19100105D

HOUSE BILL NO. 1701

Offered January 9, 2019

Prefiled December 12, 2018

A BILL to amend and reenact §§ 6.2-1526, 6.2-1527, 11-8, 13.1-435, 18.2-19, 18.2-49, 18.2-67.5:2, 18.2-346, 18.2-362, 18.2-363, 18.2-364, 18.2-366, 18.2-368, 18.2-417, 19.2-69, 19.2-271.1, 19.2-271.2, 19.2-305, 20-38.1, 20-40, 20-43, 20-82, 20-88.59, 20-89.1, 20-91, 20-97, 20-106, 20-146.31, 20-156, 20-158 through 20-163, 20-165, 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, 38.2-4019, 58.1-322.02, 58.1-324, 58.1-326, 58.1-339.8, 58.1-341, 58.1-344.3, 58.1-344.4, 58.1-490, 58.1-499, 58.1-520, as it is currently effective and as it may become effective, 58.1-810, 58.1-3210, 58.1-3211.1, 58.1-3219.5, 58.1-3219.6, 58.1-3343, 58.1-3506.1, 58.1-3506.2, 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 §§ 18.2-365, 20-45.2, and 20-45.3 of the Code of Virginia, relating to gender-neutral terms; assisted conception; prohibitions on same-sex marriage and civil unions; certain gender-specific crimes; penalty.

Patrons—Simon, Ayala, Herring, Hope, Kory, Krizek, Levine, Plum, Price, Rasoul, Rodman and Watts

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, 18.2-19, 18.2-49, 18.2-67.5:2, 18.2-346, 18.2-362, 18.2-363, 18.2-364, 18.2-366, 18.2-368, 18.2-417, 19.2-69, 19.2-271.1, 19.2-271.2, 19.2-305, 20-38.1, 20-40, 20-43, 20-82, 20-88.59, 20-89.1, 20-91, 20-97, 20-106, 20-146.31, 20-156, 20-158 through 20-163, 20-165, 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, 38.2-4019, 58.1-322.02, 58.1-324, 58.1-326, 58.1-339.8, 58.1-341, 58.1-344.3, 58.1-344.4, 58.1-490, 58.1-499, 58.1-520, as it is currently effective and as it may become effective, 58.1-810, 58.1-3210, 58.1-3211.1, 58.1-3219.5, 58.1-3219.6, 58.1-3343, 58.1-3506.1, 58.1-3506.2, 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 by such person unless the circuit or corporation court of the city or county, or judge thereof in vacation, in which the property is located or to be used, after a petition signed by any such person ~~shall have~~ *has* been filed with it or him, ~~approve~~ *approves* the same. Such petition shall set forth the facts pertaining to the proposed transaction and shall state why the judge or court should approve and authorize the execution of the necessary instruments.

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

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

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

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

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

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

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

§ 18.2-19. How accessories after the fact punished; certain exceptions.

Every accessory after the fact is guilty of (i) a Class 6 felony in the case of a homicide offense that is punishable by death or as a Class 2 felony or (ii) a Class 1 misdemeanor in the case of any other felony. However, no person in the relation of ~~husband or wife~~ *spouse*, parent or grandparent, child or grandchild~~, brother~~ or ~~sister~~ *sibling*, by consanguinity or affinity, or servant to the offender, who, after the commission of a felony, ~~shall aid~~ *aids* or ~~assist~~ *assists* a principal felon or accessory before the fact to avoid or escape from prosecution or punishment, shall be deemed an accessory after the fact.

§ 18.2-49. Threatening, attempting, or assisting in such abduction; penalty.

Any person who (1) threatens, or attempts, to abduct any other person with intent to extort money, or pecuniary benefit~~, or~~*;* (2) assists or aids in the abduction of, or threatens to abduct, any person with the intent to defile such person~~,~~*;* or (3) assists or aids in the abduction of, or threatens to abduct, any ~~female~~ *child* under ~~sixteen~~ *16* years of age for the purpose of concubinage or prostitution~~, shall be~~ *is* guilty of a Class 5 felony.

§ 18.2-67.5:2. Punishment upon conviction of certain subsequent felony sexual assault.

A. Any person convicted of (i) more than one offense specified in subsection B or (ii) one of the offenses specified in subsection B of this section and one of the offenses specified in subsection B of § 18.2-67.5:3 when such offenses were not part of a common act, transaction, or scheme~~,~~ and who has been at liberty as defined in § 53.1-151 between each conviction shall, upon conviction of the second or subsequent such offense, be sentenced to the maximum term authorized by statute for such offense~~,~~ and shall not have all or any part of such sentence suspended, provided *that* it is admitted, or found by the jury or judge before whom the person is tried, that he has been previously convicted of at least one of the specified offenses.

B. The provisions of subsection A shall apply to felony convictions for:

1. Carnal knowledge of a child between ~~thirteen~~ *13* and ~~fifteen~~ *15* years of age in violation of § 18.2-63 when the offense is committed by a person over the age of ~~eighteen~~ *18*;

2. Carnal knowledge of certain minors in violation of § 18.2-64.1;

3. Aggravated sexual battery in violation of § 18.2-67.3;

4. Crimes against nature in violation of subsection B of § 18.2-361;

5. ~~Adultery or fornication~~ *Sexual intercourse* with one's own child or grandchild in violation of § 18.2-366;

6. Taking indecent liberties with a child in violation of § 18.2-370 or ~~§~~ 18.2-370.1; or

7. Conspiracy to commit any offense listed in subdivisions 1 through 6 pursuant to § 18.2-22.

C. For purposes of this section, prior convictions shall include (i) adult convictions for felonies under the laws of any state or the United States that are substantially similar to those listed in subsection B and (ii) findings of not innocent, adjudications, or convictions in the case of a juvenile if the juvenile offense is substantially similar to those listed in subsection B, the offense would be a felony if committed by an adult in the Commonwealth, and the offense was committed less than ~~twenty~~ *20* years before the second offense.

The Commonwealth shall notify the defendant in writing, at least ~~thirty~~ *30* days prior to trial, of its intention to seek punishment pursuant to this section.

§ 18.2-346. Prostitution; commercial sexual conduct; commercial exploitation of a minor; penalties.

A. Any person who, for money or its equivalent, (i) commits ~~adultery, fornication, or~~ any act in violation of § 18.2-361, performs cunnilingus, fellatio, or anilingus upon or by another person, or engages in *sexual intercourse or* anal intercourse or (ii) offers to commit ~~adultery, fornication, or~~ any act in violation of § 18.2-361, perform cunnilingus, fellatio, or anilingus upon or by another person, or engage in *sexual intercourse or* anal intercourse and thereafter does any substantial act in furtherance thereof is guilty of prostitution, which is punishable as a Class 1 misdemeanor.

B. Any person who offers money or its equivalent to another for the purpose of engaging in sexual acts as enumerated in subsection A and thereafter does any substantial act in furtherance thereof is guilty of solicitation of prostitution, which is punishable as a Class 1 misdemeanor. However, any person who solicits prostitution from a minor (i) 16 years of age or older is guilty of a Class 6 felony or (ii) younger than 16 years of age is guilty of a Class 5 felony.

§ 18.2-362. Person marrying when spouse is living; penalty; venue.

If any person, being married, shall, during the life of ~~the husband or wife~~ *such person's spouse*, marry another person in ~~this~~ *the* Commonwealth~~,~~ or, if the marriage with such other person ~~take~~ *takes* place out of the Commonwealth~~,~~ shall thereafter cohabit with such other person in ~~this~~ *the* Commonwealth, he ~~or she shall be~~ *is* guilty of a Class 4 felony. Venue for a violation of this section may be in the county or city where the subsequent marriage occurred or where the parties to the subsequent marriage cohabited.

§ 18.2-363. Leaving Commonwealth to evade law against bigamy.

If any persons, resident in ~~this~~ *the* Commonwealth, one of whom has a ~~husband or wife~~ *spouse* living, shall, with the intention of returning to reside in ~~this~~ *the* Commonwealth, go into another state or country and there intermarry and return to and reside in ~~this~~ *the* Commonwealth cohabiting as ~~man and wife~~ *a married couple*, such marriage shall be governed by the same law, in all respects, as if it had been solemnized in ~~this~~ *the* Commonwealth.

§ 18.2-364. Exceptions to §§ 18.2-362 and 18.2-363.

Sections 18.2-362 and 18.2-363 shall not extend to a person whose ~~husband or wife~~ *spouse* shall have been continuously absent from such person for seven years next before marriage of such person to another, and shall not have been known by such person to be living within that time; nor to a person who can show that the second marriage was contracted in good faith under a reasonable belief that the former consort was dead; nor to a person who shall, at the time of the subsequent marriage, have been divorced from the bond of the former marriage; nor to a person whose former marriage was void.

§ 18.2-366. Sexual intercourse by persons forbidden to marry; incest; penalties.

A. Any person who ~~commits adultery or fornication~~ *engages in sexual intercourse* with any person

whom he ~~or she~~ is forbidden by law to marry ~~shall be~~ *is* guilty of a Class 1 misdemeanor except as provided by subsection B.

B. Any person who ~~commits adultery or fornication~~ *engages in sexual intercourse* with his daughter or granddaughter, ~~or with her~~ son or grandson, or ~~her~~ father or ~~his~~ mother~~, shall be~~ *is* guilty of a Class 5 felony. However, if a parent or grandparent ~~commits adultery or fornication~~ *engages in sexual intercourse* with his ~~or her~~ child or grandchild, and such child or grandchild is at least ~~thirteen~~ *13* years of age but less than ~~eighteen~~ *18* years of age at the time of the offense, such parent or grandparent ~~shall be~~ *is* guilty of a Class 3 felony.

C. For the purposes of this section, parent includes step-parent, grandparent includes step-grandparent, child includes a step-child, and grandchild includes a step-grandchild.

§ 18.2-368. Placing or leaving spouse for prostitution; penalty.

Any person who, by force, fraud, intimidation, or threats, places or leaves or procures any other person to place or leave his ~~wife~~ *spouse* in a bawdy place for the purpose of prostitution or unlawful sexual intercourse, anal intercourse, cunnilingus, fellatio, or anilingus is guilty of pandering, punishable as a Class 4 felony.

§ 18.2-417. Slander and libel.

Any person who shall falsely utter and speak, or falsely write and publish, of and concerning any ~~female~~ *person* of chaste character, any words derogatory of such ~~female's~~ *person's* character for virtue and chastity, or imputing to such ~~female~~ *person* acts not virtuous and chaste, or who shall falsely utter and speak, or falsely write and publish, of and concerning another person, any words which from their usual construction and common acceptation are construed as insults and tend to violence and breach of the peace or shall use grossly insulting language to any ~~female~~ *person* of good character or reputation, ~~shall be~~ *is* guilty of a Class 3 misdemeanor.

The defendant shall be entitled to prove upon trial in mitigation of the punishment, the provocation which induced the libelous or slanderous words, or any other fact or circumstance tending to disprove malice, or lessen the criminality of the offense.

§ 19.2-69. Civil action for unlawful interception, disclosure, or use.

