

Subject of Legislation	Bill Number (Patron): Last Action
Personal Appearance by Two-Way Electronic Video and Audio Communication in Certain Criminal Cases	<ul style="list-style-type: none"> • Senate Bill 1242 (Edwards): Acts of Assembly, Chapter 86
Acknowledgment of Receipt of Court Order for Juvenile Competency Evaluations	<ul style="list-style-type: none"> • Senate Bill 1248 (Deeds): Acts of Assembly, Chapter 311

April 8, 2021

ADVISORY COMMITTEE ON RULES OF COURT

Report to the Judicial Council

The OES Research Department, who have provided wonderful support for the Advisory Committee's work for many years, were tasked with working up the attached draft technical amendments, which simply conform Rule 1:24 to minor recent statutory amendments, and implement the "shall" revision style approved by the Court for Rule 1:25 and the sentencing form. These matters do not present policy issues.

Rule 1:24. This Rule, which establishes procedures for the payment of fines, court costs, and restitution, was enacted in 2016. The succeeding Regular Session of the General Assembly codified the Rule, in a re-arranged fashion, via §§ 19.2-354 and -354.1. House Bill 1895 revises those statutory provisions. It passed both chambers of the General Assembly. Although the Governor has not yet signed the bill, it is fully expected that he will and the legislation would become effective in due course on July 1, 2021. The attached proposed revision of Rule 1:24 reflects those statutory changes, and would be used unless the legislation is not signed.

Rule 1:25. This Rule creates procedures for the establishment of certain types of "specialty dockets" in the trial courts. The amendments included in the attached proposal bring this Rule into conformity with the current convention replacing "shall" in the Rules of Court.

Form 10, Part Three A, Rules of Court. Pursuant to the provisions of Code § 19.2-307, all sentencing orders in circuit court are to conform substantially to this form found in the Appendix to Part Three A of the Rule. The attached amended form, which has been reviewed by the Forms Advisory Committee, completes the conversion of "shall" references in the form.

Kent Sinclair

Chair, Advisory Committee on Rules of Court

RULES OF SUPREME COURT OF VIRGINIA
PART ONE
RULES APPLICABLE TO ALL PROCEEDINGS

Rule 1:24. Requirements for Court Payment Agreements for the Collection of Fines and Costs.

The purposes of the statutory court collection process are (i) to facilitate the payment of fines, court costs, penalties, restitution and other financial responsibilities assessed against defendants convicted of a criminal offense or traffic infraction, (ii) to collect the monies due to the Commonwealth and localities as a result of these convictions, and (iii) to assure payment of court-ordered restitution to victims of crime. To achieve these purposes, this Rule is intended to ensure that all courts approve deferred and installment payment agreements consistent with §§ 19.2-354, 19.2-354.1, and the provisions of this Rule and to further the legal values of predictability, fairness, and similarity in the collection of fines, court costs, penalties, and restitution throughout the courts of the Commonwealth.

(a) *Definitions.* —

(1) “Fines and costs” mean all the fines, court costs, forfeitures, and penalties assessed in all cases by a single court against a defendant for the commission of crimes or traffic infractions. The term “fines and costs” also includes restitution unless the court orders a separate payment schedule for restitution.

(2) An “installment payment agreement” is an agreement in which the defendant agrees to make monthly or other periodic payments until the fines and costs are paid in full.

(3) A “deferred payment agreement” is an agreement in which the defendant agrees to pay the full amount of the fines and costs at the end of the agreement’s stated term and no installment payments are required.

(4) A “modified deferred payment agreement” is a deferred payment agreement in which the defendant also agrees to use best efforts to make monthly or other periodic payments.

(b) *Access to payment alternatives.* — Any defendant ~~who is unable to pay in full fines and costs for a particular offense within 30 days of conviction, or other disposition authorized by law, must be offered by the convicting court the opportunity to~~ may enter into a deferred payment agreement, a modified deferred payment agreement or an installment payment agreement to pay ~~those~~ fines and costs. The court may not deny a defendant the opportunity to enter into a deferred, modified deferred, or installment payment agreement solely because (i) the defendant previously defaulted under the terms of a payment agreement, (ii) the fines and costs have been referred for collection pursuant to § 19.2-349, (iii) a defendant has not established a payment history, (iv) of the category of offense for which the defendant was convicted or found not innocent, or (v) of the total amount of all fines and costs.

(c) *Notice of payment alternatives.* — The court must give the defendant written notice of deferred, modified deferred, and installment payment agreements and, if a community service program has been established, the availability of earning credit toward discharge of fines and costs through the performance of community service work.

(d) *Conditions of a payment agreement.* — All the fines and costs that a defendant owes for all cases in any single court may be incorporated into one payment agreement, unless otherwise ordered by the court in specific cases. A payment agreement must include only those outstanding fines and costs for which the limitations period set forth in § 19.2-341 has not run.

In determining the length of time to pay under a deferred, modified deferred, or installment payment agreement and the amount of the payments, a court must take into account the defendant's financial resources and obligations, including any fines and costs the defendant owes in other courts. In assessing the defendant's ability to pay, the court must use a written financial statement, on a form developed by the Executive Secretary of the Supreme Court, setting forth the defendant's financial resources and obligations or conduct an oral examination of the defendant to determine his financial resources and obligations.

