel mortgage or other lien on household furniture then in the possession and use of the borrower given to secure any loan made by a licensee shall be valid unless it is in writing, signed in person by the borrower, and not by an attorney, or if the borrower is married unless it is signed in person by both ~~husband and wife~~ spouses, and not by an attorney. Written assent of a spouse shall not be required when a ~~husband and wife~~ the spouses have been living separate and apart for a period of at least five months prior to the giving of the mortgage or lien.

§ 11-8. Instruments executed by minors or surviving spouses to obtain benefits under certain federal legislation.

Any person under the age of ~~eighteen~~ 18 or ~~widow~~ surviving spouse who has not remarried who is eligible for a guaranty of credit under the provisions of Title III of an Act of Congress of the United States approved June 22, 1944, entitled the "Servicemen's Readjustment Act of 1944," as now or hereafter amended, or other like federal law, shall be upon complying with the terms of this section, qualified to contract for and purchase any real or personal property with respect to which the guaranteed loan is to be made, to execute the note or other evidence of the loan indebtedness and to secure the debt by the execution of a deed of trust or chattel mortgage, or other instrument, upon the real or personal property acquired as aforesaid in connection with the proposed loan or theretofore acquired by such person, whether by purchase or otherwise, and such person shall, in all respects, be bound by such contracts or other instruments entered into as though he or she were of full age.

When any such person is under the age of ~~eighteen~~ 18 years no contract, note, deed of trust, mortgage or other instrument required to obtain benefits under such federal legislation shall be executed

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59 by such person unless the circuit or corporation court of the city or county, or judge thereof in vacation,
60 in which the property is located or to be used, after a petition signed by any such person shall have
61 been filed with it or him, approve the same. Such petition shall set forth the facts pertaining to the
62 proposed transaction and shall state why the judge or court should approve and authorize the execution
63 of the necessary instruments.

64 The petition shall be heard by the court without a jury and its decision thereon shall be final. A
65 guardian ad litem shall be appointed who shall make an investigation and report in writing whether in
66 his opinion the best interest of the petitioner would be served by permitting the petitioner to enter into
67 such transaction and the report shall be filed with the papers in the case. No such petition shall be
68 approved by the court unless such approval is recommended by the report of the guardian ad litem and
69 unless it is also recommended by the testimony of at least two disinterested and qualified witnesses
70 appointed by the court, or the judge thereof in vacation. The order of approval shall recite the
71 recommendation of the guardian ad litem and the witnesses and also their names and addresses. And the
72 judge of the court hearing the case shall fix a reasonable fee for the attorneys and guardians ad litem.

73 The court, if of opinion that entry into such transaction would benefit the petitioner, shall approve
74 the prayer of the petition and the petitioner, if he enter into such transaction and execute any instrument
75 required therein, shall be bound thereby as if of full age whether all or part of the obligation secured be
76 so guaranteed.

77 All rights which have accrued or obligations which have arisen under this section prior to January
78 30, 1947, are hereby declared valid and binding.

79 If the court approve the prayer of the petition such approval shall operate to vest title and confer the
80 power to encumber or convey title to real or personal property acquired pursuant to such approval.

81 Any infant spouse of an infant veteran permitted by the court to make loans under this section may
82 unite in any conveyance to effectuate such a loan as if he or she was a spouse of an adult signing as
83 provided under the provisions of § 55-42, relating to the removal of disability of infancy in certain
84 cases.

85 **§ 13.1-435. Corporate securities registered in joint names with right of survivorship.**

86 Whenever a security issued by a corporation organized under the laws of this Commonwealth shall
87 be registered in the names of two or more persons as joint tenants with right of survivorship or in the
88 names of a ~~man and a woman~~ *persons married to each other* as tenants by the entireties with right of
89 survivorship and one of such persons dies, such corporation and any transfer agent of such corporation
90 shall, upon receipt of evidence of death, be entitled to treat the survivor or survivors as the owner or
91 owners of such security for all purposes and to cause such security to be registered in the name of such
92 survivor or survivors regardless of any claim of right through the decedent or by his personal
93 representative, unless such registration shall be enjoined prior to its effectuation by a court of competent
94 jurisdiction.

95 **§ 20-88.59. Special rules of evidence and procedure.**

96 A. The physical presence of a nonresident party who is an individual in a tribunal of the
97 Commonwealth is not required for the establishment, enforcement, or modification of a support order or
98 the rendition of a judgment determining parentage of a child.

99 B. An affidavit, a document substantially complying with federally mandated forms, or a document
100 incorporated by reference in any of them that would not be excluded under the hearsay rule if given in
101 person is admissible in evidence if given under penalty of perjury by a party or witness residing outside
102 the Commonwealth.

103 C. A copy of the record of child support payments certified as a true copy of the original by the
104 custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts
105 asserted in it and is admissible to show whether payments were made.

106 D. Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of
107 the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in
108 evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and
109 customary.

110 E. Documentary evidence transmitted from outside the Commonwealth to a tribunal of the
111 Commonwealth by telephone, telecopier, or other electronic means that does not provide an original
112 record may not be excluded from evidence upon an objection based on the means of transmission.

113 F. In a proceeding under this chapter, a tribunal of the Commonwealth shall permit a party or
114 witness residing outside the Commonwealth to be deposed or to testify under penalty of perjury by
115 telephone, audiovisual means, or other electronic means at a designated tribunal or other location. A
116 tribunal of the Commonwealth shall cooperate with other tribunals in designating an appropriate location
117 for the deposition or testimony.

118 G. If a party called to testify at a civil hearing refuses to answer on the ground that the testimony
119 may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

120 H. A privilege against disclosure of communication between spouses does not apply in a proceeding

under this chapter.

I. The defense of immunity based on the relationship of husband and wife between spouses or of parent and child does not apply in a proceeding under this chapter.

J. A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

§ 20-89.1. Suit to annul marriage.

A. When a marriage is alleged to be void or voidable for any of the causes mentioned in § 20-13, 20-38.1, or 20-45.1 or by virtue of fraud or duress, either party may institute a suit for annulling the same; and upon proof of the nullity of the marriage, it shall be decreed void by a decree of annulment.

B. In the case of natural or incurable impotency of body existing at the time of entering into the marriage contract, or when, prior to the marriage, either party, without the knowledge of the other, had been convicted of a felony, or when, at the time of the marriage, ~~the wife~~ *either spouse*, without the knowledge of the ~~husband~~ *other spouse*, was with child by ~~some~~ *a* person other than the ~~husband~~, ~~or where the husband, without knowledge of the wife, other spouse or had fathered~~ *conceived* a child born to a ~~woman~~ *person* other than the ~~wife~~ *other spouse* within 10 months after the date of the solemnization of the marriage, or where, prior to the marriage, either party had been, without the knowledge of the other, a prostitute, a decree of annulment may be entered upon proof, on complaint of the party aggrieved.

C. No annulment for a marriage alleged to be void or voidable under subsection B of § 20-45.1 or subsection B of this section or by virtue of fraud or duress shall be decreed if it appears that the party applying for such annulment has cohabited with the other after knowledge of the facts giving rise to what otherwise would have been grounds for annulment, and in no event shall any such decree be entered if the parties had been married for a period of two years prior to the institution of such suit for annulment.

D. A party who, at the time of such marriage as is mentioned in § 20-48, was capable of consenting with a party not so capable shall not be permitted to institute a suit for the purpose of annulling such marriage.

§ 20-91. Grounds for divorce from bond of matrimony; contents of decree.

A. A divorce from the bond of matrimony may be decreed:

(1) For adultery; or for sodomy or buggery committed outside the marriage;

(2) [Repealed.]

(3) Where either of the parties subsequent to the marriage has been convicted of a felony, sentenced to confinement for more than one year and confined for such felony subsequent to such conviction, and cohabitation has not been resumed after knowledge of such confinement (in which case no pardon granted to the party so sentenced shall restore such party to his ~~or her~~ conjugal rights);

(4), (5) [Repealed.]