Any person whose wire, electronic, or oral communication is intercepted, disclosed, or used in violation of this chapter shall (i) have a civil cause of action against any person who intercepts, discloses, or uses, or procures any other person to intercept, disclose, or use, such communications~~,~~ and (ii) be entitled to recover from any such person:

1. Actual damages but not less than liquidated damages computed at the rate of $400 a day for each day of violation or $4,000, whichever is higher, provided that liquidated damages shall be computed at the rate of $800 a day for each day of violation or $8,000, whichever is higher, if the wire, electronic, or oral communication intercepted, disclosed, or used is between (i) ~~a husband and wife~~ *persons married to each other*; (ii) an attorney and client; (iii) a licensed practitioner of the healing arts and patient; (iv) a licensed professional counselor, licensed clinical social worker, licensed psychologist, or licensed marriage and family therapist and client; or (v) a clergy member and person seeking spiritual counsel or advice;

2. Punitive damages; and

3. A reasonable ~~attorney's~~ *attorney* fee and other litigation costs reasonably incurred.

A good faith reliance on a court order or legislative authorization shall constitute a complete defense to any civil or criminal action brought under this chapter or under any other law.

§ 19.2-271.1. Competency of spouses to testify.

~~Husband and wife~~ *Persons married to each other* shall be competent witnesses to testify for or against each other in criminal cases, except as otherwise provided.

§ 19.2-271.2. Testimony of spouses in criminal cases (Subsection (b) of Supreme Court Rule 2:504 derived from this section).

In criminal cases ~~husband and wife~~, *persons married to each other* shall be allowed, and, subject to the rules of evidence governing other witnesses, may be compelled to testify in behalf of each other, but neither shall be compelled to be called as a witness against the other, except (i) in the case of a prosecution for an offense committed by one against the other, against a minor child of either, or against the property of either; (ii) in any case where either is charged with forgery of the name of the other or uttering or attempting to utter a writing bearing the allegedly forged signature of the other; or (iii) in any proceeding relating to a violation of the laws pertaining to criminal sexual assault (§§ 18.2-61 through 18.2-67.10), crimes against nature (§ 18.2-361) involving a minor as a victim and provided *that* the defendant and the victim are not married to each other, incest (§ 18.2-366), or abuse of children (§§ 18.2-370 through 18.2-371). The failure of either ~~husband or wife~~ *spouse* to testify, however, shall create no presumption against the accused, nor be the subject of any comment before the court or jury by any attorney.

Except in the prosecution for a criminal offense as set forth in *clause* (i), (ii), or (iii) ~~above~~, in any criminal proceeding, a person has a privilege to refuse to disclose, and to prevent anyone else from

disclosing, any confidential communication between his spouse and him during their marriage, regardless of whether he is married to that spouse at the time he objects to disclosure. For the purposes of this section, "confidential communication" means a communication made privately by a person to his spouse that is not intended for disclosure to any other person.

§ 19.2-305. Requiring fines, costs, restitution for damages, support, or community services from probationer.

A. While on probation the defendant may be required to pay in one or several sums a fine or costs, or both such fine and costs, imposed at the time of being placed on probation as a condition of such probation, and the failure of the defendant to pay such fine or costs, or both such fine and costs, at the prescribed time or times may be deemed a breach of such probation. The provisions of this subsection shall also apply to any person ordered to pay costs pursuant to § 19.2-303.3.

B. A defendant placed on probation following conviction may be required to make at least partial restitution or reparation to the aggrieved party or parties for damages or loss caused by the offense for which conviction was had, or may be required to provide for the support of his ~~wife~~ *spouse* or others for whose support he may be legally responsible, or may be required to perform community services. The defendant may submit a proposal to the court for making restitution, for providing for support, or for performing community services.

C. No defendant shall be kept under supervised probation solely because of his failure to make full payment of fines, fees, or costs, provided that, following notice by the probation and parole officer to each court and attorney for the Commonwealth in whose jurisdiction any fines, fees, or costs are owed by the defendant, no such court or attorney for the Commonwealth objects to his removal from supervised probation.

§ 20-38.1. Certain marriages prohibited.

~~(a)~~ The following marriages are prohibited:

~~(1)~~ *1.* A marriage entered into prior to the dissolution of an earlier marriage of one of the parties;

~~(2)~~ *2.* A marriage between an ancestor and descendant, or between ~~a brother and a sister~~ *siblings*, whether the relationship is by the half or the whole blood or by adoption;

~~(3)~~ *3.* A marriage between an uncle ~~and a niece~~ or ~~between an~~ aunt and a nephew *or niece*, whether the relationship is by the half or the whole blood.

~~(b) [Repealed.]~~

§ 20-40. Punishment for violation of such prohibition; leaving Commonwealth to avoid.

If any person marry in violation of § 20-38.1, he shall be confined in jail not exceeding six months, or fined not exceeding $500, in the discretion of the jury. If any persons, resident in ~~this~~ *the* Commonwealth, and within the degrees of relationship mentioned in that section, shall go out of ~~this~~ *the* Commonwealth for the purpose of being married, and with the intention of returning, and be married out of it, and afterwards return to and reside in it, cohabiting as ~~man and wife~~ *a married couple*, they shall be punished as provided in this section, and the marriage shall be governed by the same law as if it had been solemnized in ~~this~~ *the* Commonwealth. The fact of such cohabitation here shall be evidence of such marriage. Venue for a violation of this section may be in the county or city where the subsequent marriage occurred or where the parties to the subsequent marriage cohabited.

§ 20-43. Bigamous marriages void without decree.

All marriages ~~which~~ *that* are prohibited by law on account of either of the parties having a former ~~wife or husband~~ *spouse* then living shall be absolutely void, without any decree of divorce~~,~~ or other legal process.

§ 20-82. Spouses competent as witnesses.

In every prosecution under this chapter ~~both husband and wife~~, *persons married to each other* shall be competent witnesses to testify against each other in all relevant matters, including the facts of such marriage, provided that neither shall be compelled to give evidence incriminating himself ~~or herself~~.

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

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

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

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

D. Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in

evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

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

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

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

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

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

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

For the purposes of this section only:

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

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

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

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

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

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

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

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

legally incompetent;

2. Verify whether either party is incarcerated;

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

4. Affirm that at least one party 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;

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

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

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 *bwetween* parent and child may not be invoked in a proceeding under this article.

§ 20-156. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Assisted conception" means a pregnancy resulting from any intervening medical technology, whether in vivo or in vitro, which completely or partially replaces sexual intercourse as the means of conception. Such intervening medical technology includes, but is not limited to, conventional medical and surgical treatment as well as noncoital reproductive technology such as artificial insemination by donor, cryopreservation of gametes and embryos, in vitro fertilization, uterine embryo lavage, embryo transfer,

gamete intrafallopian tube transfer, and low tubal ovum transfer.

"Compensation" means payment of any valuable consideration for services in excess of reasonable medical and ancillary costs.

"Cryopreservation" means freezing and storing of gametes and embryos for possible future use in assisted conception.

"Donor" means an individual, other than a surrogate, who contributes the sperm or egg used in assisted conception.

"Gamete" means either a sperm or an ovum.

"Genetic parent" means an individual who contributes a gamete resulting in a conception.

"Gestational mother" means the woman who gives birth to a child, regardless of her genetic relationship to the child.

"Embryo" means the organism resulting from the union of a sperm and an ovum from first cell division until approximately the end of the second month of gestation.

"Embryo transfer" means the placing of a viable embryo into the uterus of a gestational mother.

"Infertile" means the inability to conceive after one year of unprotected sexual intercourse.

"Intended parents" means a ~~man and a woman,~~ married ~~to each other,~~ *couple* who enter into an agreement with a surrogate under the terms of which they will be the parents of any child born to the surrogate through assisted conception regardless of the genetic relationships between the intended parents, the surrogate, and the child.

"In vitro" means any process that can be observed in an artificial environment such as a test tube or tissue culture plate.

"In vitro fertilization" means the fertilization of ova by sperm in an artificial environment.

"In vivo" means any process occurring within the living body.

"Ovum" means the female gamete or reproductive cell prior to fertilization.

"Reasonable medical and ancillary costs" means the costs of the performance of assisted conception, the costs of prenatal maternal health care, the costs of maternal and child health care for a reasonable ~~post partum~~ *postpartum* period, the reasonable costs for medications and maternity clothes, and any additional and reasonable costs for housing and other living expenses attributable to the pregnancy.

"Sperm" means the male gametes or reproductive cells which impregnate the ova.

"Surrogacy contract" means an agreement between intended parents, a surrogate, and her ~~husband~~ *spouse*, if any, in which the surrogate agrees to be impregnated through the use of assisted conception, to carry any resulting fetus, and to relinquish to the intended parents the custody of and parental rights to any resulting child.

"Surrogate" means any adult woman who agrees to bear a child carried for intended parents.

§ 20-158. Parentage of child resulting from assisted conception.

A. Determination of parentage, generally. — Except as provided in subsections B, C, D, and E ~~of this section~~, the parentage of any child resulting from the performance of assisted conception shall be determined as follows:

1. The gestational mother of a child is the child's mother.

2. The ~~husband~~ *spouse* of the gestational mother of a child is the child's ~~father~~ *other parent*, notwithstanding any declaration of invalidity or annulment of the marriage obtained after the performance of assisted conception, unless ~~he~~ *such spouse* commences an action in which the mother and child are parties within two years after ~~he~~ *such spouse* discovers or, in the exercise of due diligence, reasonably should have discovered the child's birth and in which it is determined that ~~he~~ *such spouse* did not consent to the performance of assisted conception.

3. A donor is not the parent of a child conceived through assisted conception, unless the donor is the ~~husband~~ *spouse* of the gestational mother.

B. Death of spouse. — Any child resulting from the insemination of a ~~wife's~~ *mother's* ovum using her ~~husband's~~ *spouse's* sperm, with ~~his~~ *such spouse's* consent, is the child of the ~~husband and wife~~ *spouses* notwithstanding that, during the ~~ten-month~~ *10-month* period immediately preceding the birth, either party died.

However, any person who dies before in utero implantation of an embryo resulting from the union of ~~his~~ *the spouse's* sperm or ~~her~~ *the mother's* ovum with another gamete, whether or not the other gamete is that of the person's spouse, is not the parent of any resulting child unless (i) implantation occurs before notice of the death can reasonably be communicated to the physician performing the procedure or (ii) the person consents to be a parent in writing executed before the implantation.

C. Divorce. — Any child resulting from insemination of a ~~wife's~~ *mother's* ovum using her ~~husband's~~ *spouse's* sperm, with ~~his~~ *such spouse's* consent, is the child of the ~~husband and wife~~ *spouses* notwithstanding that either party filed for a divorce or annulment during the ~~ten-month~~ *10-month* period immediately preceding the birth. Any person who is a party to an action for divorce or annulment commenced by filing before in utero implantation of an embryo resulting from the union of ~~his~~ *the*

spouse's sperm or ~~her~~ *the mother's* ovum with another gamete, whether or not the other gamete is that of the person's spouse, is not the parent of any resulting child unless (i) implantation occurs before notice of the filing can reasonably be communicated to the physician performing the procedure or (ii) the person consents in writing to be a parent, whether the writing was executed before or after the implantation.

D. Birth pursuant to court approved surrogacy contract. — After approval of a surrogacy contract by the court and entry of an order as provided in subsection D of § 20-160, the intended parents are the parents of any resulting child. However, if the court vacates the order approving the agreement pursuant to subsection B of § 20-161, the surrogate is the mother of the resulting child and her ~~husband~~ *spouse, if any,* is the ~~father~~ *other parent*. The intended parents may only obtain parental rights through adoption as provided in Chapter 12 (§ 63.2-1200 et seq.) of Title 63.2.

E. Birth pursuant to surrogacy contract not approved by court. — In the case of a surrogacy contract that has not been approved by a court as provided in § 20-160, the parentage of any resulting child shall be determined as follows:

1. The gestational mother is the child's mother unless ~~the intended mother is a genetic parent, in which case the intended mother is the mother.~~ ~~2.~~ If either of the intended parents is a genetic parent of the resulting child, *in which case* the intended ~~father is~~ *parents are* the child's ~~father~~ *parents*. However, if (i) the surrogate is married, (ii) her ~~husband~~ *spouse* is a party to the surrogacy contract, and (iii) the surrogate exercises her right to retain custody and parental rights to the resulting child pursuant to § 20-162, then the surrogate and her ~~husband~~ *spouse* are the parents.