~~If a down payment is required to enter into a payment agreement, it should be a minimal amount to demonstrate the defendant's commitment to paying the fines and costs. In the case of an installment payment agreement, if the fines and costs owed are \$500 or less, the required down payment may not exceed 10 percent of such amount owed or, if the fines and costs owed are more than \$500, the required down payment may not exceed 5 percent of such amount owed or \$50, whichever is greater. A defendant may choose to make a larger down payment.~~

No court may require a defendant to make a down payment upon entering a deferred, modified deferred, or installment payment agreement, other than a subsequent payment agreement, in which case the court may require a down payment pursuant to subsection (g). Nothing in this rule prevents a defendant from voluntarily making a down payment upon entering any payment agreement.

Where available, the court may provide community service work as an option to defray fines and costs, especially when the defendant is indigent or otherwise unable to make meaningful payments. Any portion of the community service completed should be credited to the defendant's obligations. Community service may not be credited against any amount owed as restitution, the interest which has accrued on restitution, and any collection fee required.

At any time during the duration of a payment agreement, the defendant may request a modification of the agreement in writing, on a form provided by the Executive Secretary of the Supreme Court, and the court may grant such modification based on a good faith showing of need.

(e) *Timeliness of payments.* — Any payment which is received within 10 days of the date due is considered timely made.

(f) *Combined payment agreements.* — The court may offer a payment agreement combining an appropriate initial period during which no payment of fines and costs is required, followed by a period of installment payments. Such a combined payment plan may be appropriate when the defendant is incarcerated, but should not be limited only to these circumstances.

(g) *Re-entry into a payment agreement after default.* — ~~A court must consider a request by a defendant who has defaulted on a payment agreement to enter into a subsequent payment agreement.~~ A defendant who has defaulted on a payment agreement may petition the court for a subsequent payment agreement. In determining whether to approve the request for a subsequent payment agreement, the court must consider any change in the defendant's circumstances.

A court ~~must~~may require a down payment to enter into a subsequent payment agreement, provided that (i) if the fines and costs owed are \$500 or less, the required down payment may not exceed 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, the required down payment may not exceed 5 percent of such amount or \$50, whichever is greater.

Promulgated by Order dated November 1, 2016; effective February 1, 2017.

Last amended by Order dated January 12, 2021; effective immediately.

RULES OF SUPREME COURT OF VIRGINIA
PART ONE
RULES APPLICABLE TO ALL PROCEEDINGS

Rule 1:25. Specialty Dockets.

(a) *Definition of and Criteria for Specialty Dockets.* —

- (1) When used in this Rule, the term “specialty dockets” refers to specialized court dockets within the existing structure of Virginia's circuit and district court system offering judicial monitoring of intensive treatment, supervision, and remediation integral to case disposition.
- (2) Types of court proceedings appropriate for grouping in a “specialty docket” are those which (i) require more than simply the adjudication of discrete legal issues, (ii) present a common dynamic underlying the legally cognizable behavior, (iii) require the coordination of services and treatment to address that underlying dynamic, and (iv) focus primarily on the remediation of the defendant in these dockets. The treatment, the services, and the disposition options are those which are otherwise available under law.
- (3) Dockets which group cases together based simply on the area of the law at issue, e.g., a docket of unlawful detainer cases or child support cases, are not considered “specialty dockets.”

(b) *Types of Specialty Dockets.* — The Supreme Court of Virginia currently recognizes only the following three types of specialty dockets: (i) drug treatment court dockets as provided for in the Drug Treatment Court Act, § 18.2-254.1, (ii) veterans dockets, and (iii) behavioral health dockets as provided for in the Behavioral Health Docket Act, § 18.2-254.3. Drug treatment court dockets offer judicial monitoring of intensive treatment and strict supervision in drug and drug-related cases. The dispositions in the family drug treatment court dockets established in juvenile and domestic relations district courts may include family and household members as defined in Virginia Code § 16.1-228. Veterans dockets offer eligible defendants who are veterans of the armed services with substance dependency or mental illness a specialized criminal specialty docket that

is coordinated with specialized services for veterans. Behavioral health dockets offer defendants with diagnosed behavioral or mental health disorders judicially supervised, community-based treatment plans, which a team of court staff and mental health professionals design and implement.

- (c) *Authorization Process.* — A circuit or district court which intends to establish one or more types of these recognized specialty dockets must petition the Supreme Court of Virginia for authorization before beginning operation of a specialty docket or, in the instance of an existing specialty docket, continuing its operation. A petitioning court must demonstrate sufficient local support for the establishment of this specialty docket, as well as adequate planning for its establishment and continuation.
- (d) *Expansion of Types of Specialty Dockets.* — A circuit or district court seeking to establish a type of specialty docket not yet recognized under this rule must first demonstrate to the Supreme Court that a new specialty docket of the proposed type meets the criteria set forth in subsection (a) of this Rule. If this additional type of specialty docket receives recognition from the Supreme Court of Virginia, any local specialty docket of this type must then be authorized as established in subsection (c) of this Rule.
- (e) *Oversight Structure.* — By order, the Chief Justice of the Supreme Court may establish a Specialty Docket Advisory Committee and appoint its members. The Chief Justice may also establish separate committees for each of the approved types of specialty dockets. The members of the Veterans Docket Advisory Committee, the Behavioral Health Docket Advisory Committee, and the committee for any other type of specialty docket recognized in the future by the Supreme Court will be chosen by the Chief Justice. The State Drug Treatment Court Advisory Committee established pursuant to Virginia Code § 18.2-254.1 constitutes the Drug Treatment Court Docket Advisory Committee.
- (f) *Operating Standards.* — The Specialty Docket Advisory Committee, in consultation with the committees created pursuant to subsection (e), ~~shall~~ will establish the training and operating standards for local specialty dockets.
- (g) *Financing Specialty Dockets.* — Any funds necessary for the operation of a specialty docket ~~shall~~ will be the responsibility of the locality and the local court, but may be provided via state appropriations and federal grants.