(6) Where either party has been guilty of cruelty, caused reasonable apprehension of bodily hurt, or willfully deserted or abandoned the other, such divorce may be decreed to the innocent party after a period of one year from the date of such act; or

(7), (8) [Repealed.]

(9) (a) On the application of either party if and when ~~the husband and wife~~ *they* have lived separate and apart without any cohabitation and without interruption for one year. In any case where the parties have entered into a separation agreement and there are no minor children either born of the parties, born of either party and adopted by the other or adopted by both parties, a divorce may be decreed on application if and when ~~the husband and wife~~ *they* have lived separately and apart without cohabitation and without interruption for six months. A plea of res adjudicata or of recrimination with respect to any other provision of this section shall not be a bar to either party obtaining a divorce on this ground; nor shall it be a bar that either party has been adjudged insane, either before or after such separation has commenced, but at the expiration of one year or six months, whichever is applicable, from the commencement of such separation, the grounds for divorce shall be deemed to be complete, and the committee of the insane defendant, if there be one, shall be made a party to the cause, or if there be no committee, then the court shall appoint a guardian ad litem to represent the insane defendant.

(b) This subdivision (9) shall apply whether the separation commenced prior to its enactment or shall commence thereafter. Where otherwise valid, any decree of divorce hereinbefore entered by any court having equity jurisdiction pursuant to this subdivision (9), not appealed to the Supreme Court of Virginia, is hereby declared valid according to the terms of said decree notwithstanding the insanity of a party thereto.

(c) A decree of divorce granted pursuant to this subdivision (9) shall in no way lessen any obligation any party may otherwise have to support the spouse unless such party shall prove that there exists in the favor of such party some other ground of divorce under this section or § 20-95.

B. A decree of divorce shall include each party's social security number, or other control number

182 issued by the Department of Motor Vehicles pursuant to § 46.2-342.

183 **§ 20-97. Domicile and residential requirements for suits for annulment, affirmance, or divorce.**

184 No suit for annulling a marriage or for divorce shall be maintainable, unless one of the parties was at
185 the time of the filing of the suit and had been for at least six months preceding the filing of the suit an
186 actual bona fide resident and domiciliary of this Commonwealth, nor shall any suit for affirming a
187 marriage be maintainable, unless one of the parties be domiciled in, and is and has been an actual bona
188 fide resident of, this Commonwealth at the time of filing such suit.

189 For the purposes of this section only:

190 1. If a member of the armed forces of the United States has been stationed or resided in this
191 Commonwealth and has lived for a period of six months or more in this Commonwealth next preceding
192 the filing of the suit, then such person shall be presumed to be domiciled in and to have been a bona
193 fide resident of this Commonwealth during such period of time.

194 2. Being stationed or residing in the Commonwealth includes, but is not limited to, a member of the
195 armed forces being stationed or residing upon a ship having its home port in this Commonwealth or at
196 an air, naval, or military base located within this Commonwealth over which the United States enjoys
197 exclusive federal jurisdiction.

198 3. Any member of the armed forces of the United States or any civilian employee of the United
199 States, including any foreign service officer, who (i) at the time the suit is filed is, or immediately
200 preceding such suit was, stationed in any territory or foreign country and (ii) was domiciled in the
201 Commonwealth for the six-month period immediately preceding his being stationed in such territory or
202 country shall be deemed to have been domiciled in and to have been a bona fide resident of the
203 Commonwealth during the six months preceding the filing of a suit for annulment or divorce.

204 4. Upon separation of ~~the husband and wife~~ *a married couple*, ~~the wife~~ *either spouse* may establish
205 ~~her~~ *his* own and separate domicile, though the separation may have been caused under such
206 circumstances as would entitle ~~the wife~~ *such spouse* to a divorce or annulment.

207 **§ 20-106. Testimony may be required to be given orally; evidence by affidavit.**

208 A. In any suit for divorce, the trial court may require the whole or any part of the testimony to be
209 given orally in open court, and if either party desires it, such testimony and the rulings of the court on
210 the exceptions thereto, if any, shall be reduced to writing, and the judge shall certify that such evidence
211 was given before him and such rulings made. When so certified the same shall stand on the same
212 footing as a deposition regularly taken in the cause, provided, however, that no such oral evidence shall
213 be given or heard unless and until after such notice to the adverse party as is required by law to be
214 given of the taking of depositions, or when there has been no service of process within this
215 Commonwealth upon, or appearance by the defendant against whom such testimony is sought to be
216 introduced. However, a party may proceed to take evidence in support of a divorce by deposition or
217 affidavit without leave of court only in support of a divorce on the grounds set forth in subdivision A
218 (9) of § 20-91, where (i) the parties have resolved all issues by a written settlement agreement, (ii) there
219 are no issues other than the grounds of the divorce itself to be adjudicated, or (iii) the adverse party has
220 been personally served with the complaint and has failed to file a responsive pleading or to make an
221 appearance as required by law.

222 B. The affidavit of a party submitted as evidence shall be based on the personal knowledge of the
223 affiant, contain only facts that would be admissible in court, give factual support to the grounds for
224 divorce stated in the complaint or counterclaim, and establish that the affiant is competent to testify to
225 the contents of the affidavit. If either party is incarcerated, neither party shall submit evidence by
226 affidavit without leave of court or the consent in writing of the guardian ad litem for the incarcerated
227 party, or of the incarcerated party if a guardian ad litem is not required pursuant to § 8.01-9. The
228 affidavit shall:

229 1. Give factual support to the grounds for divorce stated in the complaint or counterclaim, including
230 that the parties are over the age of 18 and not suffering from any condition that renders either party
231 legally incompetent;

232 2. Verify whether either party is incarcerated;

233 3. Verify the military status of the opposing party and advise whether the opposing party has filed an
234 answer or a waiver of his rights under the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et
235 seq.);

236 4. Affirm that at least one party to the suit was at the time of the filing of the suit, and had been for
237 a period in excess of six months immediately preceding the filing of the suit, a bona fide resident and
238 domiciliary of the Commonwealth;

239 5. Affirm that the parties have lived separate and apart, continuously, without interruption and
240 without cohabitation, and with the intent to remain separate and apart permanently, for the statutory
241 period required by subdivision A (9) of § 20-91;

242 6. Affirm the affiant's desire to be awarded a divorce pursuant to subdivision A (9) of § 20-91;

243 7. State whether there were children born or adopted of the marriage and affirm that ~~the wife~~ *neither*

party is ~~not~~ known to be pregnant from the marriage; and

8. Be accompanied by the affidavit of at least one corroborating witness, which shall:

a. Verify that the affiant is over the age of 18 and not suffering from any condition that renders him legally incompetent;

b. Verify whether either party is incarcerated;

c. Give factual support to the grounds for divorce stated in the complaint or counterclaim;

d. Verify that at least one of the parties to the suit was at the time of the filing of the suit, and had been for a period in excess of six months immediately preceding the filing of the suit, a bona fide resident and domiciliary of the Commonwealth;

e. Verify whether there were children born or adopted of the marriage and verify that ~~the wife~~ *neither party* is ~~not~~ known to be pregnant from the marriage; and

f. Verify the affiant's personal knowledge that the parties have not cohabitated since the date of separation alleged in the complaint or counterclaim and that it has been either party's intention since that date to remain separate and apart permanently.

C. If a party moves for a divorce pursuant to § 20-121.02, any affidavit may be submitted in support of the grounds for divorce set forth in subdivision A (9) of § 20-91.

D. A verified complaint shall not be deemed an affidavit for purposes of this section.

E. Either party may submit the depositions or affidavits required by this section in support of the grounds for divorce requested by either party pursuant to the terms of this section.

§ 20-146.31. Hearing and order.