~~3.~~ *2.* If neither of the intended parents is a genetic parent of the resulting child, the surrogate is the mother and her ~~husband~~ *spouse, if any,* is the child's ~~father~~ *other parent* if ~~he~~ *such spouse* is a party to the contract. The intended parents may only obtain parental rights through adoption as provided in Chapter 12 (§ 63.2-1200 et seq.) of Title 63.2.

~~4.~~ *3.* After the signing and filing of the surrogate consent and report form in conformance with the requirements of subsection A of § 20-162, the intended parents are the parents of the child and the surrogate and her ~~husband~~ *spouse*, if any, shall not be the parents of the child.

§ 20-159. Surrogacy contracts permissible.

A. A surrogate, her ~~husband~~ *spouse*, if any, and prospective intended parents may enter into a written agreement whereby the surrogate may relinquish all her rights and duties as parent of a child conceived through assisted conception, and the intended parents may become the parents of the child as provided in subsection D or E of § 20-158.

B. Surrogacy contracts shall be approved by the court as provided in § 20-160. However, any surrogacy contract that has not been approved by the court shall be governed by the provisions of §§ 20-156 through 20-159 and §§ 20-162 through 20-165, including the provisions for reformation in conformance with this chapter as provided in § 20-162.

§ 20-160. Petition and hearing for court approval of surrogacy contract; requirements; orders.

A. Prior to the performance of assisted conception, the intended parents, the surrogate, and her ~~husband~~ *spouse, if any,* shall join in a petition to the circuit court of the county or city in which at least one of the parties resides. The surrogacy contract shall be signed by all the parties and acknowledged before an officer or other person authorized by law to take acknowledgments.

A copy of the contract shall be attached to the petition. The court shall appoint a guardian ad litem to represent the interests of any resulting child and shall appoint counsel to represent the surrogate. The court shall order a home study by a local department of social services or welfare or a licensed child-placing agency, to be completed prior to the hearing on the petition.

All hearings and proceedings conducted under this section shall be held in camera, and all court records shall be confidential and subject to inspection only under the standards applicable to adoptions as provided in § 63.2-1245. The court conducting the proceedings shall have exclusive and continuing jurisdiction of all matters arising under the surrogacy contract until all provisions of the contract are fulfilled.

B. The court shall hold a hearing on the petition. The court shall enter an order approving the surrogacy contract and authorizing the performance of assisted conception for a period of ~~twelve~~ *12* months after the date of the order, and may discharge the guardian ad litem and attorney for the surrogate upon finding that:

1. The court has jurisdiction in accordance with § 20-157;

2. A local department of social services or welfare or a licensed child-placing agency has conducted a home study of the intended parents, the surrogate, and her ~~husband~~ *spouse*, if any, and has filed a report of this home study with the court;

3. The intended parents, the surrogate, and her ~~husband~~ *spouse*, if any, meet the standards of fitness applicable to adoptive parents;

4. All the parties have voluntarily entered into the surrogacy contract and understand its terms and the nature, meaning, and effect of the proceeding and understand that any agreement between them for

payment of compensation is void and unenforceable;

5. The agreement contains adequate provisions to guarantee the payment of reasonable medical and ancillary costs either in the form of insurance, cash, escrow, bonds, or other arrangements satisfactory to the parties, including allocation of responsibility for such costs in the event of termination of the pregnancy, termination of the contract pursuant to § 20-161, or breach of the contract by any party;

6. The surrogate has had at least one pregnancy, and has experienced at least one live birth, and bearing another child does not pose an unreasonable risk to her physical or mental health or to that of any resulting child. This finding shall be supported by medical evidence;

7. Prior to signing the surrogacy contract, the intended parents, the surrogate, and her ~~husband~~ *spouse*, if any, have submitted to physical examinations and psychological evaluations by practitioners licensed to perform such services pursuant to Title 54.1, and the court and all parties have been given access to the records of the physical examinations and psychological evaluations;

8. The intended mother is infertile, is unable to bear a child, or is unable to do so without unreasonable risk to the unborn child or to the physical or mental health of the intended mother or the child, *or neither intended parent is female*. This finding shall be supported by medical evidence;

9. At least one of the intended parents is expected to be the genetic parent of any child resulting from the agreement;

10. The ~~husband~~ *spouse* of the surrogate, if any, is a party to the surrogacy agreement;

11. All parties have received counseling concerning the effects of the surrogacy by a qualified health care professional or social worker, and a report containing conclusions about the capacity of the parties to enter into and fulfill the agreement has been filed with the court; and

12. The agreement would not be substantially detrimental to the interests of any of the affected persons.

C. Unless otherwise provided in the surrogacy contract, all court costs, counsel fees, and other costs and expenses associated with the hearing, including the costs of the home study, shall be assessed against the intended parents.

D. Within seven days of the birth of any resulting child, the intended parents shall file a written notice with the court that the child was born to the surrogate within 300 days after the last performance of assisted conception. Upon the filing of this notice and a finding that at least one of the intended parents is the genetic parent of the resulting child as substantiated by medical evidence, the court shall enter an order directing the State Registrar of Vital Records to issue a new birth certificate naming the intended parents as the parents of the child pursuant to § 32.1-261.

If evidence cannot be produced that at least one of the intended parents is the genetic parent of the resulting child, the court shall not enter an order directing the issuance of a new birth certificate naming the intended parents as the parents of the child, and the surrogate and her ~~husband~~ *spouse*, if any, shall be the parents of the child. The intended parents may obtain parental rights only through adoption as provided in Chapter 12 (§ 63.2-1200 et seq.) of Title 63.2.

§ 20-161. Termination of court-approved surrogacy contract.

A. Subsequent to an order entered pursuant to subsection B of § 20-160, but before the surrogate becomes pregnant through the use of assisted conception, the court for cause, or the surrogate, her ~~husband~~ *spouse*, if any, or the intended parents may terminate the agreement by giving written notice of termination to all other parties and by filing notice of the termination with the court. Upon receipt of the notice, the court shall vacate the order entered under subsection B of § 20-160.

B. Within 180 days after the last performance of any assisted conception, a surrogate who is also a genetic parent may terminate the agreement by filing written notice with the court. The court shall vacate the order entered pursuant to subsection B of § 20-160 upon finding, after notice to the parties to the agreement and a hearing, that the surrogate has voluntarily terminated the agreement and that she understands the effects of the termination.

Unless otherwise provided in the contract as approved, the surrogate shall incur no liability to the intended parents for exercising her rights of termination pursuant to this section.

§ 20-162. Contracts not approved by the court; requirements.

A. In the case of any surrogacy agreement for which prior court approval has not been obtained pursuant to § 20-160, the provisions of this section and §§ 20-156 through 20-159 and §§ 20-163 through 20-165 shall apply. Any provision in a surrogacy contract that attempts to reduce the rights or responsibilities of the intended parents, surrogate, or her ~~husband~~ *spouse*, if any, or the rights of any resulting child shall be reformed to include the requirements set forth in this chapter. A provision in the contract providing for compensation to be paid to the surrogate is void and unenforceable. Such surrogacy contracts shall be enforceable and shall be construed only as follows:

1. The surrogate, her ~~husband~~ *spouse*, if any, and the intended parents shall be parties to any such surrogacy contract.

2. The contract shall be in writing, signed by all the parties, and acknowledged before an officer or

other person authorized by law to take acknowledgments.

3. Upon expiration of three days following birth of any resulting child, the surrogate may relinquish her parental rights to the intended parents, if at least one of the intended parents is the genetic parent of the child, by signing a surrogate consent and report form naming the intended parents as the parents of the child. The surrogate consent and report form shall be developed, furnished and distributed by the State Registrar of Vital Records. The surrogate consent and report form shall be signed and acknowledged before an officer or other person authorized by law to take acknowledgments. The surrogate consent and report form, a copy of the contract, and a statement from the physician who performed the assisted conception stating the genetic relationships between the child, the surrogate, and the intended parents, at least one of whom shall be the genetic parent of the child, shall be filed with the State Registrar within 180 days after the birth. The statement from the physician shall be signed and acknowledged before an officer or other person authorized by law to take acknowledgments. There shall be a rebuttable presumption that the statement from the physician accurately states the genetic relationships among the child, the surrogate and the intended parents. Where a physician's statement is not available, DNA testing establishing the genetic relationships between the child, the surrogate, and the intended parents may be substituted for the physician's statement.

4. Upon the filing of the surrogate consent and report form and the required attachments, including the physician's statement, within 180 days of the birth, a new birth certificate shall be established by the State Registrar for the child naming the intended parents as the parents of the child as provided in § 32.1-261.

B. Any contract governed by the provisions of this section shall include or, in the event such provisions are not explicitly covered in the contract or are included but are inconsistent with this section, shall be deemed to include the following provisions:

1. The intended parents shall be the parents of any resulting child only when the surrogate relinquishes her parental rights as provided in subdivision A 3 ~~of this section~~ and a new birth certificate is established as provided in subdivision A 4 ~~of this section~~ and § 32.1-261;

2. Incorporation of this chapter and a statement by each of the parties that they have read and understood the contract, they know and understand their rights and responsibilities under Virginia law, and the contract was entered into knowingly and voluntarily; and

3. A guarantee by the intended parents for payment of reasonable medical and ancillary costs either in the form of insurance, cash, escrow, bonds, or other arrangements satisfactory to the parties, including allocation of responsibility for such costs in the event of termination of the pregnancy, termination of the contract, or breach of the contract by any party.

C. Under any contract that does not include an allocation of responsibility for reasonable medical and ancillary costs in the event of termination of the pregnancy, termination of the contract, or breach of the contract by any party, the following provisions shall control:

1. If the intended parents and the surrogate and her ~~husband~~ *spouse*, if any, and if ~~he~~ *such spouse* is a party to the contract, consent in writing to termination of the contract, the intended parents are responsible for all reasonable medical and ancillary costs for a period of six weeks following the termination.

2. If the surrogate voluntarily terminates the contract during the pregnancy, without consent of the intended parents, the intended parents shall be responsible for one-half of the reasonable medical and ancillary costs incurred prior to the termination.

3. If, after the birth of any resulting child, the surrogate fails to relinquish parental rights to the intended parents pursuant to the contract, the intended parents shall be responsible for one-half of the reasonable medical and ancillary costs incurred prior to the birth.

§ 20-163. Miscellaneous provisions related to all surrogacy contracts.

A. The surrogate shall be solely responsible for the clinical management of the pregnancy.

B. After the entry of an order under subsection B of § 20-160 or upon the execution of a contract pursuant to § 20-162, the marriage of the surrogate shall not affect the validity of the order or contract, and her ~~husband~~ *spouse* shall not be deemed a party to the contract in the absence of ~~his~~ *such spouse's* explicit written consent.

C. Following the entry of an order pursuant to subsection D of § 20-160 or upon the relinquishing of the custody of and parental rights to any resulting child and the filing of the surrogate consent and report form as provided in § 20-162, the intended parents shall have the custody of, parental rights to, and full responsibilities for any child resulting from the performance of assisted conception from a surrogacy agreement regardless of the child's health, physical appearance, ~~any~~ *or* mental or physical handicap~~,~~ and regardless of whether the child is born alive.