(h) *Evaluation.* — Any local court establishing a specialty docket ~~shall~~ must provide to the Specialty Docket Advisory Committee the information necessary for the continuing evaluation of the effectiveness and efficiency of all local specialty dockets.

Last amended by Order dated January 12, 2021; effective immediately.

COMMONWEALTH OF VIRGINIA v. _____, Defendant

The court **SENTENCES** the defendant to:

Case No. _____ Description _____

Incarceration with the Virginia Department of Corrections for the term of: _____ years _____ months _____ days

FINE. The defendant is ordered to pay fine(s) in the amount of \$ _____.

COSTS. The defendant is ordered to pay all costs of this case.

RESTITUTION. The defendant is ordered to make restitution as set forth in the ORDER FOR RESTITUTION.

DRIVER'S LICENSE SUSPENSION: The defendant's license has been suspended
 for a period of _____ years _____ months _____ days indefinitely.

RESTRICTED DRIVER'S LICENSE: A restricted driver's license was issued by separate order.

The court **SUSPENDS** _____ years _____ months _____ days of incarceration _____ fine for a period of _____ upon the condition(s) specified in Suspended Sentence Conditions.

Case No. _____ Description _____

Incarceration with the Virginia Department of Corrections for the term of: _____ years _____ months _____ days

FINE. The defendant is ordered to pay fine(s) in the amount of \$ _____.

COSTS. The defendant is ordered to pay all costs of this case.

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DRIVER'S LICENSE SUSPENSION: The defendant's license has been suspended
 for a period of _____ years _____ months _____ days indefinitely.

RESTRICTED DRIVER'S LICENSE: A restricted driver's license was issued by separate order.

The court **SUSPENDS** _____ years _____ months _____ days of incarceration _____ fine for a period of _____ upon the condition(s) specified in Suspended Sentence Conditions.

Consecutive/concurrent:

- These sentences shall are to run consecutively with all other sentences.
- These sentences shall are to run concurrently with all other sentences.
- These sentences shall are to run consecutively/concurrently as described:

Suspended Sentence Conditions:

Good Behavior: The defendant shall must be of good behavior for the entire period of any suspended sentence ordered.

Supervised Probation: The defendant is placed on probation under the supervision of a Probation Officer to commence upon sentencing upon release from incarceration for _____ years _____ months _____ days indefinite or unless sooner released by the court or by the Probation Officer. The defendant shall must comply with all the rules and requirements set by the Probation Officer. Probation shall must may include substance abuse counseling and/or testing as prescribed by the Probation Officer.

Community Corrections Alternative Program pursuant to Virginia Code § 19.2-316.4: The defendant shall must successfully complete the Community Corrections Alternative Program. Successful completion of the program shall will must be followed by a period of supervised probation of

.....

The defendant shall will remain in custody until program entry.

Registration pursuant to Code § 9.1-903 for offenses defined in § 9.1-902 is required.

The defendant shall must provide a DNA sample and legible fingerprints as directed.

Special Additional conditions of suspended sentence:

The defendant shall must make restitution as set forth in the ORDER FOR RESTITUTION.

Post-incarceration supervision following felony conviction pursuant to Virginia Code § 18.2-10 and 19.2-295.2:

Post-Incarceration Supervised Probation: The defendant is placed on supervised probation to commence upon release from incarceration for a period of _____, unless released earlier by the court. The defendant shall/must comply with all the rules and requirements set by the Probation Officer.

Post-Incarceration Post-Release Supervision: In addition to the above sentence of incarceration, the court imposes an additional term of _____ of incarceration. This term is suspended and a period of post-release supervision of _____ is imposed, which is to commence upon release from incarceration. The defendant shall/must comply with all the rules and requirements set by the Probation Officer.

The defendant was remanded to the custody of the sheriff.

The defendant was allowed to depart.

The defendant shall/will be given credit for time spent in confinement while awaiting trial pursuant to Virginia Code § 53.1-187.

ENTER this _____ day of _____.