A. Unless the court issues a temporary emergency order pursuant to § 20-146.15, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

1. The child custody determination has not been registered under § 20-146.26 and that:

a. The issuing court did not have jurisdiction under Article 2 (§ 20-146.12 et seq.) of this chapter;

b. The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2 (§ 20-146.12 et seq.) of this chapter; or

c. The respondent was entitled to notice, but notice was not given in accordance with the standards of § 20-146.7, in the proceedings before the court that issued the order for which enforcement is sought; or

2. The child custody determination for which enforcement is sought was registered under § 20-146.26, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Article 2 (§ 20-146.12 et seq.) of this chapter.

B. The court shall award the fees, costs, and expenses authorized under § 20-146.33 and may grant additional relief, including a request for the assistance of law-enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

C. If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

D. A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of ~~husband and wife~~ *between spouses* or of parent and child may not be invoked in a proceeding under this article.

§ 32.1-69.1. Virginia Congenital Anomalies Reporting and Education System.

A. In order to collect data to evaluate the possible causes of stillbirths and birth defects, improve the diagnosis and treatment of birth defects and establish a mechanism for informing the parents of children identified as having birth defects and their physicians about the health resources available to aid such children, the Commissioner shall establish and maintain a Virginia Congenital Anomalies Reporting and Education System using data from birth and death certificates and fetal death reports filed with the State Registrar of Vital Records and data obtained from hospital medical records. The chief administrative officer of every hospital, as defined in § 32.1-123, shall make or cause to be made a report to the Commissioner of any stillbirth and any person under two years of age diagnosed as having a congenital anomaly. The Commissioner may appoint an advisory committee to assist in the design and implementation of this reporting and education system with representation from relevant groups including, but not limited to, physicians, geneticists, personnel of appropriate state agencies, persons with disabilities and the parents of children with disabilities.

B. The Commissioner shall provide for a secure system, which may include online data entry that protects the confidentiality of data and information for which reporting is required, to implement the Virginia Congenital Anomalies Reporting and Education System.

At a minimum, data collected shall include, but need not be limited to, the following: (i) the infant's first and last name, date of birth, gender, state of residence, birth hospital, physician's name, date of admission, date of discharge or transfer, and diagnosis; (ii) the first and last names of the infant's ~~mother~~

305 ~~and father~~ *parents*; (iii) the first and last name of the primary contact person for the infant; and (iv) data
306 pertaining to stillbirths and birth defects reported by hospitals and derived from birth and death
307 certificates and fetal death reports filed with the State Registrar of Vital Records and such other sources
308 as may be authorized by the Commissioner.

309 The Commissioner, as he deems necessary to facilitate the follow-up of infants whose data and
310 health record information have been entered into the system, may authorize the integration or linking of
311 the Virginia Congenital Anomalies Reporting and Education System with other Department of Health
312 population-based surveillance systems.

313 In addition, to minimize duplication and ensure accuracy during data entry, the Commissioner may
314 authorize hospitals required to report stillbirth and birth defect data to the system to view such existing
315 data and information as may be designated by the Commissioner.

316 With the assistance of the advisory committee, the Board shall promulgate such regulations as may
317 be necessary to implement this reporting and education system.

318 C. As used in this section, "stillbirth" means an unintended, intrauterine fetal death occurring after a
319 gestational period of 20 weeks.

320 **§ 32.1-127. Regulations.**

321 A. The regulations promulgated by the Board to carry out the provisions of this article shall be in
322 substantial conformity to the standards of health, hygiene, sanitation, construction and safety as
323 established and recognized by medical and health care professionals and by specialists in matters of
324 public health and safety, including health and safety standards established under provisions of Title
325 XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

326 B. Such regulations:

327 1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing
328 homes and certified nursing facilities to ensure the environmental protection and the life safety of its
329 patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes
330 and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and
331 certified nursing facilities, except those professionals licensed or certified by the Department of Health
332 Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing
333 services to patients in their places of residence; and (v) policies related to infection prevention, disaster
334 preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities. For
335 purposes of this paragraph, facilities in which five or more first trimester abortions per month are
336 performed shall be classified as a category of "hospital";

337 2. Shall provide that at least one physician who is licensed to practice medicine in this
338 Commonwealth shall be on call at all times, though not necessarily physically present on the premises,
339 at each hospital which operates or holds itself out as operating an emergency service;

340 3. May classify hospitals and nursing homes by type of specialty or service and may provide for
341 licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

342 4. Shall also require that each hospital establish a protocol for organ donation, in compliance with
343 federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly
344 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization
345 designated in CMS regulations for routine contact, whereby the provider's designated organ procurement
346 organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of
347 patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for
348 organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in
349 Virginia certified by the Eye Bank Association of America or the American Association of Tissue
350 Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least
351 one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage,
352 and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential
353 donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital
354 collaborates with the designated organ procurement organization to inform the family of each potential
355 donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making
356 contact with the family shall have completed a course in the methodology for approaching potential
357 donor families and requesting organ or tissue donation that (a) is offered or approved by the organ
358 procurement organization and designed in conjunction with the tissue and eye bank community and (b)
359 encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the
360 relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement
361 organization in educating the staff responsible for contacting the organ procurement organization's
362 personnel on donation issues, the proper review of death records to improve identification of potential
363 donors, and the proper procedures for maintaining potential donors while necessary testing and
364 placement of potential donated organs, tissues, and eyes takes place. This process shall be followed,
365 without exception, unless the family of the relevant decedent or patient has expressed opposition to
366 organ donation, the chief administrative officer of the hospital or his designee knows of such opposition,

and no donor card or other relevant document, such as an advance directive, can be found;

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission or transfer of any pregnant woman who presents herself while in labor;

6. Shall also require that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. Appropriate referrals may include, but need not be limited to, treatment services, comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent possible, the ~~father~~ *other parent* of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the community services board of the jurisdiction in which the woman resides to appoint a discharge plan manager. The community services board shall implement and manage the discharge plan;

7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant for admission the home's or facility's admissions policies, including any preferences given;

8. Shall require that each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be consistent with applicable federal law and regulations of the Centers for Medicare and Medicaid Services;

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

10. Shall require that each nursing home and certified nursing facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or hospital policies and procedures, by the person giving the order, or, when such person is not available within the period of time specified, co-signed by another physician or other person authorized to give the order;

12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;

13. Shall require that each nursing home and certified nursing facility register with the Department of State Police to receive notice of the registration or reregistration of any sex offender within the same or a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission, whether a potential patient is a registered sex offender, if the home or facility anticipates the potential patient will have a length of stay greater than three days or in fact stays longer than three days;

15. Shall require that each licensed hospital include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including, but not limited to, those related to the patient's medical condition and the number of visitors permitted in the patient's room simultaneously;

16. Shall require that each nursing home and certified nursing facility shall, upon the request of the facility's family council, send notices and information about the family council mutually developed by the family council and the administration of the nursing home or certified nursing facility, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times per year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing home or certified nursing facility. No family member of a resident or other resident

representative shall be restricted from participating in meetings in the facility with the families or resident representatives of other residents in the facility;

17. Shall require that each nursing home and certified nursing facility maintain liability insurance coverage in a minimum amount of \$1 million, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall result in revocation of the facility's license;

18. Shall require each hospital that provides obstetrical services to establish policies to follow when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and their families and other aspects of managing stillbirths as may be specified by the Board in its regulations;

19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.); and

20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol that (i) requires, for any refusal to admit a medically stable patient referred to its psychiatric unit, direct verbal communication between the on-call physician in the psychiatric unit and the referring physician, if requested by such referring physician, and (ii) prohibits on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician.

C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and certified nursing facilities may operate adult day care centers.

D. All facilities licensed by the Board pursuant to this article which provide treatment or care for hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot which is known to be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each recipient who received treatment from a known contaminated lot at the individual's last known address.

§ 32.1-134.01. Certain information required for maternity patients.