D. A child born to a surrogate within 300 days after assisted conception pursuant to an order under subsection B of § 20-160 or a contract under § 20-162 is presumed to result from the assisted conception. This presumption is conclusive as to all persons who fail to file an action to test its validity within two years after the birth of the child. The child and the parties to the contract shall be named as

parties in any such action. The action shall be filed in the court that issued or could have issued an order under § 20-160.

E. Health care providers shall not be liable for recognizing the surrogate as the mother of the resulting child before receipt of a copy of an order entered under § 20-160 or a copy of the contract, or for recognizing the intended parents as the parents of the resulting child after receipt of such order or copy of the contract.

§ 20-165. Surrogate brokers prohibited; penalty; liability of surrogate brokers.

A. It shall be unlawful for any person, firm, corporation, partnership, or other entity to accept compensation for recruiting or procuring surrogates or to accept compensation for otherwise arranging or inducing intended parents and surrogates to enter into surrogacy contracts in ~~this~~ *the* Commonwealth. A violation of this section shall be punishable as a Class 1 misdemeanor.

B. Any person who acts as a surrogate broker in violation of this section shall, in addition, be liable to all the parties to the purported surrogacy contract in a total amount equal to three times the amount of compensation to have been paid to the broker pursuant to the contract. One-half of the damages under this subsection shall be due the surrogate and her ~~husband~~ *spouse*, if any, and if ~~he~~ *such spouse* is a party to the contract, and one-half shall be due the intended parents.

An action under this section shall be brought within five years of the date of the contract.

C. The provisions of this section shall not apply to the services of an attorney in giving legal advice or in preparing a surrogacy contract.

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

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

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

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

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

§ 32.1-127. Regulations.

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

B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing

homes and certified nursing facilities to ensure the environmental protection and the life safety of its patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the Department of Health Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence; and (v) policies related to infection prevention, disaster preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities. For purposes of this ~~paragraph~~ *subdivision*, facilities in which five or more first trimester abortions per month are performed shall be classified as a category of "hospital";

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

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

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

20. Shall require that each hospital that provides inpatient psychiatric services establish a protocol that requires, for any refusal to admit (i) 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 prohibits on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician and (ii) a patient for whom there is a question regarding the medical stability or medical appropriateness of admission for inpatient psychiatric services due to a situation involving results of a toxicology screening, the on-call

physician in the psychiatric unit to which the patient is sought to be transferred to participate in direct verbal communication, either in person or via telephone, with a clinical toxicologist or other person who is a Certified Specialist in Poison Information employed by a poison control center that is accredited by the American Association of Poison Control Centers to review the results of the toxicology screen and determine whether a medical reason for refusing admission to the psychiatric unit related to the results of the toxicology screen exists, if requested by the referring physician;

21. Shall require that each hospital that is equipped to provide life-sustaining treatment shall develop a policy governing determination of the medical and ethical appropriateness of proposed medical care, which shall include (i) a process for obtaining a second opinion regarding the medical and ethical appropriateness of proposed medical care in cases in which a physician has determined proposed care to be medically or ethically inappropriate; (ii) provisions for review of the determination that proposed medical care is medically or ethically inappropriate by an interdisciplinary medical review committee and a determination by the interdisciplinary medical review committee regarding the medical and ethical appropriateness of the proposed health care; and (iii) requirements for a written explanation of the decision reached by the interdisciplinary medical review committee, which shall be included in the patient's medical record. Such policy shall ensure that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 (a) are informed of the patient's right to obtain his medical record and to obtain an independent medical opinion and (b) afforded reasonable opportunity to participate in the medical review committee meeting. Nothing in such policy shall prevent the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986 from obtaining legal counsel to represent the patient or from seeking other remedies available at law, including seeking court review, provided that the patient, his agent, or the person authorized to make medical decisions pursuant to § 54.1-2986, or legal counsel provides written notice to the chief executive officer of the hospital within 14 days of the date on which the physician's determination that proposed medical treatment is medically or ethically inappropriate is documented in the patient's medical record;

22. Shall require every hospital with an emergency department to establish protocols to ensure that security personnel of the emergency department, if any, receive training appropriate to the populations served by the emergency department, which may include training based on a trauma-informed approach in identifying and safely addressing situations involving patients or other persons who pose a risk of harm to themselves or others due to mental illness or substance abuse or who are experiencing a mental health crisis; and

23. (Effective March 1, 2019) Shall require that each hospital establish a protocol requiring that, before a health care provider arranges for air medical transportation services for a patient who does not have an emergency medical condition as defined in 42 U.S.C. § 1395dd(e)(1), the hospital shall provide the patient or his authorized representative with written or electronic notice that the patient (i) may have a choice of transportation by an air medical transportation provider or medically appropriate ground transportation by an emergency medical services provider and (ii) will be responsible for charges incurred for such transportation in the event that the provider is not a contracted network provider of the patient's health insurance carrier or such charges are not otherwise covered in full or in part by the patient's health insurance plan.

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~~ *that* occurs in ~~this~~ *the* 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 *that* 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 *B* 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~~ *the* Commonwealth to the owner of such vehicle, aircraft, or watercraft, or shall be issued or delivered by any insurer licensed in ~~this~~ *the* Commonwealth upon any motor vehicle, aircraft, or private pleasure watercraft that is principally garaged, docked, or used in ~~this~~ *the* 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~~ *the* 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~~ *the*

Commonwealth to the owner of such vehicle or shall be issued or delivered by an insurer licensed in ~~this~~ *the* Commonwealth upon any motor vehicle principally garaged or used in ~~this~~ *the* 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~~ *As used in* 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~~ *the* 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 *D* 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~~,~~ *and* 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 *D* 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 Commissioner of Insurance review this action to determine whether the insurer has complied with Virginia laws in canceling or nonrenewing your policy. If this insurer has failed to comply with the cancellation or nonrenewal laws, the Commissioner may require that your policy be reinstated. However, the Commissioner is prohibited from making underwriting judgments. If this insurer has complied with the cancellation or nonrenewal laws, the Commissioner does not have the authority to overturn this action.

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

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

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

F. Nothing in this section shall apply:

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

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

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

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

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

H. Within 15 days of receipt of the notice of cancellation or refusal to renew, any insured or his attorney shall be entitled to request in writing to the Commissioner that he review the action of the

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

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

J. The provisions of this section shall not apply to any insurer that limits the issuance of policies of motor vehicle liability insurance to one class or group of persons engaged in any one particular 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.

§ 38.2-4019. Beneficiaries.

No person other than a ~~wife,~~ ~~husband~~ *spouse*, relative by blood to the fourth degree, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepchild, or child by legal adoption of the member, or one who is dependent upon the member or one who has an insurable interest in the life of the member as described in § 38.2-301, shall be named a beneficiary of the member's certificate. Within the above limitations, each member shall have the right to designate his beneficiary and to change his beneficiary, upon due notice to the society. If the beneficiary is not living or if no allowable beneficiary has been designated, any proceeds otherwise payable shall be payable to the member's estate.

§ 58.1-322.02. Virginia taxable income; subtractions.

In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission, or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States, including, but not limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

3. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4. Up to $20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a subtraction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7. Any amount included therein less than $600 from a prize awarded by the Virginia Lottery.

8. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days of such service or $3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions specified in this subdivision.

9. Amounts received by an individual, not to exceed $1,000 in any taxable year, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

13. All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds $15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds $30,000.

16. The first $15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is $15,000 or less.

17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

18. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, ~~widow,~~ ~~widower~~ *surviving spouse*, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath, (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution,

or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath.

20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

21. The death benefit payments from an annuity contract that are received by a beneficiary of such contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

22. Any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided that the business has its principal office or facility in the Commonwealth and less than $3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 55-558. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55 into another account established pursuant to such chapter for the benefit of another qualified beneficiary.

For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 55-555.

26. For taxable years beginning on and after January 1, 2015, any income for the taxable year attributable to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

27. a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by a family member or an

affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 27:

"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.

"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.

28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 28:

"Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115.

"Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of § 2.2-115.

"Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

§ 58.1-324. Married individuals.

A. If the federal taxable income of ~~husband or wife~~ *married individuals* is determined on ~~a~~ separate federal ~~return~~ *returns*, their Virginia taxable incomes shall be separately determined.

B. If the federal taxable income of ~~husband and wife~~ *married individuals* is determined on a joint federal return, or if neither files a federal return:

1. Their tax shall be determined on their joint Virginia taxable income; or

2. Separate taxes may be determined on their separate Virginia taxable incomes if they so elect.

C. Where ~~husband and wife~~ *married individuals* have not separately reported and claimed items of income, exemptions and deductions for federal income tax purposes, and have not elected to file a joint Virginia income tax return, such items allowable for Virginia income tax purposes shall be allocated and adjusted as follows:

1. Income shall be allocated to the spouse who earned the income or with respect to whose property the income is attributable.

2. Allowable deductions with respect to trade, business, production of income, or employment shall be allocated to the spouse to whom attributable.

3. Nonbusiness deductions, where properly taken for federal income tax purposes, shall be allowable for Virginia income tax purposes, but shall be allocable between ~~husband and wife~~ *married individuals* as they may mutually agree. For this purpose, "nonbusiness deductions" consist of allowable deductions not described in subdivision 2.

4. Where the standard deduction or low income allowance is properly taken pursuant to subdivision 1

a of § 58.1-322.03, such deduction or allowance shall be allocable between ~~husband and wife~~ *married individuals* as they may mutually agree.

5. Personal exemptions properly allowable for federal income tax purposes shall be allocated for Virginia income tax purposes as ~~husband and wife~~ *married individuals* may mutually agree; however, exemptions for taxpayer and spouse together with exemptions for old age and blindness must be allocated respectively to the spouse to whom they relate.

D. Where allocations are permitted to be made under subsection C pursuant to agreement between ~~husband and wife~~ *married individuals*, and ~~husband and wife~~ *they* have failed to agree as to those allocations, such allocations shall be made between ~~husband and wife~~ *them* in a manner corresponding to the treatment for federal income tax purposes of the items involved, under regulations prescribed by the Department.

§ 58.1-326. Married individuals when one nonresident.

If ~~husband or wife~~ *either spouse* is a resident and the other *spouse* is a nonresident, separate taxes shall be determined on their separate Virginia taxable incomes on such single or separate forms as may be required by the Department, unless both elect to determine their joint Virginia taxable income as if both were residents.

§ 58.1-339.8. Income tax credit for low-income taxpayers.

A. As used in this section, unless the context requires otherwise:

"Family Virginia adjusted gross income" means the combined Virginia adjusted gross income of an individual, the individual's spouse, and any person claimed as a dependent on the individual's or his spouse's income tax return for the taxable year.

"Poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of Columbia updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of § 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"Virginia adjusted gross income" has the same meaning as the term is defined in § 58.1-321.

B. 1. For taxable years beginning on and after January 1, 2000, any individual or persons filing a joint return whose family Virginia adjusted gross income does not exceed 100 percent of the poverty guideline amount corresponding to a household of an equal number of persons as listed in the poverty guidelines published during such taxable year, shall be allowed a credit against the tax levied pursuant to § 58.1-320 in an amount equal to $300 each for the individual, the individual's spouse, and any person claimed as a dependent on the individual's or married ~~persons'~~ *individuals'* income tax return for the taxable year. For any taxable year in which ~~a husband and wife~~ *married individuals* file separate Virginia income tax returns, the credit provided under this section shall be allowed against the tax for only one of such two tax returns. Additionally, the credit provided under this section shall not be allowed against such tax of a dependent of the individual or of married ~~persons~~ *individuals*.