_____, Judge

DEFENDANT IDENTIFICATION:

Name: _____

Alias: _____

SSN: _____ DOB: _____/_____/_____ Sex: _____

SENTENCE SUMMARY:

Total Incarceration Sentence Imposed: _____

Total Sentence Suspended: _____

Total Supervised Probation Term: _____

Total Post-release Term Imposed and Suspended: _____

Total Fine Imposed: \$ _____ Total Fine Suspended: \$ _____

SUPREME COURT OF VIRGINIA

EXECUTIVE SECRETARY
KARL R. HADE

**ASSISTANT EXECUTIVE SECRETARY &
LEGAL COUNSEL**
EDWARD M. MACON

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MEMORANDUM

TO: The Judicial Council of Virginia

FROM: Steven L. Dalle Mura
Alisa W. Padden
Department of Legal Research
Office of the Executive Secretary

RE: Report of the Circuit Court Forms Advisory Committee

DATE: April 8, 2021

On April 1, 2021, the Circuit Court Forms Advisory Committee met to consider the revision of existing forms and the creation of new forms in response to new legislation and suggestions received by this office for improving the content or utility of the circuit court forms. The Committee reviewed the various forms and respectfully submits these recommendations to you for approval.

An explanatory paragraph prefaces each revised circuit court form or new circuit court form. If there is a revision to a current form, where feasible, the revision appears with underlining for inserted text and with strikeouts for deleted text.

We shall be glad to answer any questions regarding these proposals. If, upon review of these materials prior to the Judicial Council meeting, you identify specific problems or questions about these proposals, we would be especially glad to speak with you prior to the meeting, in order that we might have the opportunity to explore fully the issue, in the hope we could then have any necessary resolution ready to present at the meeting. Either of us would be happy to hear from any of you. (Steven Dalle Mura, 804-786-6654, sdallemura@vacourts.gov; Alisa Padden, 804-371-0937, apadden@vacourts.gov.)

AGENDA

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Circuit Court Form

CC-1379 ACKNOWLEDGMENT OF SUSPENSION OR
REVOCATION OF DRIVER'S LICENSE

Abstract

Senate Bill 1122 repeals remaining provisions in the Code relating to the Habitual Offender Act and orders the DMV Commissioner to restore licenses that were previously suspended for individuals declared habitual offenders. Accordingly, it is proposed that the habitual offender language be removed from Part I of the form. House Bill 1895 makes several changes to the procedures for the payment of fines and costs by deferred or installment payments. It is proposed that the language in Part I of the form be further revised to correspond with these changes.

Source

Senate Bill 1122 (Chapter 463, effective July 1, 2021)
House Bill 1895 (Chapter 388, effective July 1, 2021)

Revision

Legislative

Form Type

Printed

COMMONWEALTH OF VIRGINIA

VA. CODE §§ 19.2-354; 19.2-358

Case No(s)

In the Circuit Court for the [] City [] County of

[] COMMONWEALTH OF VIRGINIA

[] CITY [] COUNTY OF v.

DEFENDANT

SSN

DRIVER'S LICENSE NUMBER

DRIVER'S LICENSE STATE

RESIDENCE ADDRESS

MAILING ADDRESS IF DIFFERENT FROM ABOVE

TELEPHONE NUMBER

I. ACKNOWLEDGMENT OF SUSPENSION OR REVOCATION OF DRIVER'S LICENSE

I acknowledge that I have been notified that my driver's license/driving privilege:

[X] is suspended or revoked for a period of effective as a result of

[] my conviction by this Court or []

[X] Declaration by the Virginia Department of Motor Vehicles [] Adjudication by Court that I am a habitual offender.

I acknowledge that I owe fines, costs, forfeiture, restitution and/or penalty of \$ plus any additional court-appointed attorney fee, if applicable. I further acknowledge that payment of the full amount is due within 30 my case will be referred for collection enforcement if the full amount is not paid within 90 days of sentencing on my case unless I enter into a deferred or installment payment plan.

[] I am requesting a deferred or installment payment agreement.

I further certify that on this date this notice was read, understood by me, and I received a copy of the same, and that my driver's license

[] WAS [] WAS NOT surrendered to this Court. Reason not surrendered:

DATE

DEFENDANT

State/Commonwealth of [] Virginia []

County/City of

Acknowledged before me this day by

PRINT NAME OF SIGNATORY

DATE

[] JUDGE [] CLERK [] NOTARY PUBLIC

Notary Registration No. My commission expires:

READ PART I ON THE BACK OF THIS FORM FOR MORE STIPULATIONS, WHICH ARE INCORPORATED BY REFERENCE AND ARE MADE A PART OF THIS ACKNOWLEDGMENT.

II. ORDER AND NOTICE OF DEFERRED PAYMENT OR INSTALLMENT PAYMENTS

Upon due consideration, the Defendant's Petition for deferred or installment payments is accordingly ACCEPTED, and the Defendant is ORDERED to pay costs, fines, forfeiture, and penalty totaling \$ plus restitution totaling \$ plus any additional court-appointed attorney fee, court reporter fee, and interest, if applicable, by:

[] making installment payments of \$ per, beginning until paid in full; or

[] making a deferred payment in full on or before

[] Restitution payments are to be paid in accordance with the court's ORDER FOR RESTITUTION previously entered.

If Deferred payment is not received by the above due date, or if the final Installment payment is not received by, the

defendant is hereby given NOTICE to return to this Court on at m.

The total listed above does not include transcript costs and any costs/damages that may be charged if you appeal from this court.

READ PART II ON THE BACK OF THIS FORM FOR MORE STIPULATIONS WHICH ARE INCORPORATED BY REFERENCE AND ARE MADE A PART OF THIS ORDER AND NOTICE.