Every licensed nurse midwife, licensed midwife, or hospital providing maternity care shall, prior to releasing each maternity patient, make available to such patient and, if present, to the ~~father~~ *other parent* of the infant, other relevant family members, or caretakers, information about the incidence of postpartum blues and perinatal depression, information to increase awareness of shaken baby syndrome and the dangers of shaking infants, and information about safe sleep environments for infants that is consistent with current information available from the American Academy of Pediatrics. This information shall be discussed with the maternity patient and the ~~father~~ *other parent* of the infant, other relevant family members, or caretakers who are present at discharge.

§ 32.1-257. Filing birth certificates; from whom required; signatures of parents.

A. A certificate of birth for each live birth which occurs in this Commonwealth shall be filed with the State Registrar within seven days after such birth. The certificate of birth shall be registered by the State Registrar if it has been completed and filed in accordance with this section.

B. When a birth occurs in an institution or en route thereto, the person in charge of such institution or an authorized designee shall obtain the personal data, and prepare the certificate either on forms furnished by the State Registrar or by an electronic process as approved by the Board. Such person or designee shall, if submitting a form, secure the signatures required by the certificate. The physician or other person in attendance shall provide the medical information required by the certificate within five days after the birth. The person in charge of the institution or an authorized designee shall certify to the authenticity of the birth registration either by affixing his signature to the certificate or by an electronic process approved by the Board, and shall file the certificate of birth with the State Registrar within seven days after such birth.

C. When a birth occurs outside an institution, the certificate shall be prepared on forms furnished by the State Registrar and filed by one of the following in the indicated order of priority, in accordance with the regulations of the Board:

1. The physician in attendance at or immediately after the birth, or in the absence of such physician,

2. Any other person in attendance at or immediately after the birth, or in the absence of such a person,

3. The ~~father~~, the mother, the *other parent*, or, in the absence of the ~~father~~ *other parent* and the inability of the mother, the person in charge of the premises where the birth occurred.

C1. When a birth occurs on a moving conveyance within the United States of America and the child is first removed from the conveyance in this Commonwealth, the birth shall be registered in this Commonwealth and the place where the child is first removed from the conveyance shall be considered the place of birth. When a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in this Commonwealth, the birth shall be registered in this Commonwealth although the certificate shall indicate the actual place of birth insofar as can be determined.

D. If the mother of a child is not married to the natural father of the child at the time of birth or was not married to the natural father at any time during the ~~ten~~ 10 months next preceding such birth, the name of the father shall not be entered on the certificate of birth without a sworn acknowledgment of paternity, executed subsequent to the birth of the child, of both the mother and of the person to be named as the father. In any case in which a final determination of the paternity of a child has been made by a court of competent jurisdiction pursuant to § 20-49.8, from which no appeal has been taken and for which the time allowed to perfect an appeal has expired, the name of the father and the surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

Children born of marriages prohibited by law, deemed null or void or dissolved by a court shall nevertheless be legitimate and the birth certificate for such children shall contain full information concerning the ~~father~~ other parent.

For the purpose of birth registration in the case of a child resulting from assisted conception, pursuant to Chapter 9 (§ 20-156 et seq.) of Title 20, the birth certificate of such child shall contain full information concerning the mother's ~~husband~~ spouse as the ~~father~~ other parent of the child and the gestational mother as the mother of the child. Donors of sperm or ova shall not have any parental rights or duties for any such child.

In the event any person desires to have the name of the father entered on the certificate of birth based upon the judgment of paternity of a court of another state, such person shall apply to an appropriate court of the Commonwealth for an order reflecting that such court has reviewed such judgment of paternity and has determined that such judgment of paternity was amply supported in evidence and legitimate for the purposes of Article IV, Section 1 of the United States Constitution.

If the order of paternity should be appealed, the registrar shall not enter the name of the alleged father on the certificate of birth during the pendency of such appeal. If the father is not named on the certificate of birth, no other information concerning the father shall be entered on the certificate.

E. Either of the parents of the child shall verify the accuracy of the personal data to be entered on the certificate of birth in time to permit the filing within the seven days prescribed above.

§ 32.1-258.1. Certificate of Birth Resulting in Stillbirth; requirements.

Upon the request of either individual listed as the ~~mother or father~~ parent on a report of fetal death in the Commonwealth as defined in § 32.1-264, the State Registrar shall issue a Certificate of Birth Resulting in Stillbirth for unintended, intrauterine fetal deaths occurring after a gestational period of 20 weeks or more. The requesting ~~mother or father~~ parent may, but shall not be required to, provide a name for the stillborn child on the Certificate of Birth Resulting in Stillbirth. The Board of Health shall prescribe a reasonable fee to cover the administrative cost and preparation of such certificate. This section shall apply retroactively to any circumstances that would have resulted in the issuance of a Certificate of Birth Resulting in Stillbirth, as prescribed by the Board.

§ 32.1-271. Disclosure of information in records; when unlawful; when permitted; proceeding to compel disclosure; when certain records made public.

A. To protect the integrity of vital records and to ensure the efficient and proper administration of the system of vital records, it shall be unlawful, notwithstanding the provisions of §§ 2.2-3700 through 2.2-3714, for any person to permit inspection of or to disclose information contained in vital records or to copy or issue a copy of all or part of any such vital records except as authorized by this section or regulation of the Board or when so ordered by a court of the Commonwealth.

B. Data contained in vital records may be disclosed for valid and substantial research purposes in accordance with the regulations of the Board.

C. Any person aggrieved by a decision of a county or city registrar may appeal to the State Registrar. If the State Registrar denies disclosure of information or inspection of or copying of vital records, such person may petition the court of the county or city in which he resides if he resides in the Commonwealth or in which the recorded event occurred or the Circuit Court of the City of Richmond, Division I, for an order compelling disclosure, inspection or copying of such vital record. The State Registrar or his authorized representative may appear and testify in such proceeding.

D. When 100 years have elapsed after the date of birth, or 25 years have elapsed after the date of death, marriage, divorce, or annulment the records of these events in the custody of the State Registrar shall, unless precluded from release by statute or court order, or at law-enforcement request, become

public information and be made available in accordance with regulations that shall provide for the continued safekeeping of the records. All records that are public information on July 1, 1983, shall continue to be public information. Original records in the custody of the State Registrar that become public information shall be turned over to the Library of Virginia for safekeeping and for public access consistent with other state archival records, subject to the State Registrar and the Library of Virginia entering into a memorandum of understanding to arrange for continued prompt access by the State Registrar to original records for purposes of amendments to those records or other working purposes. The State Registrar's office may retain copies thereof for its own administrative and disclosure purposes.

E. The State Registrar or the city or county registrar shall disclose data about or issue a certified copy of a birth certificate of a child to the grandparent of the child upon the written request of the grandparent when the grandparent has demonstrated to the State Registrar evidence of need, as prescribed by Board regulation, for the data or birth certificate.

F. The State Registrar or the city or county registrar shall issue a certified copy of a death certificate to the grandchild or great-grandchild of a decedent in accordance with procedures prescribed by the Board in regulation.

G. The State Registrar or the city or county registrar shall disclose data about or issue a certified copy of a death certificate to a nonprofit organ, eye or tissue procurement organization that is a member of the Virginia Transplant Council for the purpose of determining the suitability of organs, eyes and tissues for donation, as prescribed by the Board in regulations. Such regulations shall ensure that the information disclosed includes the cause of death and any other medical information necessary to determine the suitability of the organs, eyes and tissues for donation.

H. The State Registrar shall seek to enter into a long-term contract with a private company experienced in maintaining genealogical research databases to create, maintain, and update such an online index at no direct cost to the Commonwealth, in exchange for allowing the private company to also provide such index to its subscribers and customers. The online index shall be designed and constructed to have the capability of allowing birth, marriage, divorce, and death entries on the index to be linked to a digital image of the underlying original birth, marriage, divorce, or death record once any such underlying record has become public information, and the index shall be designed to allow the Library of Virginia to create and activate such links to digital images of the original records. Any social security numbers appearing on original birth, marriage, divorce, or death records shall be redacted from the digital images provided to the public in the manner provided by law, which may include bulk redaction of social security fields from the images via automated methods.