2. For taxable years beginning on and after January 1, 2006, any individual or married ~~persons~~ *individuals*, eligible for a tax credit pursuant to § 32 of the Internal Revenue Code, may for the taxable year, in lieu of the credit authorized under subdivision B 1, claim a credit against the tax imposed pursuant to § 58.1-320 in an amount equal to 20 percent of the credit claimed by the individual or married ~~persons~~ *individuals* for federal individual income taxes pursuant to § 32 of the Internal Revenue Code for the taxable year. In no case shall a household be allowed a credit pursuant to this subdivision and subdivision B 1 for the same taxable year.

For *the* purpose of this subdivision, "household" means an individual and, in the case of married ~~persons~~ *individuals*, the individual and his spouse regardless of whether or not the individual and his spouse file combined or separate Virginia individual income tax returns.

C. The amount of the credit provided pursuant to subsection B for any taxable year shall not exceed the individual's or married ~~persons'~~ *individuals'* Virginia income tax liability.

D. Notwithstanding any other provision of this section, no credit shall be allowed pursuant to subsection B in any taxable year in which the individual, the individual's spouse, or both, or any person claimed as a dependent on such individual's or married ~~persons'~~ *individuals'* income tax return, claims one or any combination of the following on his or their income tax return for such taxable year:

1. The subtraction under subdivision 8 of § 58.1-322.02;

2. The subtraction under subdivision 15 of § 58.1-322.02;

3. The subtraction under subdivision 16 of § 58.1-322.02;

4. The deduction for the additional personal exemption for blind or aged taxpayers under subdivision 2 b of § 58.1-322.03; or

5. The deduction under subdivision 5 of § 58.1-322.03.

§ 58.1-341. Returns of individuals.

A. On or before May 1 of each year if an individual's taxable year is the calendar year, or on or before the fifteenth day of the fourth month following the close of a taxable year other than the calendar year, an income tax return under this chapter shall be made and filed by or for:

1. Every resident individual, except as provided in § 58.1-321, required to file a federal income tax return for the taxable year, or having Virginia taxable income for the taxable year;

2. Every nonresident individual having Virginia taxable income for the taxable year, except as provided in § 58.1-321.

Notwithstanding the foregoing, every member of the armed services of the United States deployed outside of the United States shall be allowed an automatic extension to file an income tax return. Such extension shall expire 90 days following the completion of such member's deployment. For purposes of this section, "the armed services of the United States" includes active duty service with the regular Armed Forces of the United States or the National Guard or other reserve component.

B. If the federal income tax liability of ~~husband or wife~~ *either spouse* is determined on a separate federal return, their Virginia income tax liabilities and returns shall be separate. If the federal income tax liabilities of ~~husband and wife~~ *married individuals* (other than ~~a husband and wife~~ *married individuals* described in subdivision *A* 2 ~~of subsection A~~) are determined on a joint federal return, or if neither files a federal return:

1. They shall file a joint Virginia income tax return, and their tax liabilities shall be joint and several; or

2. They may elect to file separate Virginia income tax returns if they comply with the requirements of the Department in setting forth information (whether or not on a single form), in which event their tax liabilities shall be separate unless such ~~husband and wife~~ *married individuals* file separately on a combined return. The election permitted under this subsection may be made or changed at any time within three years from the last day prescribed by law for the timely filing of the return.

C. If either ~~husband or wife~~ *spouse* is a resident and the other is a nonresident, they shall file separate Virginia income tax returns on such single or separate forms as may be required by the Department, in which event their tax liabilities shall be separate except as provided in subsection D, unless both elect to determine their joint Virginia taxable income as if both were residents, in which event their tax liabilities shall be joint and several.

D. If ~~husband and wife~~ *married individuals* file separate Virginia income tax returns on a single form pursuant to subsection B or C, and:

1. If the sum of the payments by either spouse, including withheld and estimated taxes, exceeds the amount of the tax for which such spouse is separately liable, the excess may be applied by the Department to the credit of the other spouse if the sum of the payments by such other spouse, including withheld and estimated taxes, is less than the amount of the tax for which such other spouse is separately liable;

2. If the sum of the payments made by both spouses with respect to the taxes for which they are separately liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses.

The provisions of this subsection shall not apply if the return of either spouse includes a demand that any overpayment made by him ~~or her~~ shall be applied only on account of his ~~or her~~ separate liability.

E. The return for any deceased individual shall be made and filed by his executor, administrator, or other person charged with his property.

F. The return for an individual who is unable to make a return by reason of minority or other disability shall be made and filed by his guardian, committee, fiduciary or other person charged with the care of his person or property (other than a receiver in possession of only a part of his property), or by his duly authorized agent.

§ 58.1-344.3. Voluntary contributions of refunds requirements.

A. 1. For taxable years beginning on and after January 1, 2005, all entities entitled to voluntary contributions of tax refunds listed in subsections B and C must have received at least $10,000 in contributions in each of the three previous taxable years for which there is complete data and in which such entity was listed on the individual income tax return.

2. In the event that an entity listed in subsections B and C does not satisfy the requirement in subdivision 1, such entity shall no longer be listed on the individual income tax return.

3. a. The entities listed in subdivisions B 21 and B 22 as well as any other entities in subsections B and C added subsequent to the 2004 Session of the General Assembly shall not appear on the individual income tax return until their addition to the individual income tax return results in a maximum of 25 contributions listed on the return. Such contributions shall be added in the order that they are listed in subsections B and C.

b. Each entity added to the income tax return shall appear on the return for at least three consecutive taxable years before the requirement in subdivision 1 is applied to such entity.

4. The Department of Taxation shall report annually by the first day of each General Assembly Regular Session to the ~~chairmen~~ *Chairmen* of the House and Senate ~~Finance~~ Committees *on Finance* the amounts collected for each entity listed under subsections B and C for the three most recent taxable years for which there is complete data. Such report shall also identify the entities, if any, that will be

removed from the individual income tax return because they have failed the requirements in subdivision 1, the entities that will remain on the individual income tax return, and the entities, if any, that will be added to the individual income tax return.

B. Subject to the provisions of subsection A, the following entities entitled to voluntary contributions shall appear on the individual income tax return and are eligible to receive tax refund contributions of not less than $1:

1. Nongame wildlife voluntary contribution.

a. All moneys contributed shall be used for the conservation and management of endangered species and other nongame wildlife. "Nongame wildlife" includes protected wildlife, endangered and threatened wildlife, aquatic wildlife, specialized habitat wildlife both terrestrial and aquatic, and mollusks, crustaceans, and other invertebrates under the jurisdiction of the Board of Game and Inland Fisheries.

b. All moneys shall be deposited into a special fund known as the Game Protection Fund and which shall be accounted for as a separate part thereof to be designated as the Nongame Cash Fund. All moneys so deposited in the Nongame Cash Fund shall be used by the Commission of Game and Inland Fisheries for the purposes set forth herein.

2. Open space recreation and conservation voluntary contribution.

a. All moneys contributed shall be used by the Department of Conservation and Recreation to acquire land for recreational purposes and preserve natural areas; to develop, maintain, and improve state park sites and facilities; and to provide funds to local public bodies pursuant to the Virginia Outdoor Fund Grants Program.

b. All moneys shall be deposited into a special fund known as the Open Space Recreation and Conservation Fund. The moneys in the fund shall be allocated one-half to the Department of Conservation and Recreation for the purposes stated in subdivision 2 a and one-half to local public bodies pursuant to the Virginia Outdoor Fund Grants Program.

3. Voluntary contribution to political party.

All moneys contributed shall be paid to the State Central Committee of any party that meets the definition of a political party under § 24.2-101 as of July 1 of the previous taxable year. The maximum contribution allowable under this subdivision shall be $25. In the case of a joint return of ~~husband and wife~~ *married individuals*, each spouse may designate that the maximum contribution allowable be paid.

4. United States Olympic Committee voluntary contribution.

All moneys contributed shall be paid to the United States Olympic Committee.

5. Housing program voluntary contribution.

a. All moneys contributed shall be used by the Department of Housing and Community Development to provide assistance for emergency, transitional, and permanent housing for the homeless; and to provide assistance to housing for the low-income elderly for the physically or mentally disabled.

b. All moneys shall be deposited into a special fund known as the Virginia Tax Check-off for Housing Fund. All moneys deposited in the fund shall be used by the Department of Housing and Community Development for the purposes set forth in this subdivision. Funds made available to the Virginia Tax Check-off for Housing Fund may supplement but shall not supplant activities of the Virginia Housing Trust Fund established pursuant to Chapter 9 (§ 36-141 et seq.) of Title 36 or those of the Virginia Housing Development Authority.

6. Voluntary contributions to the Department for Aging and Rehabilitative Services.

a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for the enhancement of transportation services for the elderly and disabled.

b. All moneys shall be deposited into a special fund known as the Transportation Services for the Elderly and Disabled Fund. All moneys so deposited in the fund shall be used by the Department for Aging and Rehabilitative Services for the enhancement of transportation services for the elderly and disabled. The Department for Aging and Rehabilitative Services shall conduct an annual audit of the moneys received pursuant to this subdivision and shall provide an evaluation of all programs funded pursuant to this subdivision annually to the Secretary of Health and Human Resources.

7. Voluntary contribution to the Community Policing Fund.

a. All moneys contributed shall be used to provide grants to local law-enforcement agencies for the purchase of equipment or the support of services, as approved by the Criminal Justice Services Board, relating to community policing.

b. All moneys shall be deposited into a special fund known as the Community Policing Fund. All moneys deposited in such fund shall be used by the Department of Criminal Justices Services for the purposes set forth herein.

8. Voluntary contribution to promote the arts.

All moneys contributed shall be used by the Virginia Arts Foundation to assist the Virginia Commission for the Arts in its statutory responsibility of promoting the arts in the Commonwealth. All moneys shall be deposited into a special fund known as the Virginia Arts Foundation Fund.

9. Voluntary contribution to the Historic Resources Fund.

All moneys contributed shall be deposited in the Historic Resources Fund established pursuant to § 10.1-2202.1.

10. Voluntary contribution to the Virginia Foundation for the Humanities and Public Policy.

All moneys contributed shall be paid to the Virginia Foundation for the Humanities and Public Policy. All moneys shall be deposited into a special fund known as the Virginia Humanities Fund.

11. Voluntary contribution to the Center for Governmental Studies.

All moneys contributed shall be paid to the Center for Governmental Studies, a public service and research center of the University of Virginia. All moneys shall be deposited into a special fund known as the Governmental Studies Fund.

12. Voluntary contribution to the Law and Economics Center.

All moneys contributed shall be paid to the Law and Economics Center, a public service and research center of George Mason University. All moneys shall be deposited into a special fund known as the Law and Economics Fund.

13. Voluntary contribution to Children of America Finding Hope.

All moneys contributed shall be used by Children of America Finding Hope (CAFH) in its programs which are designed to reach children with emotional and physical needs.

14. Voluntary contribution to 4-H Educational Centers.

All moneys contributed shall be used by the 4-H Educational Centers throughout the Commonwealth for their (i) educational, leadership, and camping programs and (ii) operational and capital costs. The State Treasurer shall pay the moneys to the Virginia 4-H Foundation in Blacksburg, Virginia.

15. Voluntary contribution to promote organ and tissue donation.

a. All moneys contributed shall be used by the Virginia Transplant Council to assist in its statutory responsibility of promoting and coordinating educational and informational activities as related to the organ, tissue, and eye donation process and transplantation in the Commonwealth of Virginia.

b. All moneys shall be deposited into a special fund known as the Virginia Donor Registry and Public Awareness Fund. All moneys deposited in such fund shall be used by the Virginia Transplant Council for the purposes set forth herein.