Entered this day of,

[] JUDGE [] CLERK

I have asked for and received a copy of this Order and Notice.

PART I

I understand that if I provide for payment of a fine or other monies due by a method other than cash and my payment fails, the Clerk will send me a written notice of my failure of payment. A penalty of \$50.00 or 10 percent of the amount of the payment, whichever is greater, may be charged if the method of payment fails.

I further understand that, if I am convicted of driving while my driver's license is suspended or revoked, I may be fined, sentenced to jail, or both.

I understand that upon suspension or revocation of my license, I may not operate a motor vehicle in the Commonwealth of Virginia until:

- (1) All periods of suspension imposed by any Court or the Department of Motor Vehicles have expired, AND
- (2) The Department of Motor Vehicles reinstates my license (if suspended) or issues a new license (if revoked) after:
 - (a) I have paid the reinstatement fee (if any) to the Department of Motor Vehicles, AND
 - (b) I have met all other administrative requirements of the Department of Motor Vehicles.

PART II

I understand that if the Court has ordered deferred or installment payments, or community service to pay all or part of the fines and costs, I must make all required payments or perform all community service on time.

I understand that:

- (1) as a condition of this agreement, I must promptly inform the Court of any change of my mailing address during the term of the agreement;
- (2) if the fines, costs, forfeiture, restitution, and/or penalty are not paid in full by the date ordered, that the Court shall proceed according to the provisions of Va. Code § 19.2-358, which state that a show cause summons or capias for my arrest may be issued;
- (3) the amount(s) listed in this agreement may be administratively amended by the Clerk of this Court in the event additional costs should be assessed;
- (4) the Court or Clerk thereof may adjust the final payment date administratively, without further notice, for installment payment agreements, if I fail to make a scheduled payment or for deferred payments, if I fail to pay in full by the date ordered, for the purposes of referring the account for action pursuant to Va. Code § 19.2-358.

I further understand that if the Court does not receive payments as ordered, my case will be referred for collection enforcement action under §§ 19.2-349, 19.2-353.5, 19.2-358, or 58.1-520 through 58.1-534 of the Code of Virginia. If my case is referred for collection enforcement action under § 19.2-349, the amount that I owe and that can be collected will be increased to reflect the additional costs associated with collection action. If any part of the amount due remains unpaid, pursuant to § 19.2-358, I may be subject to a jail sentence of up to 60 days or an additional fine of up to \$500.00.

Pursuant to Va. Code § 19.2-353.5, if interest on outstanding fines and costs owed to this court accrued during a period when I was incarcerated, I may request that the interest that accrued when I was incarcerated be waived by this Court.

This Order and Notice is provided to the Defendant pursuant to Va. Code § 19.2-354. This Order shall not be spread on the Order Book of this Court.

Notice to Defendant:

If you are required to enter into an alcohol safety action program (ASAP) as part of the disposition of your case or as a condition of a restricted driving privilege, pursuant to Va. Code § 18.2-271.1(B), you will be required to pay a fee for the program unless the court has found that you are indigent and the court has reduced or waived the fee. Any restricted driving privilege granted to you by the court may be revoked if you do not timely pay the required fee. If ASAP is required as part of your restricted driving privilege, you must enroll in ASAP within 15 days of your restricted driving privilege being granted.

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 8.01-9, 8.01-407, 16.1-77, 16.1-305, 17.1-213, 19.2-389, as it is*
 3 *currently effective and as it shall become effective, 46.2-301, 46.2-301.1, 46.2-411, and 53.1-21 of*
 4 *the Code of Virginia and to repeal Article 9 (§§ 46.2-355.1 through 46.2-363) of Chapter 3 of Title*
 5 *46.2 of the Code of Virginia, relating to habitual offenders; repeal.*

6 [S 1122]

7 Approved

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

9 **1. That §§ 8.01-9, 8.01-407, 16.1-77, 16.1-305, 17.1-213, 19.2-389, as it is currently effective and as**
 10 **it shall become effective, 46.2-301, 46.2-301.1, 46.2-411, and 53.1-21 of the Code of Virginia are**
 11 **amended and reenacted as follows:**

12 **§ 8.01-9. Guardian ad litem for persons under disability; when guardian ad litem need not be**
 13 **appointed for person under disability.**