Following contract implementation, the State Registrar shall maintain a publicly available online vital records index or indexes, consisting at a minimum of name, date, and county or city of occurrence for births (naming the child), marriages (naming the ~~bride and groom~~ spouses), divorces (naming the parties to the divorce), and deaths (naming the decedent), which vital records index information, except as otherwise precluded from release by statute, court order, or law-enforcement request, shall be public information from the time of its receipt by the State Registrar and shall be accessible on the State Registrar's website and on or through the Library of Virginia website.

§ 37.2-714. Children born in state facilities.

Any child born in a state facility shall be deemed a resident of the county or city in which the mother resided at the time of her admission. The child shall be removed from the state facility as soon after birth as the health and well-being of the child permit and shall be delivered to his ~~father~~ *other parent* or other member of his family. If he is unable to effect the child's removal as herein provided, the director of the state facility shall cause the filing of a petition in the juvenile and domestic relations district court of the county or city in which the child is present, requesting adjudication of the care and custody of the child under the provisions of § 16.1-278.3. If the mother has received services in a state facility continuously for 10 months, the Department of Social Services shall have financial responsibility for the care of the child, and the custody of the child shall be determined in accordance with the provisions of § 16.1-278.3. The judge of such court shall take appropriate action to effect prompt removal of the child from the state facility.

§ 38.2-302. Life, accident and sickness insurance; application required.

A. No contract of insurance upon a person shall be made or effectuated unless at the time of the making of the contract the individual insured, being of lawful age and competent to contract for the insurance contract (i) applies for insurance, or (ii) consents in writing to the insurance contract. However:

1. A ~~wife or husband~~ *Either spouse* may effect an insurance contract upon each other;

2. Any person having an insurable interest in the life of a minor, or any person upon whom a minor is dependent for support and maintenance, may effect an insurance contract upon the life of or pertaining to the minor; or

3. A corporate employer or an employee benefit trust having the insurable interest described in subdivision 3 of subsection B of § 38.2-301, may effect an insurance contract upon the lives of such

employees, provided that the employer or trust provides the employee with notice in writing that such insurance has been purchased, the amount of such coverage, and to whom benefits are payable in the event of the employee's death.

B. Nothing in this section shall prohibit a minor from obtaining insurance on his own life as authorized in § 38.2-3105.

§ 38.2-2204. Liability insurance on motor vehicles, aircraft and watercraft; standard provisions; "omnibus clause."

A. No policy or contract of bodily injury or property damage liability insurance, covering liability arising from the ownership, maintenance, or use of any motor vehicle, aircraft, or private pleasure watercraft, shall be issued or delivered in this Commonwealth to the owner of such vehicle, aircraft or watercraft, or shall be issued or delivered by any insurer licensed in this Commonwealth upon any motor vehicle, aircraft, or private pleasure watercraft that is principally garaged, docked, or used in this Commonwealth, unless the policy contains a provision insuring the named insured, and any other person using or responsible for the use of the motor vehicle, aircraft, or private pleasure watercraft with the expressed or implied consent of the named insured, against liability for death or injury sustained, or loss or damage incurred within the coverage of the policy or contract as a result of negligence in the operation or use of such vehicle, aircraft, or watercraft by the named insured or by any such person; however, nothing contained in this section shall be deemed to prohibit an insurer from limiting its liability under any one policy for bodily injury or property damage resulting from any one accident or occurrence to the liability limits for such coverage set forth in the policy for any such accident or occurrence or for any one person, regardless of the number of insureds under that policy. Provided that, when one accident or occurrence involves more than one defendant who is covered by the policy, the plaintiff may recover the per person limit of the policy against each such defendant, subject to the per accident or occurrence limit of the policy. Each such policy or contract of liability insurance, or endorsement to the policy or contract, insuring private passenger automobiles, aircraft, or private pleasure watercraft principally garaged, docked, or used in this Commonwealth, that has as the named insured an individual or ~~husband and wife~~ *spouses* and that includes, with respect to any liability insurance provided by the policy, contract or endorsement for use of a nonowned automobile, aircraft or private pleasure watercraft, any provision requiring permission or consent of the owner of such automobile, aircraft, or private pleasure watercraft for the insurance to apply, shall be construed to include permission or consent of the custodian in the provision requiring permission or consent of the owner.

B. Notwithstanding any requirements in this section to the contrary, an insurer may exclude any person from coverage under a personal umbrella or excess policy, if the exclusion is requested in writing by the first named insured and is acknowledged in writing by the excluded driver.

C. For aircraft liability insurance, such policy or contract may contain the exclusions listed in § 38.2-2227. Notwithstanding the provisions of this section or any other provisions of law, no policy or contract shall require pilot experience greater than that prescribed by the Federal Aviation Administration, except for pilots operating air taxis, or pilots operating aircraft applying chemicals, seed, or fertilizer.

D. No policy or contract of bodily injury or property damage liability insurance relating to the ownership, maintenance, or use of a motor vehicle shall be issued or delivered in this Commonwealth to the owner of such vehicle or shall be issued or delivered by an insurer licensed in this Commonwealth upon any motor vehicle principally garaged or used in this Commonwealth without an endorsement or provision insuring the named insured, and any other person using or responsible for the use of the motor vehicle with the expressed or implied consent of the named insured, against liability for death or injury sustained, or loss or damage incurred within the coverage of the policy or contract as a result of negligence in the operation or use of the motor vehicle by the named insured or by any other such person; however, nothing contained in this section shall be deemed to prohibit an insurer from limiting its liability under any one policy for bodily injury or property damage resulting from any one accident or occurrence to the liability limits for such coverage set forth in the policy for any such accident or occurrence or for any one person regardless of the number of insureds under that policy. Provided that, when one accident or occurrence involves more than one defendant who is covered by the policy, the plaintiff may recover the per person limit of the policy against each such defendant, subject to the per accident or occurrence limit of the policy. This provision shall apply notwithstanding the failure or refusal of the named insured or such other person to cooperate with the insurer under the terms of the policy. If the failure or refusal to cooperate prejudices the insurer in the defense of an action for damages arising from the operation or use of such insured motor vehicle, then the endorsement or provision shall be void. If an insurer has actual notice of a motion for judgment or complaint having been served on an insured, the mere failure of the insured to turn the motion or complaint over to the insurer shall not be a defense to the insurer, nor void the endorsement or provision, nor in any way

relieve the insurer of its obligations to the insured, provided the insured otherwise cooperates and in no way prejudices the insurer.

Where the insurer has elected to provide a defense to its insured under such circumstances and files responsive pleadings in the name of its insured, the insured shall not be subject to sanctions for failure to comply with discovery pursuant to Part Four of the Rules of the Supreme Court of Virginia unless it can be shown that the suit papers actually reached the insured, and that the insurer has failed after exercising due diligence to locate its insured, and as long as the insurer provides such information in response to discovery as it can without the assistance of the insured.

E. Any endorsement, provision or rider attached to or included in any such policy of insurance which purports or seeks to limit or reduce the coverage afforded by the provisions required by this section shall be void, except an insurer may exclude such coverage as is afforded by this section, where such coverage would inure to the benefit of the United States Government or any agency or subdivision thereof under the provisions of the Federal Tort Claims Act, the Federal Drivers Act and Public Law 86-654 District of Columbia Employee Non-Liability Act, or to the benefit of the Commonwealth under the provisions of the Virginia Tort Claims Act (§ 8.01-195.1 et seq.) and the self-insurance plan established by the Department of General Services pursuant to § 2.2-1837 for any state employee who, in the regular course of his employment, transports patients in his own personal vehicle.

§ 38.2-2212. Grounds and procedure for cancellation of or refusal to renew motor vehicle insurance policies; review by Commissioner.

A. The following definitions shall apply to this section:

"Cancellation" or "to cancel" means a termination of a policy during the policy period.

"Insurer" means any insurance company, association, or exchange licensed to transact motor vehicle insurance in this Commonwealth.