16. Voluntary contributions to the Virginia War Memorial division of the Department of Veterans Services and the National D-Day Memorial Foundation.

All moneys contributed shall be used by the Virginia War Memorial division of the Department of Veterans Services and the National D-Day Memorial Foundation in their work through each of their respective memorials. The State Treasurer shall divide the moneys into two equal portions and pay one portion to the Virginia War Memorial division of the Department of Veterans Services and the other portion to the National D-Day Memorial Foundation.

17. Voluntary contribution to the Virginia Federation of Humane Societies.

All moneys contributed shall be paid to the Virginia Federation of Humane Societies to assist in its mission of saving, caring for, and finding homes for homeless animals.

18. Voluntary contribution to the Tuition Assistance Grant Fund.

a. All moneys contributed shall be paid to the Tuition Assistance Grant Fund for use in providing monetary assistance to residents of the Commonwealth who are enrolled in undergraduate or graduate programs in private Virginia colleges.

b. All moneys shall be deposited into a special fund known as the Tuition Assistance Grant Fund. All moneys so deposited in the Fund shall be administered by the State Council of Higher Education for Virginia in accordance with and for the purposes provided under the Tuition Assistance Grant Act (§ 23.1-628 et seq.).

19. Voluntary contribution to the Spay and Neuter Fund.

All moneys contributed shall be paid to the Spay and Neuter Fund for use by localities in the Commonwealth for providing low-cost spay and neuter surgeries through direct provision or contract or each locality may make the funds available to any private, nonprofit sterilization program for dogs and cats in such locality. The Tax Commissioner shall determine annually the total amounts designated on all returns from each locality in the Commonwealth, based upon the locality that each filer who makes a voluntary contribution to the Fund lists as his permanent address. The State Treasurer shall pay the appropriate amount to each respective locality.

20. Voluntary contribution to the Virginia Commission for the Arts.

All moneys contributed shall be paid to the Virginia Commission for the Arts.

21. Voluntary contribution for the Department of Emergency Management.

All moneys contributed shall be paid to the Department of Emergency Management.

22. Voluntary contribution for the cancer centers in the Commonwealth.

All moneys contributed shall be paid equally to all entities in the Commonwealth that officially have been designated as cancer centers by the National Cancer Institute.

23. Voluntary contribution to the Brown v. Board of Education Scholarship Program Fund.

a. All moneys contributed shall be paid to the Brown v. Board of Education Scholarship Program Fund to support the work of and generate nonstate funds to maintain the Brown v. Board of Education Scholarship Program.

b. All moneys shall be deposited into the Brown v. Board of Education Scholarship Program Fund as established in § 30-231.4.

c. All moneys so deposited in the Fund shall be administered by the State Council of Higher Education in accordance with and for the purposes provided in Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.

24. Voluntary contribution to the Martin Luther King, Jr. Living History and Public Policy Center.

All moneys contributed shall be paid to the Board of Trustees of the Martin Luther King, Jr. Living History and Public Policy Center.

25. Voluntary contribution to the Virginia Caregivers Grant Fund.

All moneys contributed shall be paid to the Virginia Caregivers Grant Fund established pursuant to § 63.2-2202.

26. Voluntary contribution to public library foundations.

All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each public library foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate amount to the respective public library foundation.

27. Voluntary contribution to Celebrating Special Children, Inc.

All moneys contributed shall be paid to Celebrating Special Children, Inc. and shall be deposited into a special fund known as the Celebrating Special Children, Inc. Fund.

28. Voluntary contributions to the Department for Aging and Rehabilitative Services.

a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for providing Medicare Part D counseling to the elderly and disabled.

b. All moneys shall be deposited into a special fund known as the Medicare Part D Counseling Fund. All moneys so deposited shall be used by the Department for Aging and Rehabilitative Services to provide counseling for the elderly and disabled concerning Medicare Part D. The Department for Aging and Rehabilitative Services shall conduct an annual audit of the moneys received pursuant to this subdivision and shall provide an evaluation of all programs funded pursuant to the subdivision to the Secretary of Health and Human Resources.

29. Voluntary contribution to community foundations.

All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each community foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate amount to the respective community foundation. A "community foundation" shall be defined as any institution that meets the membership requirements for a community foundation established by the Council on Foundations.

30. Voluntary contribution to the Virginia Foundation for Community College Education.

a. All moneys contributed shall be paid to the Virginia Foundation for Community College Education for use in providing monetary assistance to Virginia residents who are enrolled in comprehensive community colleges in Virginia.

b. All moneys shall be deposited into a special fund known as the Virginia Foundation for Community College Education Fund. All moneys so deposited in the Fund shall be administered by the Virginia Foundation for Community College Education in accordance with and for the purposes provided under the Community College Incentive Scholarship Program (former § 23-220.2 et seq.).

31. Voluntary contribution to the Middle Peninsula Chesapeake Bay Public Access Authority.

All moneys contributed shall be paid to the Middle Peninsula Chesapeake Bay Public Access Authority to be used for the purposes described in § 15.2-6601.

32. Voluntary contribution to the Breast and Cervical Cancer Prevention and Treatment Fund.

All moneys contributed shall be paid to the Breast and Cervical Cancer Prevention and Treatment Fund established pursuant to § 32.1-368.

33. Voluntary contribution to the Virginia Aquarium and Marine Science Center.

All moneys contributed shall be paid to the Virginia Aquarium and Marine Science Center for use in its mission to increase the public's knowledge and appreciation of Virginia's marine environment and inspire commitment to preserve its existence.

34. Voluntary contribution to the Virginia Capitol Preservation Foundation.

All moneys contributed shall be paid to the Virginia Capitol Preservation Foundation for use in its mission in supporting the ongoing restoration, preservation, and interpretation of the Virginia Capitol and Capitol Square.

35. Voluntary contribution for the Secretary of Veterans and Defense Affairs.

All moneys contributed shall be paid to the Office of the Secretary of Veterans and Defense Affairs for related programs and services.

C. Subject to the provisions of subsection A, the following voluntary contributions shall appear on the individual income tax return and are eligible to receive tax refund contributions or by making payment to the Department if the individual is not eligible to receive a tax refund pursuant to § 58.1-309 or if the amount of such tax refund is less than the amount of the voluntary contribution:

1. Voluntary contribution to the Family and Children's Trust Fund of Virginia.

All moneys contributed shall be paid to the Family and Children's Trust Fund of Virginia.

2. Voluntary Chesapeake Bay restoration contribution.

a. All moneys contributed shall be used to help fund Chesapeake Bay and its tributaries restoration activities in accordance with tributary plans developed pursuant to Article 7 (§ 2.2-215 et seq.) of Chapter 2 of Title 2.2 or the Chesapeake Bay Watershed Implementation Plan submitted by the Commonwealth of Virginia to the U.S. Environmental Protection Agency on November 29, 2010, and any subsequent revisions thereof.

b. The Tax Commissioner shall annually determine the total amount of voluntary contributions and shall report the same to the State Treasurer, who shall credit that amount to a special nonreverting fund to be administered by the Office of the Secretary of Natural Resources. All moneys so deposited shall be used for the purposes of providing grants for the implementation of tributary plans developed pursuant to Article 7 (§ 2.2-215 et seq.) of Chapter 2 of Title 2.2 or the Chesapeake Bay Watershed Implementation Plan submitted by the Commonwealth of Virginia to the U.S. Environmental Protection Agency on November 29, 2010, and any subsequent revisions thereof.

c. No later than November 1 of each year, the Secretary of Natural Resources shall submit a report to the House Committee on Agriculture, Chesapeake and Natural Resources; the Senate Committee on Agriculture, Conservation and Natural Resources; the House Committee on Appropriations; the Senate Committee on Finance; and the Virginia delegation to the Chesapeake Bay Commission, describing the grants awarded from moneys deposited in the fund. The report shall include a list of grant recipients, a description of the purpose of each grant, the amount received by each grant recipient, and an assessment of activities or initiatives supported by each grant. The report shall be posted on a website maintained by the Secretary of Natural Resources, along with a cumulative listing of previous grant awards beginning with awards granted on or after July 1, 2014.

3. Voluntary Jamestown-Yorktown Foundation Contribution.

All moneys contributed shall be used by the Jamestown-Yorktown Foundation for the Jamestown 2007 quadricentennial celebration. All moneys shall be deposited into a special fund known as the Jamestown Quadricentennial Fund. This subdivision shall be effective for taxable years beginning before January 1, 2008.

4. State forests voluntary contribution.

a. All moneys contributed shall be used for the development and implementation of conservation and education initiatives in the state forests system.

b. All moneys shall be deposited into a special fund known as the State Forests System Fund, established pursuant to § 10.1-1119.1. All moneys so deposited in such fund shall be used by the State Forester for the purposes set forth herein.

5. Voluntary contributions to Uninsured Medical Catastrophe Fund.

All moneys contributed shall be paid to the Uninsured Medical Catastrophe Fund established pursuant to § 32.1-324.2, such funds to be used for the treatment of Virginians sustaining uninsured medical catastrophes.

6. Voluntary contribution to local school divisions.

a. All moneys contributed shall be used by a specified local public school foundation as created by and for the purposes stated in § 22.1-212.2:2.

b. All moneys collected pursuant to subdivision 6 a or through voluntary payments by taxpayers designated for a local public school foundation over refundable amounts shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each public school foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate amount to the respective public school foundation.

c. In order for a public school foundation to be eligible to receive contributions under this section, school boards must notify the Department during the taxable year in which they want to participate prior to the deadlines and according to procedures established by the Tax Commissioner.

7. Voluntary contribution to Home Energy Assistance Fund.

All moneys contributed shall be paid to the Home Energy Assistance Fund established pursuant to § 63.2-805, such funds to be used to assist low-income Virginians in meeting seasonal residential energy needs.

8. Voluntary contribution to the Virginia Military Family Relief Fund.

a. All moneys contributed shall be paid to the Virginia Military Family Relief Fund for use in

providing assistance to military service personnel on active duty and their families for living expenses including, but not limited to, food, housing, utilities, and medical services.

b. All moneys shall be deposited into a special fund known as the Virginia Military Family Relief Fund, established and administered pursuant to § 44-102.2.

9. Voluntary contribution to the Federation of Virginia Food Banks.

All moneys contributed shall be paid to the Federation of Virginia Food Banks, a Partner State Association of Feeding America. The Federation of Virginia Food Banks shall as soon as practicable make an equitable distribution of all such moneys to the Blue Ridge Area Food Bank, Capital Area Food Bank, Feeding America Southwest Virginia, FeedMore, Inc., Foodbank of Southeastern Virginia and the Eastern Shore, Fredericksburg Area Food Bank, or Virginia Peninsula Foodbank.

The Secretary of Finance may request records or receipts of all distributions by the Federation of Virginia Food Banks of such moneys contributed for purposes of ensuring compliance with the requirements of this subdivision.

D. Unless otherwise specified and subject to the requirements in § 58.1-344.2, all moneys collected for each entity in subsections B and C shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amount designated for each entity in subsections B and C on all individual income tax returns and shall report the same to the State Treasurer, who shall credit that amount to each entity's respective special fund.

§ 58.1-344.4. Voluntary contributions of refunds into Virginia College Savings Plan accounts.

A. If an individual is entitled to an income tax refund for the taxable year, that individual may designate on his Virginia individual income tax return a contribution to one or more Virginia College Savings Plan accounts established under Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, in the amount of the entire individual income tax refund or a portion thereof.