14 A. A suit wherein a person under a disability is a party defendant shall not be stayed because of
 15 such disability, but the court in which the suit is pending, or the clerk thereof, shall appoint a discreet
 16 and competent attorney-at-law as guardian ad litem to such defendant, whether the defendant has been
 17 served with process or not. If no such attorney is found willing to act, the court shall appoint some
 18 other discreet and proper person as guardian ad litem. Any guardian ad litem so appointed shall not be
 19 liable for costs. Every guardian ad litem shall faithfully represent the estate or other interest of the
 20 person under a disability for whom he is appointed, and it shall be the duty of the court to see that the
 21 interest of the defendant is so represented and protected. Whenever the court is of the opinion that the
 22 interest of the defendant so requires, it shall remove any guardian ad litem and appoint another in his
 23 stead. When, in any case, the court is satisfied that the guardian ad litem has rendered substantial
 24 service in representing the interest of the person under a disability, it may allow the guardian reasonable
 25 compensation therefor, and his actual expenses, if any, to be paid out of the estate of the defendant.
 26 However, if the defendant's estate is inadequate for the purpose of paying compensation and expenses,
 27 all, or any part thereof, may be taxed as costs in the proceeding ~~or, in the case of proceedings to~~
 28 ~~adjudicate a person under a disability as an habitual offender pursuant to former § 46.2-351.2 or former~~
 29 ~~§ 46.2-352, shall be paid by the Commonwealth out of the state treasury from the appropriation for~~
 30 ~~criminal charges.~~ In a civil action against an incarcerated felon for damages arising out of a criminal act,
 31 the compensation and expenses of the guardian ad litem shall be paid by the Commonwealth out of the
 32 state treasury from the appropriation for criminal charges. If judgment is against the incarcerated felon,
 33 the amount allowed by the court to the guardian ad litem shall be taxed against the incarcerated felon as
 34 part of the costs of the proceeding, and if collected, the same shall be paid to the Commonwealth. By
 35 order of the court, in a civil action for divorce from an incarcerated felon, the compensation and
 36 expenses of the guardian ad litem shall be paid by the Commonwealth out of the state treasury from the
 37 appropriation for criminal charges if the crime (i) for which the felon is incarcerated occurred after the
 38 date of the marriage for which the divorce is sought, (ii) for which the felon is incarcerated was
 39 committed against the felon's spouse, child, or stepchild and involved physical injury, sexual assault, or
 40 sexual abuse, and (iii) resulted in incarceration subsequent to conviction and the felon was sentenced to
 41 confinement for more than one year. The amount allowed by the court to the guardian ad litem shall be
 42 taxed against the incarcerated felon as part of the costs of the proceeding, and if collected, the same
 43 shall be paid to the Commonwealth.

44 B. Notwithstanding the provisions of subsection A or the provisions of any other law to the contrary,
 45 in any suit wherein a person under a disability is a party and is represented by an attorney-at-law duly
 46 licensed to practice in this Commonwealth, who shall have entered of record an appearance for such
 47 person, no guardian ad litem need be appointed for such person unless the court determines that the
 48 interests of justice require such appointment; or unless a statute applicable to such suit expressly requires
 49 that the person under a disability be represented by a guardian ad litem. The court may, in its discretion,
 50 appoint the attorney of record for the person under a disability as his guardian ad litem, in which event
 51 the attorney shall perform all the duties and functions of guardian ad litem.

52 Any judgment or decree rendered by any court against a person under a disability without a guardian
 53 ad litem, but in compliance with the provisions of this subsection B, shall be as valid as if the guardian
 54 ad litem had been appointed.

55 **§ 8.01-407. How summons for witness issued, and to whom directed; prior permission of court**
 56 **to summon certain officials and judges.**

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57 A. A summons may be issued, directed as prescribed in § 8.01-292, commanding the officer to
 58 summon any person to attend on the day and at the place that such attendance is desired, to give
 59 evidence before a court, grand jury, arbitrators, magistrate, notary, or any commissioner or other person
 60 appointed by a court or acting under its process or authority in a judicial or quasi-judicial capacity. The
 61 summons may be issued by the clerk of the court if the attendance is desired at a court or in a
 62 proceeding pending in a court. The clerk shall not impose any time restrictions limiting the right to
 63 properly request a summons up to and including the date of the proceeding:

64 If attendance is desired before a commissioner in chancery or other commissioner of a court, the
 65 summons may be issued by the clerk of the court in which the matter is pending, or by such
 66 commissioner in chancery or other commissioner;

67 If attendance is desired before a notary or other officer taking a deposition, the summons may be
 68 issued by such notary or other officer at the instance of the attorney desiring the attendance of the
 69 person sought;

70 If attendance is sought before a grand jury, the summons may be issued by the attorney for the
 71 Commonwealth, or the clerk of the court, at the instance of the attorney for the Commonwealth.

72 Except as otherwise provided in this subsection, if attendance is desired in a civil proceeding pending
 73 in a court or at a deposition in connection with such proceeding, including medical malpractice review
 74 panels, and a claim before the Workers' Compensation Commission, a summons may be issued by an
 75 attorney-at-law who is an active member of the Virginia State Bar at the time of issuance, as an officer
 76 of the court. An attorney-issued summons shall be on a form approved by the Supreme Court, signed by
 77 the attorney and shall include the attorney's address. The summons and any transmittal sheet shall be
 78 deemed to be a pleading to which the provisions of § 8.01-271.1 shall apply. A copy of the summons
 79 and, if served by a sheriff, all service of process fees, shall be mailed or delivered to the clerk's office
 80 of the court in which the case is pending or the Workers' Compensation Commission, as applicable, on
 81 the day of issuance by the attorney. The law governing summonses issued by a clerk shall apply *mutatis*
 82 *mutandis*. When an attorney-at-law who is an active member of the Virginia State Bar transmits one or
 83 more attorney-issued subpoenas to a sheriff to be served in his jurisdiction, such subpoenas shall be
 84 accompanied by a transmittal sheet. The transmittal sheet, which may be in the form of a letter, shall
 85 contain for each subpoena (i) the person to be served, (ii) the name of the city or county in which the
 86 subpoena is to be served, in parentheses, (iii) the style of the case in which the subpoena was issued,
 87 (iv) the court in which the case is pending, and (v) the amount of fees tendered or paid to each clerk in
 88 whose court the case is pending together with a photocopy of either (a) the payment instrument and a
 89 photocopy of the letter sent to the clerk's office that accompanied such payment instrument or (b) the
 90 clerk's receipt. If copies of the same transmittal sheet are used to send subpoenas to more than one
 91 sheriff for service of process, then subpoenas shall be grouped by the jurisdiction in which they are to
 92 be served. For each person to be served, an original subpoena and copy thereof shall be included. If the
 93 attorney desires a return copy of the transmittal sheet as proof of receipt, he shall also enclose an
 94 additional copy of the transmittal sheet together with an envelope addressed to the attorney with
 95 sufficient first class postage affixed. Upon receipt of such transmittal, the transmittal sheet shall be
 96 date-stamped and, if the extra copy and above-described envelope are provided, the copy shall also be
 97 date-stamped and returned to the attorney-at-law in the above-described envelope.