"Policy of motor vehicle insurance" or "policy" means a policy or contract for bodily injury or property damage liability insurance issued or delivered in this Commonwealth covering liability arising from the ownership, maintenance, or use of any motor vehicle, insuring as the named insured one individual or ~~husband and wife~~ *spouses* who are residents of the same household, and under which the insured vehicle designated in the policy is either:

a. A motor vehicle of a private passenger, station wagon, or motorcycle type that is not used commercially, rented to others, or used as a public or livery conveyance where the term "public or livery conveyance" does not include car pools, or

b. Any other four-wheel motor vehicle which is not used in the occupation, profession, or business, other than farming, of the insured, or as a public or livery conveyance, or rented to others. The term "policy of motor vehicle insurance" or "policy" does not include (i) any policy issued through the Virginia Automobile Insurance Plan, (ii) any policy covering the operation of a garage, sales agency, repair shop, service station, or public parking place, (iii) any policy providing insurance only on an excess basis, or (iv) any other contract providing insurance to the named insured even though the contract may incidentally provide insurance on motor vehicles.

"Renewal" or "to renew" means (i) the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, providing types and limits of coverage at least equal to those contained in the policy being superseded, or (ii) the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term with types and limits of coverage at least equal to those contained in the policy. Each renewal shall conform with the requirements of the manual rules and rating program currently filed by the insurer with the Commission. Except as provided in subsection K of this section, any policy with a policy period or term of less than 12 months or any policy with no fixed expiration date shall for the purpose of this section be considered as if written for successive policy periods or terms of six months from the original effective date.

B. This section shall apply only to that portion of a policy of motor vehicle insurance providing the coverage required by §§ 38.2-2204, 38.2-2205, and 38.2-2206.

C. 1. No insurer shall refuse to renew a motor vehicle insurance policy solely because of any one or more of the following factors:

a. Age;

b. Sex;

c. Residence;

d. Race;

e. Color;

f. Creed;

g. National origin;

h. Ancestry;

i. Marital status;

j. Lawful occupation, including the military service;

k. Lack of driving experience, or number of years driving experience;
 l. Lack of supporting business or lack of the potential for acquiring such business;
 m. One or more accidents or violations that occurred more than 48 months immediately preceding the upcoming anniversary date;
 n. One or more claims submitted under the uninsured motorists coverage of the policy where the uninsured motorist is known or there is physical evidence of contact;
 o. A single claim by a single insured submitted under the medical expense coverage due to an accident for which the insured was neither wholly nor partially at fault;
 p. One or more claims submitted under the comprehensive or towing coverages. However, nothing in this section shall prohibit an insurer from modifying or refusing to renew the comprehensive or towing coverages at the time of renewal of the policy on the basis of one or more claims submitted by an insured under those coverages, provided that the insurer shall mail or deliver to the insured at the address shown in the policy, or deliver electronically to the address provided by the named insured, written notice of any such change in coverage at least 45 days prior to the renewal;
 q. Two or fewer motor vehicle accidents within a three-year period unless the accident was caused either wholly or partially by the named insured, a resident of the same household, or other customary operator;
 r. Credit information contained in a "consumer report," as defined in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., bearing on a natural person's creditworthiness, credit standing or credit capacity. If credit information is used, in part, as the basis for the nonrenewal, such credit information shall be based on a consumer report procured within 120 days from the effective date of the nonrenewal. The provisions of this subdivision shall apply only to insurance purchased primarily for personal, family, or household purposes; or
 s. The refusal of a motor vehicle owner as defined in § 46.2-1088.6 to provide access to recorded data from a recording device as defined in § 46.2-1088.6.

2. Nothing in this section shall require any insurer to renew a policy for an insured where the insured's occupation has changed so as to materially increase the risk. Nothing contained in subdivisions C 1 n, 1 o, and 1 p of this subsection shall prohibit an insurer from refusing to renew a policy where a claim is false or fraudulent. Nothing in this section prohibits any insurer from setting rates in accordance with relevant actuarial data.

D. No insurer shall cancel a policy except for one or more of the following reasons:

1. The named insured or any other operator who either resides in the same household or customarily operates a motor vehicle insured under the policy has had his driver's license suspended or revoked during the policy period or, if the policy is a renewal, during its policy period or the 90 days immediately preceding the last effective date.
2. The named insured fails to pay the premium for the policy or any installment of the premium, whether payable to the insurer or its agent either directly or indirectly under any premium finance plan or extension of credit.
3. The named insured or his duly constituted attorney-in-fact has notified the insurer of a change in the insured's legal residence to a state other than Virginia and the insured vehicle will be principally garaged in the new state of legal residence.

E. No cancellation or refusal to renew by an insurer of a policy of motor vehicle insurance shall be effective unless the insurer delivers or mails to the named insured at the address shown in the policy a written notice of the cancellation or refusal to renew, or the insurer delivers such notice electronically to the address provided by the named insured. The notice shall:

1. Be in a type size authorized under § 38.2-311.
2. State the effective date of the cancellation or refusal to renew. The effective date of cancellation or refusal to renew shall be at least 45 days after mailing or delivering to the insured the notice of cancellation or notice of refusal to renew. However, when the policy is being canceled or not renewed for the reason set forth in subdivision 2 of subsection D of this section the effective date may be less than 45 days but at least 15 days from the date of mailing or delivery.
3. State the specific reason of the insurer for cancellation or refusal to renew and provide for the notification required by §§ 38.2-608, 38.2-609, and subsection B of § 38.2-610. However, those notification requirements shall not apply when the policy is being canceled or not renewed for the reason set forth in subdivision 2 of subsection D of this section.
4. Inform the insured of his right to request in writing within 15 days of the receipt of the notice that the Commissioner review the action of the insurer.

The notice of cancellation or refusal to renew shall contain the following statement to inform the insured of such right:

IMPORTANT NOTICE
 Within 15 days of receiving this notice, you or your attorney may request in writing that the

797 Commissioner of Insurance review this action to determine whether the insurer has complied with
798 Virginia laws in canceling or nonrenewing your policy. If this insurer has failed to comply with the
799 cancellation or nonrenewal laws, the Commissioner may require that your policy be reinstated. However,
800 the Commissioner is prohibited from making underwriting judgments. If this insurer has complied with
801 the cancellation or nonrenewal laws, the Commissioner does not have the authority to overturn this
802 action.

803 5. Inform the insured of the possible availability of other insurance which may be obtained through
804 his agent, through another insurer, or through the Virginia Automobile Insurance Plan.

805 6. If sent by mail or delivered electronically, comply with the provisions of § 38.2-2208.

806 Nothing in this subsection prohibits any insurer or agent from including in the notice of cancellation
807 or refusal to renew, any additional disclosure statements required by state or federal laws, or any
808 additional information relating to the availability of other insurance.

809 F. Nothing in this section shall apply:

810 1. If the insurer or its agent acting on behalf of the insurer has manifested its willingness to renew
811 by issuing or offering to issue a renewal policy, certificate, or other evidence of renewal, or has
812 manifested its willingness to renew in writing to the insured. The written manifestation shall include the
813 name of a proposed insurer, the expiration date of the policy, the type of insurance coverage, and
814 information regarding the estimated renewal premium. The insurer shall retain a copy of each written
815 manifestation for a period of at least one year from the expiration date of any policy that is not
816 renewed;

817 2. If the named insured, or his duly constituted attorney-in-fact, has notified the insurer or its agent
818 orally, or in writing, if the insurer requires such notification to be in writing, that he wishes the policy
819 to be canceled or that he does not wish the policy to be renewed, or if prior to the date of expiration he
820 fails to accept the offer of the insurer to renew the policy;

821 3. To any motor vehicle insurance policy which has been in effect less than 60 days when the
822 termination notice is mailed or delivered to the insured, unless it is a renewal policy; or

823 4. If an affiliated insurer has manifested its willingness to provide coverage at a lower premium than
824 would have been charged for the same exposures on the expiring policy. The affiliated insurer shall
825 manifest its willingness to provide coverage by issuing a policy with the types and limits of coverage at
826 least equal to those contained in the expiring policy unless the named insured has requested a change in
827 coverage or limits. When such offer is made by an affiliated insurer, an offer of renewal shall not be
828 required of the insurer of the expiring policy, and the policy issued by the affiliated insurer shall be
829 deemed to be a renewal policy.