B. 1. The Department of Taxation shall send each contribution made pursuant to subsection A to the Virginia College Savings Plan with the following information:

a. The amount of the individual income tax refund or that portion of the refund that the individual has chosen to contribute;

b. The taxpayer's name, Social Security number or taxpayer identification number, address, and telephone number; and

c. The Virginia College Savings Plan account number or numbers into which the contributions will be deposited.

2. If a contribution to a Virginia College Savings Plan account is designated in an individual income tax return filed jointly by ~~a~~ ~~husband~~ ~~and~~ ~~wife~~ *married individuals*, the Department of Taxation shall send the information described in subdivision 1 for both ~~the~~ ~~husband~~ ~~and~~ ~~wife~~ *spouses* to the Virginia College Savings Plan.

C. 1. If the taxpayer owns a single Virginia College Savings Plan account, the Virginia College Savings Plan shall deposit the contribution made pursuant to subsection A into that account.

2. If the taxpayer owns more than one Virginia College Savings Plan account, the Virginia College Savings Plan shall allocate the contribution made pursuant to subsection A between or among the accounts in equal amounts, or as otherwise designated by the taxpayer.

3. If the taxpayer does not own an existing Virginia College Savings Plan account and does not wish to open an account, contributions made pursuant to subsection A shall be returned to the taxpayer by the Virginia College Savings Plan.

D. For the purpose of determining interest on an overpayment or refund under § 58.1-1833, no interest shall accrue after the Department of Taxation sends the contribution to the Virginia College Savings Plan.

E. Any taxpayer designating that a refund be contributed to a Virginia College Savings Plan account shall, by making such designation, be deemed to authorize the Department of Taxation to provide all necessary information, including the information specified in subdivision B 1, to the Virginia College Savings Plan.

§ 58.1-490. Declarations of estimated tax.

A. Every resident and nonresident individual shall make a declaration of his estimated tax for every taxable year, if his Virginia tax liability can reasonably be expected to exceed an amount, to be determined under regulations promulgated by the Tax Commissioner, which takes into account the additions, subtractions, and deductions set forth in §§ 58.1-322.01, 58.1-322.02, 58.1-322.03, and 58.1-322.04, the credits set forth in Articles 3 (§ 58.1-332 et seq.) and 13.2 (§ 58.1-439.18 et seq.), and the filing exclusions set forth in § 58.1-321. Every estate with respect to any taxable year ending two or more years after the date of death of the decedent and every trust shall make a declaration of its estimated tax for every taxable year, if its Virginia taxable income can reasonably be expected to exceed the amount specified by regulation for individuals as set forth above.

B. For purposes of this article, "estimated tax" means the amount which an individual estimates to be

his income tax under this chapter for the taxable year, less the amount which he estimates to be the sum of any credits allowable against the tax.

C. For purposes of this section, the declaration shall be the first voucher.

D. In the case of a ~~husband and wife~~ *married individuals*, a single declaration under this section may be made by them jointly, in which case the liability with respect to the estimated tax shall be joint and several. No joint declaration may be made if either ~~the husband or the wife~~ *spouse* is a nonresident of the Commonwealth unless both are required by this chapter to file a return, if they are separated under a decree of divorce or of separate maintenance, or if they have different taxable years. If a joint declaration is made but a joint return is not made for the taxable year, the estimated tax for such year may be treated as the estimated tax of either ~~the husband or the wife~~ *spouse*, or may be divided between them.

E. A declaration of estimated tax of an individual other than a farmer, fisherman, or merchant seaman shall be filed on or before May 1 of the taxable year, except that if the requirements of subsection A are first met:

1. The declaration shall be filed on or before June 15; or

2. After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15; or

3. After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding year.

F. A declaration of estimated tax of an individual having an estimated gross income from (i) farming (including oyster farming); (ii) fishing; or (iii) working as a merchant seaman for the taxable year, which is at least two-thirds of his total estimated gross income for the taxable year, may be filed at any time on or before January 15 of the succeeding year, in lieu of the time otherwise prescribed.

G. A declaration of estimated tax of an individual having a total estimated tax for the taxable year of $40 or less may be filed at any time on or before January 15 of the succeeding year under regulations of the Tax Commissioner.

H. An individual may amend a declaration under regulations of the Tax Commissioner.

I. If on or before March 1 of the succeeding taxable year an individual files his return for the taxable year for which the declaration is required, and pays therewith the full amount of the tax shown to be due on the return:

1. Such return shall be considered as his declaration if no declaration was required to be filed during the taxable year, but is otherwise required to be filed on or before January 15.

2. Such return shall be considered as the amendment permitted by subsection H to be filed on or before January 15 if the tax shown on the return is greater than the estimated tax shown in a declaration previously made.

J. This section shall apply to a taxable year other than a calendar year by the substitution of the months of such fiscal year for the corresponding months specified in this section.

K. An individual having a taxable year of less than 12 months shall make a declaration in accordance with regulations of the Tax Commissioner.

L. The declaration of estimated tax for an individual who is unable to make a declaration by reason of any disability shall be made and filed by his guardian, committee, fiduciary or other person charged with the care of his person or property (other than a receiver in possession of only a part of his property), or by his duly authorized agent.

M. The declaration of estimated tax for a trust or estate shall be made by the fiduciary. For purposes of the estimated tax imposed in this article, any reference to an "individual" shall be deemed to include the fiduciary required to file a declaration for a trust or estate. Any overpayment of estimated tax with respect to any trust or estate shall be refunded to the fiduciary. A beneficiary of a trust or estate shall not be entitled to a credit against the beneficiary's individual income tax for any overpayment of estimated tax by a trust or estate.

§ 58.1-499. Refunds to individual taxpayers; crediting overpayment against estimated tax for ensuing year.

A. In the case of any overpayment of any tax, addition to tax, interest or penalties imposed on an individual income taxpayer by this chapter, whether by reason of excessive withholding, overestimating and overpaying estimated tax, error on the part of the taxpayer, or an erroneous assessment of tax, the Tax Commissioner shall order a refund of the amount of the overpayment to the taxpayer. The overpayment shall be refunded out of the state treasury on the order of the Tax Commissioner upon the Comptroller.

B. If a refund of an overpayment of individual income tax payments is made payable jointly to ~~a husband and wife~~ *married individuals* who receive a final divorce decree after filing a joint income tax return, separate income tax returns on a single form, an amendment thereto, or other claim resulting in the issuance of a refund, the Tax Commissioner shall order the reissuance of the refund in separate checks to ~~the husband and to the wife~~ *each spouse* if the unnegotiated joint refund check is returned to

Department with a certification, in a form satisfactory to the Department, made by one spouse that the other spouse refuses to endorse the joint refund check or cannot be located. In making such certification, the spouse returning the check shall agree to indemnify the Commonwealth for any amounts that the Commonwealth may be required to pay to the other spouse with respect to such refund. A certified copy of the final divorce decree, including any agreement with respect to the division of property between the spouses, shall be provided with the certification. If the final divorce decree addresses the apportionment or ownership of the refunded amount, the refund shall be apportioned and separate payments ordered as provided therein. If the final divorce decree does not address the apportionment or ownership of the refunded amount, the amount of the refund shall be divided equally between the ~~husband and wife~~ *spouses*. The reissuance of refund payments pursuant to this subsection shall not affect the joint and several liability of the ~~husband and wife~~ *spouses* for tax liabilities for the period for which the return or returns were filed.

C. Whenever the annual income tax return of an individual income taxpayer indicates in the place provided thereon that the taxpayer has overpaid his tax for the taxable year by reason of excessive withholding or overestimating and overpaying estimated tax, or both, the amount of the overpayment as shown on his return, subject to correction for error, may be credited against the estimated income tax for the ensuing year at the taxpayer's election and according to regulations prescribed by the Department and such overpayments by either ~~a husband or wife~~ *spouse* on a separate return may be credited to the tax for the ensuing year of either of them or may be credited to their joint tax at the election of the person to whom the overpayment is payable; or otherwise such amount shall be refunded to him as soon as practicable. Interest on such refund shall be allowed and computed in accordance with § 58.1-1833. The making of any refund shall not absolve any taxpayer of any income tax liability which may in fact exist and the Tax Commissioner may make an assessment for any deficiency in the manner provided by law.

D. No refund under this section, however, shall be made for any overpayment of less than ~~one dollar~~ *$1* except on special written application of the taxpayer, nor shall any refund of any amount under this section be made, whether on discovery by the Department or on written application of the taxpayer, if such discovery is not made or such written application is not received within three years from the last day prescribed by law for the timely filing of the return, or within ~~sixty~~ *60* days from the final determination of any change or correction in the liability of the taxpayer for any federal tax upon which the state tax is based, whichever is later.

E. Notwithstanding the provisions of the Setoff Debt Collection Act~~, Article 21~~ (§ 58.1-520 et seq.) ~~of this chapter~~, whenever any taxpayer is entitled to a refund under this section, or under § 58.1-309 or §§ 58.1-1821 through 58.1-1830 and such taxpayer owes the Commonwealth a past due income tax, or balance thereof, for any year, the amount of such refund may be credited on such past due income tax or balance, to the extent indicated.

§ 58.1-520. (Contingent expiration) Definitions.

As used in this article:

"Claimant agency" means any administrative unit of state, county, city or town government, including department, institution, commission, authority, or the office of Executive Secretary of the Supreme Court, any circuit or district court and the Internal Revenue Service. All state agencies and institutions shall participate in the setoff program.

"Debtor" means any individual having a delinquent debt or account with any claimant agency which obligation has not been satisfied by court order, set aside by court order, or discharged in bankruptcy.

"Delinquent debt" means any liquidated sum due and owing any claimant agency, or any restitution ordered paid to a clerk of the court pursuant to Title 19.2, including any amount of court costs or fines which have accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made.

"Mailing date of notice" means the date of notice appearing thereon.

"Refund" means any individual's Virginia state or local income tax refund payable pursuant to § 58.1-309. This term also includes any refund belonging to a debtor resulting from the filing of a joint income tax return or a refund belonging to a debtor resulting from the filing of a return where ~~husband and wife~~ *married individuals* have elected to file a combined return and separately state their Virginia taxable incomes under the provisions of *subdivision B 2 of* § 58.1-324 ~~B~~ 2.

§ 58.1-520. (Contingent effective date) Definitions.

As used in this article:

"Claimant agency" means any administrative unit of state, county, city or town government, including department, institution, commission, authority, or the office of Executive Secretary of the Supreme Court, any circuit or district court and the Internal Revenue Service. All state agencies and institutions shall participate in the setoff program.

"Debtor" means any individual having a delinquent debt or account with any claimant agency which obligation has not been satisfied by court order, set aside by court order, or discharged in bankruptcy.

"Delinquent debt" means any liquidated sum due and owing any claimant agency, or any restitution ordered paid to a clerk of the court pursuant to Title 19.2, including any amount of court costs or fines which have accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made.

"Mailing date of notice" means the date of notice appearing thereon.

"Refund" means any individual's (i) Virginia state or local income tax refund payable pursuant to § 58.1-309 or (ii) federal income tax refund payable pursuant to § 6402 of the Internal Revenue Code. This term also includes any refund belonging to a debtor resulting from the filing of a joint income tax return or a refund belonging to a debtor resulting from the filing of a return where ~~husband and wife~~ *married individuals* have elected to file a combined return and separately state their Virginia taxable incomes under the provisions of *subdivision B 2 of* § 58.1-324 ~~B 2~~.

§ 58.1-810. What other deeds not taxable.