98 However, when such transmittal does not comply with the provisions of this section, the sheriff may
 99 promptly return such transmittal if accompanied by a short description of such noncompliance. An
 100 attorney may not issue a summons in any of the following civil proceedings: (a) habeas corpus under
 101 Article 3 (§ 8.01-654 et seq.) of Chapter 25 of this title, (b) delinquency or abuse and neglect
 102 proceedings under Article 3 (§ 16.1-241 et seq.) of Chapter 11 of Title 16.1, (c) civil forfeiture
 103 proceedings, (d) ~~habitual offender proceedings under Article 9 (§ 46.2-351 et seq.) of Chapter 3 of Title~~
 104 ~~46.2,~~ (e) administrative license suspension pursuant to § 46.2-391.2, and (f) (e) petition for writs of
 105 mandamus or prohibition in connection with criminal proceedings. A sheriff shall not be required to
 106 serve an attorney-issued subpoena that is not issued at least five business days prior to the date that
 107 attendance is desired.

108 In other cases, if attendance is desired, the summons may be issued by the clerk of the circuit court
 109 of the county or city in which the attendance is desired.

110 A summons shall express on whose behalf, and in what case or about what matter, the witness is to
 111 attend. Failure to respond to any such summons shall be punishable by the court in which the
 112 proceeding is pending as for contempt. When any subpoena is served less than five calendar days before
 113 appearance is required, the court may, after considering all of the circumstances, refuse to enforce the
 114 subpoena for lack of adequate notice. If any subpoena is served less than five calendar days before
 115 appearance is required upon any judicial officer generally incompetent to testify pursuant to § 19.2-271,
 116 such subpoena shall be without legal force or effect unless the subpoena has been issued by a judge.

117 B. No subpoena shall, without permission of the court first obtained, issue for the attendance of the

118 Governor, Lieutenant Governor, or Attorney General of this Commonwealth, a judge of any court
 119 thereof; the President or Vice President of the United States; any member of the President's Cabinet; any
 120 ambassador or consul; or any military officer on active duty holding the rank of admiral or general.

121 **§ 16.1-77. Civil jurisdiction of general district courts; amending amount of claim.**

122 Except as provided in Article 5 (§ 16.1-122.1 et seq.), each general district court shall have, within
 123 the limits of the territory it serves, civil jurisdiction as follows:

124 (1) Exclusive original jurisdiction of any claim to specific personal property or to any debt, fine or
 125 other money, or to damages for breach of contract or for injury done to property, real or personal, or for
 126 any injury to the person that would be recoverable by action at law or suit in equity, when the amount
 127 of such claim does not exceed \$4,500 exclusive of interest and any attorney fees, and concurrent
 128 jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the
 129 amount thereof exceeds \$4,500 but does not exceed \$25,000, exclusive of interest and any attorney fees.
 130 However, this \$25,000 limit shall not apply with respect to distress warrants under the provisions of
 131 § 8.01-130.4, cases involving liquidated damages for violations of vehicle weight limits pursuant to
 132 § 46.2-1135, nor cases involving forfeiture of a bond pursuant to § 19.2-143. While a matter is pending
 133 in a general district court, upon motion of the plaintiff seeking to increase the amount of the claim, the
 134 court shall order transfer of the matter to the circuit court that has jurisdiction over the amended amount
 135 of the claim without requiring that the case first be dismissed or that the plaintiff suffer a nonsuit, and
 136 the tolling of the applicable statutes of limitations governing the pending matter shall be unaffected by
 137 the transfer. Except for good cause shown, no such order of transfer shall issue unless the motion to
 138 amend and transfer is made at least 10 days before trial. The plaintiff shall pay filing and other fees as
 139 otherwise provided by law to the clerk of the court to which the case is transferred, and such clerk shall
 140 process the claim as if it were a new civil action. The plaintiff shall prepare and present the order of
 141 transfer to the transferring court for entry, after which time the case shall be removed from the pending
 142 docket of the transferring court and the order of transfer placed among its records. The plaintiff shall
 143 provide a certified copy of the transfer order to the receiving court.

144 (2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not
 145 exceed \$25,000 exclusive of interest and any attorney fees.

146 (3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.)
 147 of Chapter 3 of Title 8.01, and in Chapter 14 (§ 55.1-1400 et seq.) of Title 55.1, and the maximum
 148 jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or
 149 cross-claim in an unlawful detainer action that includes a claim for damages sustained or rent against
 150 any person obligated on the lease or guarantee of such lease.