830 G. There shall be no liability on the part of and no cause of action of any nature shall arise against
831 the Commissioner or his subordinates; any insurer, its authorized representatives, its agents, or its
832 employees; or any person furnishing to the insurer information as to reasons for cancellation or refusal
833 to renew, for any statement made by any of them in complying with this section or for providing
834 information pertaining to the cancellation or refusal to renew. For the purposes of this section, no
835 insurer shall be required to furnish a notice of cancellation or refusal to renew to anyone other than the
836 named insured, any person designated by the named insured, or any other person to whom such notice
837 is required to be given by the terms of the policy and the Commissioner.

838 H. Within 15 days of receipt of the notice of cancellation or refusal to renew, any insured or his
839 attorney shall be entitled to request in writing to the Commissioner that he review the action of the
840 insurer in canceling or refusing to renew the policy of the insured. Upon receipt of the request, the
841 Commissioner shall promptly begin a review to determine whether the insurer's cancellation or refusal to
842 renew complies with the requirements of this section and of § 38.2-2208 if the notice was sent by mail
843 or delivered electronically. The policy shall remain in full force and effect during the pendency of the
844 review by the Commissioner except where the cancellation or refusal to renew is for the reason set forth
845 in subdivision 2 of subsection D of this section, in which case the policy shall terminate as of the
846 effective date stated in the notice. Where the Commissioner finds from the review that the cancellation
847 or refusal to renew has not complied with the requirements of this section or of § 38.2-2208, he shall
848 immediately notify the insurer, the insured and any other person to whom such notice was required to
849 be given by the terms of the policy that the cancellation or refusal to renew is not effective. Nothing in
850 this section authorizes the Commissioner to substitute his judgment as to underwriting for that of the
851 insurer. Where the Commissioner finds in favor of the insured, the Commission in its discretion may
852 award the insured reasonable attorneys' fees.

853 I. Each insurer shall maintain for at least one year, records of cancellation and refusal to renew and
854 copies of every notice or statement referred to in subsection E of this section that it sends to any of its
855 insureds.

856 J. The provisions of this section shall not apply to any insurer that limits the issuance of policies of
857 motor vehicle liability insurance to one class or group of persons engaged in any one particular
858 profession, trade, occupation, or business. Nothing in this section requires an insurer to renew a policy

of motor vehicle insurance if the insured does not conform to the occupational or membership requirements of an insurer who limits its writings to an occupation or membership of an organization. No insurer is required to renew a policy if the insured becomes a nonresident of Virginia.

K. Notwithstanding any other provision of this section, a motor vehicle insurance policy with a policy period or term of five months or less may expire at its expiration date when the insurer has manifested in writing its willingness to renew the policy for at least 30 days and has mailed or delivered the written manifestation to the insured at least 15 days before the expiration date of the policy. The written manifestation shall include the name of the proposed insurer, the expiration date of the policy, the type of insurance coverage, and the estimated renewal premium. The insurer shall retain a copy of the written manifestation for at least one year from the expiration date of any policy that is not renewed.

§ 59.1-332. Conditions on offering items as an inducement to execute.

A. It is unlawful for any person by any means, as part of an advertising program, to offer any item of value as an inducement to the recipient to visit a membership camping operator's campground, attend a sales presentation or contact a salesperson, unless the person clearly discloses in writing in the offer in readily understandable language each of the following:

1. The name and campground address of the membership camping operator.
2. A general statement that the advertising program is being conducted by a membership camping operator and the purpose of any requested visit.
3. A statement of odds, in arabic numerals, of receiving each item offered.
4. The approximate retail value of each item offered.
5. The number of campgrounds that are participating in such advertising program.
6. The restrictions, qualifications and other conditions that must be satisfied before the recipient is entitled to receive the item, including:
 - a. Any deadline, if any, by which the recipient must visit the campground, attend the sales presentation or contact a salesperson in order to receive the item.
 - b. The approximate duration of any visit and sales presentation.
 - c. The date upon which the offer shall terminate and the final date upon which the gifts or prizes are to be awarded.
 - d. Any other conditions, such as minimum age qualification, a financial qualification or a requirement that if the recipient is married both ~~husband and wife~~ *spouses* must be present in order to receive the item.
7. A statement that the membership camping operator reserves the right to provide a rain check or a substitute or like item, if these rights are reserved.

8. All other material rules, terms and conditions of the offer or program.

B. It is unlawful for any person making an offer subject to subsection A, or any employee or agent of the person, to offer any item if the person knows or has reason to know that the offered item will not be available in a sufficient quantity based on the reasonably anticipated response to the offer.

C. It is unlawful for any person making an offer subject to subsection A, or any employee or agent of the person, to fail to provide any offered item which any recipient who has responded to the offer in the manner specified in the offer, has performed the requirements disclosed in the offer and has met the qualifications described in the offer is entitled to receive, unless the offered item is not reasonably available and the offer discloses the reservation of a right to provide a rain check or a like or substitute item if the offered item is unavailable.

D. If the person making an offer subject to subsection A is unable to provide an offered item because of limitations of supply, quantity or quality not reasonably foreseeable or controllable by the person making the offer, the person making the offer shall inform the recipient of the recipient's right to receive a rain check for the item offered, unless the person making the offer knows or has a reasonable basis for knowing that the item will not be reasonably available at approximately the same price to the person making the offer, and shall inform the recipient of the recipient's right to at least one of the following additional options:

1. The person making the offer will provide a like item of equivalent or greater retail value or a rain check for the item. This option must be offered if the offered item is not reasonably available.
2. The person making the offer will provide a substitute item of equivalent or greater retail value.
3. The person making the offer will provide a rain check for a like or substitute item.

E. If a rain check is provided, the person making an offer subject to subsection A shall, within a reasonable time, and in any event not more than ~~ninety~~ 90 days after the rain check is provided, deliver the agreed item to the recipient's address without additional cost or obligation to the recipient, unless the item for which the rain check is provided remains unavailable because of limitations of supply, quantity or quality not reasonably foreseeable or controllable by the person making the offer. If the item is unavailable for these reasons, the person shall, not more than ~~thirty~~ 30 days after the expiration of the aforesaid ~~ninety-day~~ 90-day period, deliver a like item of equal or greater retail value or, if the item is

920 not reasonably available to the person at approximately the same price, a substitute item of equal or
 921 greater retail value.

922 F. On the written request of a recipient who has received or claims a right to receive any offered
 923 item, the person making an offer subject to subsection A shall furnish to the recipient sufficient evidence
 924 showing that the item provided matches the item randomly or otherwise selected for distribution to that
 925 recipient.

926 G. It is unlawful for any person making an offer subject to subsection A, or any employee or agent
 927 of the person, to:

928 1. Misrepresent the size, quantity, identity or quality of any prize, gift, money or other item of value
 929 offered.

930 2. Misrepresent in any manner the odds of receiving any particular gift, prize, amount of money or
 931 other item of value.

932 3. Label any offer a "notice of termination" or "notice of cancellation."

933 4. Materially misrepresent, in any manner, the offer, or program.

934 H. If any provision of this section is in conflict with the provisions of the Prizes and Gifts Act
 935 (§ 59.1-415 et seq.), the provisions of the Prizes and Gifts Act shall control.

936 **§ 63.2-510. Obligation of person to support certain children living in same home; penalty.**

937 A person shall be responsible for the support and maintenance of any child or children living in the
 938 same home in which he and the natural or adoptive parent of such child or children cohabit as ~~man and~~
 939 ~~wife spouses~~ and any such person who without cause willfully neglects or refuses or fails to provide for
 940 such support and maintenance shall be guilty of a misdemeanor and upon conviction shall be punished
 941 in accordance with the provisions of § 20-61.