When the tax has been paid at the time of the recordation of the original deed, no additional recordation tax shall be required for admitting to record:

1. A deed of confirmation;

2. A deed of correction;

3. A deed to which ~~a husband and wife~~ *married individuals* are the only parties;

4. A deed arising out of a contract to purchase real estate; if the tax already paid is less than a proper tax based upon the full amount of consideration or actual value of the property involved in the transaction, an additional tax shall be paid based on the difference between the full amount of such consideration or actual value and the amount on which the tax has been paid; or

5. A notice of assignment of a note secured by a deed of trust or mortgage.

§ 58.1-3210. Exemption or deferral of taxes on property of certain elderly and handicapped persons.

A. The governing body of any county, city, or town may, by ordinance, provide for the exemption from, deferral of, or a combination program of exemptions from and deferrals of taxation of real estate and manufactured homes as defined in § 36-85.3, or any portion thereof, and upon such conditions and in such amount as the ordinance may prescribe. Such real estate shall be owned by, and be occupied as the sole dwelling of anyone at least 65 years of age or, if provided in the ordinance, anyone found to be permanently and totally disabled as defined in § 58.1-3217. Such ordinance may provide for the exemption from or deferral of that portion of the tax ~~which~~ *that* represents the increase in tax liability since the year such taxpayer reached the age of 65 or became disabled, or the year such ordinance became effective, whichever is later. A dwelling jointly held by ~~a husband and wife~~ *married individuals,* with no other joint owners, may qualify if either spouse is 65 or over or is permanently and totally disabled, and the proration of the exemption or deferral under § 58.1-3211.1 shall not apply for such dwelling.

B. For purposes of this section, "eligible person" means a person who is at least age 65 or, if provided in the ordinance pursuant to subsection A, permanently and totally disabled. Under subsection A, real property owned and occupied as the sole dwelling of an eligible person includes real property (i) held by the eligible person alone or in conjunction with his spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the eligible person or the eligible person and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which an eligible person alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term "eligible person" does not include any interest held under a leasehold or term of years.

C. For purposes of this article, any reference to real estate shall include manufactured homes.

§ 58.1-3211.1. Prorated tax exemption or deferral of tax.

A. The governing body of the county, city, or town may, by ordinance, also provide for an exemption from or deferral of (or combination program thereof) real estate taxes for dwellings jointly held by two or more individuals not all of whom are at least age 65 or (if provided in the ordinance) permanently and totally disabled, provided that the dwelling is occupied as the sole dwelling by all such joint owners.

The tax exemption or deferral for the dwelling that otherwise would have been provided under the local ordinance shall be prorated by multiplying the amount of the exemption or deferral by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by all such joint owners who are at least age 65 or (if provided in the ordinance) permanently and totally disabled, and as a denominator, 100%. As a condition of eligibility for such tax exemption or deferral, the joint owners of the dwelling shall be required to furnish to the relevant local officer sufficient evidence of each joint owner's ownership interest in the dwelling.

B. For purposes of this subsection, "eligible person" means a person who is at least age 65 or, if provided in the ordinance pursuant to subsection A, permanently and totally disabled. For purposes of the tax exemption pursuant to subsection A, real property that is a dwelling jointly held by two or more individuals includes real property (i) held by an eligible person in conjunction with one or more other people as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which an eligible person with one or more other people hold the power of revocation, or (iii) held in an irrevocable trust under which an eligible person in conjunction with one or more other people possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term "eligible person" does not include any interest held under a leasehold or term of years.

C. The provisions of this section shall not apply to dwellings jointly held by ~~a husband and wife~~ *married individuals*, with no other joint owners.

D. Nothing in this section shall be interpreted or construed to provide for an exemption from or deferral of tax for any dwelling jointly held by nonindividuals.

§ 58.1-3219.5. Exemption from taxes on property for disabled veterans.

A. Pursuant to subdivision (a) of Section 6-A of Article X of the Constitution of Virginia, and for tax years beginning on or after January 1, 2011, the General Assembly hereby exempts from taxation the real property, including the joint real property of ~~husband and wife~~ *married individuals*, of any veteran who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent, and total disability, and who occupies the real property as his principal place of residence. If the veteran's disability rating occurs after January 1, 2011, and he has a qualified primary residence on the date of the rating, then the exemption for him under this section begins on the date of such rating. However, no county, city, or town shall be liable for any interest on any refund due to the veteran for taxes paid prior to the veteran's filing of the affidavit or written statement required by § 58.1-3219.6. If the qualified veteran acquires the property after January 1, 2011, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to § 58.1-3360.

B. The surviving spouse of a veteran eligible for the exemption set forth in this article shall also qualify for the exemption, so long as the death of the veteran occurs on or after January 1, 2011, the surviving spouse does not remarry, and the surviving spouse continues to occupy the real property as his principal place of residence.

C. A county, city, or town shall provide for the exemption from real property taxes the qualifying dwelling pursuant to this section and shall provide for the exemption from real property taxes the land, not exceeding one acre, upon which it is situated. However, if a county, city, or town provides for an exemption from or deferral of real property taxes of more than one acre of land pursuant to Article 2 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an exemption for the same number of acres pursuant to this section. If the veteran owns a house that is his residence, including a manufactured home as defined in § 46.2-100 whether or not the wheels and other equipment previously used for mobility have been removed, such house or manufactured home shall be exempt even if the veteran does not own the land on which the house or manufactured home is located. If such land is not owned by the veteran, then the land is not exempt. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as the principal use of the improvement is (i) to house or cover motor vehicles or household goods and personal effects as classified in subdivision A 14 of § 58.1-3503 and as listed in § 58.1-3504 and (ii) for other than a business purpose.

D. For purposes of this exemption, real property of any veteran includes real property (i) held by a veteran alone or in conjunction with the veteran's spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the veteran or the veteran and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which a veteran alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term does not include any interest held under a leasehold or term of years.

The exemption for a surviving spouse under subsection B includes real property (a) held by the veteran's spouse as tenant for life, (b) held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (c) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. The exemption does not apply to any interest held under a leasehold or term of years.

E. 1. In the event that (i) a person is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection D and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of

the exemption by a fraction that has as a numerator the number of people who are qualified for the exemption pursuant to this section and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

2. In the event that the primary residence is jointly owned by two or more individuals, not all of whom qualify for the exemption pursuant to subsection A or B, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in subsection D, then the exemption shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by all such joint owners who qualify for the exemption pursuant to subsections A and B, and as a denominator, 100 percent.

§ 58.1-3219.6. Application for exemption.

The veteran or surviving spouse claiming the exemption under this article shall file with the commissioner of the revenue of the county, city, or town or such other officer as may be designated by the governing body in which the real property is located, on forms to be supplied by the county, city, or town, an affidavit or written statement (i) setting forth the name of the disabled veteran and the name of the spouse, if any, also occupying the real property, (ii) indicating whether the real property is jointly owned by ~~a husband and wife~~ *married individuals*, and (iii) certifying that the real property is occupied as the veteran's principal place of residence. The veteran shall also provide documentation from the U.S. Department of Veterans Affairs or its successor agency indicating that the veteran has a 100 percent service-connected, permanent, and total disability. The veteran shall be required to refile the information required by this section only if the veteran's principal place of residence changes. In the event of a surviving spouse of a veteran claiming the exemption, the surviving spouse shall also provide documentation that the veteran's death occurred on or after January 1, 2011.

§ 58.1-3343. Effect of lien on certain real estate jointly owned.

The lien on real estate owned by more than one person as tenants in common, joint tenants or otherwise for the payment of all prior, present and subsequent taxes and levies or assessments thereof, including any tax, levy, or assessment authorized under § 58.1-3712, 58.1-3713, 58.1-3713.4, or 58.1-3741, shall not be impaired if such real estate was or is assessed in the name of one of such owners with the notation~~,~~ "and another," or "and others," or "and wife," or "and husband," *or "and spouse,"* or the appropriate abbreviations of such words, or their legal equivalents, so as to indicate that the real estate was or is owned by more than one person.

§ 58.1-3506.1. Other classification for taxation of certain tangible personal property owned by certain elderly and handicapped persons.

The governing body of any county, city or town may, by ordinance, levy a tax on one motor vehicle owned and used primarily by or for anyone at least 65 years of age or anyone found to be permanently and totally disabled, as defined in § 58.1-3506.3, at a different rate from the tax levied on other tangible personal property, upon such conditions as the ordinance may prescribe. Such rate shall not exceed the tangible personal property tax on the general class of tangible personal property. For purposes of this article, the term motor vehicle shall include only automobiles and pickup trucks. Any such motor vehicle owned by ~~a husband and wife~~ *married individuals* may qualify if either spouse is 65 or over or if either spouse is permanently and totally disabled. Notwithstanding any other provision of this section or article, for any automobile or pickup truck that is (i) a qualifying vehicle, as such term is defined in § 58.1-3523, and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a payment from the Commonwealth under Chapter 35.1 ~~of this title~~ *(§ 58.1-3523 et seq.)* for providing tangible personal property tax relief, the rate of tax levied pursuant to this article shall not exceed the rates of tax and rates of assessment required under such chapter.

§ 58.1-3506.2. Restrictions and conditions.

Any difference in the rates for purposes of this section shall be subject to the following restrictions and conditions:

1. The total combined income received, excluding the first $7,500 of income, at the option of the local government, from all sources during the preceding calendar year by the owner of the motor vehicle shall not exceed the greater of $30,000 or the income limits based on family size for the respective metropolitan statistical area, annually published by the Department of Housing and Urban Development for qualifying for federal housing assistance pursuant to § 235 of the National Housing Act (12 U.S.C. § 1715z).

2. The owner's net financial worth, including the present value of all equitable interests, as of December 31 of the immediately preceding calendar year, excluding the value of the principal residence and the land, not exceeding one acre, upon which it is situated, shall not exceed $75,000. The local government may also exclude such furnishings as furniture, household appliances and other items typically used in a home.

3. Notwithstanding the provisions of subdivisions 1 and 2 ~~of this section~~, in Fairfax County and any town adjacent thereto, Arlington County, Chesterfield County, Loudoun County, and Prince William

County, or the Cities of Alexandria, Chesapeake, Fairfax, Falls Church, Manassas, Manassas Park, Portsmouth, Suffolk or Virginia Beach, or the Town of Leesburg, the board of supervisors or council may, by ordinance, raise the income and financial worth limitations for any reductions under this article to a maximum of the greater of $52,000 or the income limits based upon family size for the respective metropolitan statistical area, published annually by the Department of Housing and Urban Development for qualifying for federal housing assistance pursuant to § 235 of the National Housing Act (12 U.S.C. § 1715z), for the total combined income amount, and $195,000 for the maximum net financial worth amount which shall exclude the value of the principal residence and the land, not exceeding one acre, upon which it is located.

4. All income and net worth limitations shall be computed by aggregating the income and assets, as the case may be, of ~~a husband and wife~~ *married individuals* who reside in the same dwelling and shall be applied to any owner of the motor vehicle who seeks the benefit of the preferential tax rate permitted under this article, irrespective of how such motor vehicle may be titled.

§ 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~~ *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~~ *that* 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 not reasonably available to the person at approximately the same price, a substitute item of equal or greater retail value.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. Beneficial interests in a custodial trust created for multiple beneficiaries are deemed to be separate 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~~ *subsection* 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~~ *subsection* 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

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as a full-time student in any accredited educational institution; and

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

B. As used in this section, ~~the~~ ~~term~~ "child" ~~shall~~ ~~include~~ *includes* a stepchild, a legally adopted child, a posthumous child, and an acknowledged illegitimate child, but ~~shall~~ *does* not include a married child~~;~~, and ~~the~~ ~~term~~ "parent" ~~shall~~ ~~include~~ *includes* stepparents and parents by adoption.

2. That §§ 18.2-365, 20-45.2, and 20-45.3 of the Code of Virginia are repealed.

3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2018, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.