942 A pregnancy or the birth of a child during the time a person occupies the status set out above shall
 943 not be required as proof of cohabitation.

944 The obligations imposed herein shall continue so long as such person occupies the status herein
 945 described.

946 **§ 63.2-1519. Physician-patient and spousal privileges inapplicable.**

947 In any legal proceeding resulting from the filing of any report or complaint pursuant to this chapter,
 948 the physician-patient and ~~husband-wife~~ *spousal* privileges shall not apply.

949 **§ 64.2-200. Course of descents generally; right of Commonwealth if no other heir.**

950 A. The real estate of any decedent not effectively disposed of by will descends and passes by
 951 intestate succession in the following course:

952 1. To the surviving spouse of the decedent, unless the decedent is survived by children or their
 953 descendants, one or more of whom are not children or their descendants of the surviving spouse, in
 954 which case, two-thirds of the estate descends and passes to the decedent's children and their descendants,
 955 and one-third of the estate descends and passes to the surviving spouse.

956 2. If there is no surviving spouse, then the estate descends and passes to the decedent's children and
 957 their descendants.

958 3. If there is none of the foregoing, then to the decedent's parents, or to the surviving parent.

959 4. If there is none of the foregoing, then to the decedent's ~~brothers and sisters~~ *siblings*, and their
 960 descendants.

961 5. If there is none of the foregoing, then one-half of the estate descends and passes to the ~~paternal~~
 962 ~~kindred of one of the decedent's parents~~ and one-half descends and passes to the ~~maternal~~ kindred of the
 963 ~~decedent~~ *other of the decedent's parents* in the following course:

964 a. To the decedent's grandparents, or to the surviving grandparent.

965 b. If there is none of the foregoing, then to the decedent's uncles and aunts, and their descendants.

966 c. If there is none of the foregoing, then to the decedent's great-grandparents.

967 d. If there is none of the foregoing, then to the ~~brothers and sisters~~ *siblings* of the decedent's
 968 grandparents, and their descendants.

969 e. And so on, in other cases, without end, passing to the nearest lineal ancestors, and the descendants
 970 of such ancestors.

971 B. If there are either no surviving ~~paternal~~ kindred or no surviving ~~maternal~~ kindred of one of the
 972 ~~decedent's parents~~, the whole estate descends and passes to the ~~paternal or maternal~~ surviving kindred
 973 ~~who survive the decedent of the other of the decedent's parent's~~. If there are ~~neither maternal nor~~
 974 ~~paternal~~ no kindred of either parent, the whole estate descends and passes to the kindred of the
 975 decedent's most recent spouse, if any, provided that the decedent and the spouse were married at the
 976 time of the spouse's death, as if such spouse had died intestate and entitled to the estate.

977 C. If there is no other heir of a decedent's real estate, such real estate is subject to escheat to the
 978 Commonwealth in accordance with Chapter 10 (§ 55-168 et seq.) of Title 55.

979 **§ 64.2-905. Multiple beneficiaries; separate custodial trusts; survivorship.**

980 A. Beneficial interests in a custodial trust created for multiple beneficiaries are deemed to be separate
 981 custodial trusts of equal undivided interests for each beneficiary. Except in a transfer or declaration for

use and benefit of ~~husband and wife~~ *spouses*, for whom survivorship is presumed, a right of survivorship does not exist unless the instrument creating the custodial trust specifically provides for survivorship or survivorship is required as to marital property.

B. Custodial trust property held under this chapter by the same custodial trustee for the use and benefit of the same beneficiary may be administered as a single custodial trust.

C. A custodial trustee of custodial trust property held for more than one beneficiary shall separately account to each beneficiary pursuant to §§ 64.2-906 and 64.2-914 for the administration of the custodial trust.

§ 64.2-2401. Bond; orders as to management of estate; support of dependents.

The court shall require that any conservator appointed pursuant to § 64.2-2400 post a bond in an amount deemed sufficient by the court. The court shall also enter any orders it deems necessary (i) directing the conservator in the management, operation, and control of the estate and (ii) requiring the conservator to make ample and suitable provisions out of the estate in his possession, subject to the rights of creditors, for the support of the absentee's *wife spouse* and minor children, as well as any other person dependent upon the absentee for support and maintenance. The court shall require the conservator to make reports from time to time as the court may deem expedient.

§ 65.2-512. Compensation to dependents of an employee killed; burial expenses.

A. Except as provided in subsections F, G and H, if death results from the accident within nine years, the employer shall pay, or cause to be paid, compensation in weekly payments equal to 66 2/3 percent of the employee's average weekly wages, but not more than 100 percent of the average weekly wage of the Commonwealth as defined in § 65.2-500 nor less than 25 percent of the average weekly wage as defined therein:

1. To those persons presumed to be wholly dependent upon the deceased employee as set forth in subdivisions A 1; ~~and A 2; and A 3~~ of § 65.2-515, for a period of 500 weeks from the date of injury; or

2. If there are no total dependents pursuant to subdivision A 1; ~~or A 2; or A 3~~ of § 65.2-515, to those persons presumed to be wholly dependent as set forth in subdivision A 4 3 of § 65.2-515, and to those determined to be wholly dependent in fact, for a period of 400 weeks from the date of injury; or

3. If there are no total dependents, to partial dependents in fact, for a period of 400 weeks from the date of injury.

B. The employer shall also pay burial expenses not exceeding \$10,000 and reasonable transportation expenses for the deceased not exceeding \$1,000.

C. Benefits shall be divided equally among total dependents, to the exclusion of partial dependents. If there are no total dependents, benefits shall be divided among partial dependents according to the dependency of each upon the earnings of the employee at the time of the injury, in the proportion that partial dependency bears to total dependency.

D. If benefits are terminated as to any member of a class herein, that member's share shall be divided among the remaining members of the class proportionately according to their dependency.

E. When weekly payments have been made to an injured employee before his death, the compensation to dependents shall begin from the date of the last of such payments but shall not continue for a period longer than specified in subsection A of this section.

F. No benefits shall be paid pursuant to this section to the dependents of an AmeriCorps member as defined in subdivision r of § 65.2-101.

G. No benefits shall be paid pursuant to subsections A, C, D or E to the dependents of a Food Stamp recipient participating in the work experience component of the Food Stamp Employment and Training Program as defined in subdivision s of § 65.2-101.

H. No benefits shall be paid pursuant to subsections A, C, D or E to the dependents of a Temporary Assistance for Needy Families recipient participating in the work experience component of the Virginia Initiative for Employment Not Welfare Program as defined in subdivision t of § 65.2-101.

§ 65.2-515. Persons conclusively presumed to be wholly dependent.

A. The following persons shall be conclusively presumed to be dependents wholly dependent for support upon the deceased employee:

1. A ~~wife upon a husband whom she had not voluntarily deserted or abandoned at the time of the accident or with whom she lived at the time of his accident~~, if she is then actually dependent upon him;

2. A ~~husband spouse upon a wife his deceased spouse~~ whom he had not voluntarily deserted at the time of the accident or with whom he lived at the time of ~~her~~ *the* accident, if he is then actually dependent upon ~~her~~ *his deceased spouse*;

3. 2. A child under the age of ~~eighteen~~ *18* upon a parent and a child over such age if physically or mentally incapacitated from earning a livelihood or a child under the age of ~~twenty-three~~ *23* if enrolled as a full-time student in any accredited educational institution; and

4. 3. Parents in destitute circumstances, provided there be no total dependents pursuant to other provisions of this section.

1043 B. As used in this section, the term "child" shall include a stepchild, a legally adopted child, a
1044 posthumous child, and an acknowledged illegitimate child, but shall not include a married child; and the
1045 term "parent" shall include stepparents and parents by adoption.
1046 2. That §§ 20-45.2 and 20-45.3 of the Code of Virginia are repealed.