151 (4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil
 152 action or proceeding conferred upon any general district court judge or magistrate under or by virtue of
 153 any provisions of the Code.

154 (5) Jurisdiction to try and decide suits in interpleader involving personal or real property where the
 155 amount of money or value of the property is not more than the maximum jurisdictional limits of the
 156 general district court. However, the maximum jurisdictional limits prescribed in subdivision (1) shall not
 157 apply to any claim, counter-claim, or cross-claim in an interpleader action that is limited to the
 158 disposition of an earnest money deposit pursuant to a real estate purchase contract. The action shall be
 159 brought in accordance with the procedures for interpleader as set forth in § 8.01-364. However, the
 160 general district court shall not have any power to issue injunctions. Actions in interpleader may be
 161 brought by either the stakeholder or any of the claimants. The initial pleading shall be either by motion
 162 for judgment, by warrant in debt, or by other uniform court form established by the Supreme Court of
 163 Virginia. The initial pleading shall briefly set forth the circumstances of the claim and shall name as
 164 defendant all parties in interest who are not parties plaintiff.

165 (6) Jurisdiction to try and decide any cases pursuant to § 2.2-3713 of the Virginia Freedom of
 166 Information Act (§ 2.2-3700 et seq.) or § 2.2-3809 of the Government Data Collection and
 167 Dissemination Practices Act (§ 2.2-3800 et seq.), for writs of mandamus or for injunctions.

168 (7) ~~Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate~~
 169 ~~habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title~~
 170 ~~46.2.~~

171 ~~(8) Jurisdiction to try and decide any cases pursuant to § 55.1-1819 of the Property Owners'~~
 172 ~~Association Act (§ 55.1-1800 et seq.) or § 55.1-1959 of the Virginia Condominium Act (§ 55.1-1900 et~~
 173 ~~seq.).~~

174 ~~(9) (8) Concurrent jurisdiction with the circuit courts to submit matters to arbitration pursuant to~~
 175 ~~Chapter 21 (§ 8.01-577 et seq.) of Title 8.01 where the amount in controversy is within the jurisdictional~~
 176 ~~limits of the general district court. Any party that disagrees with an order by a general district court~~
 177 ~~granting an application to compel arbitration may appeal such decision to the circuit court pursuant to~~
 178 ~~§ 8.01-581.016.~~

179 For purposes of this section, the territory served by a county general district court expressly
 180 authorized by statute to be established in a city includes the general district court courtroom.

181 **§ 16.1-305. Confidentiality of court records.**

182 A. Social, medical and psychiatric or psychological records, including reports or preliminary
 183 inquiries, predisposition studies and supervision records, of neglected and abused children, children in
 184 need of services, children in need of supervision and delinquent children shall be filed with the other
 185 papers in the juvenile's case file. All juvenile case files shall be filed separately from adult files and
 186 records of the court and shall be open for inspection only to the following:

187 1. The judge, probation officers and professional staff assigned to serve the juvenile and domestic
 188 relations district courts;

189 2. Representatives of a public or private agency or department providing supervision or having legal
 190 custody of the child or furnishing evaluation or treatment of the child ordered or requested by the court;

191 3. The attorney for any party, including the attorney for the Commonwealth;

192 4. Any other person, agency or institution, by order of the court, having a legitimate interest in the
 193 case or in the work of the court. However, for the purposes of an investigation conducted by a local
 194 community-based probation services agency, preparation of a pretrial investigation report, or of a
 195 presentence or postsentence report upon a finding of guilty in a circuit court or for the preparation of a
 196 background report for the Parole Board, adult probation and parole officers, including United States
 197 Probation and Pretrial Services Officers, any officer of a local pretrial services agency established or
 198 operated pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2, and any officer of a
 199 local community-based probation services agency established or operated pursuant to the Comprehensive
 200 Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) shall have access to an
 201 accused's or inmate's records in juvenile court without a court order and for the purpose of preparing the
 202 discretionary sentencing guidelines worksheets and related risk assessment instruments as directed by the
 203 court pursuant to subsection C of § 19.2-298.01, the attorney for the Commonwealth and any pretrial
 204 services or probation officer shall have access to the defendant's records in juvenile court without a
 205 court order;

206 5. Any attorney for the Commonwealth and any local pretrial services or community-based probation
 207 officer or state adult probation or parole officer shall have direct access to the defendant's juvenile court
 208 delinquency records maintained in an electronic format by the court for the strictly limited purposes of
 209 preparing a pretrial investigation report, including any related risk assessment instrument, any
 210 presentence report, any discretionary sentencing guidelines worksheets, including related risk assessment
 211 instruments, any post-sentence investigation report or preparing for any transfer or sentencing hearing.

212 A copy of the court order of disposition in a delinquency case shall be provided to a probation
 213 officer or attorney for the Commonwealth, when requested for the purpose of calculating sentencing
 214 guidelines. The copies shall remain confidential, but reports may be prepared using the information
 215 contained therein as provided in §§ 19.2-298.01 and 19.2-299.

216 6. The Office of the Attorney General, for all criminal justice activities otherwise permitted and for
 217 purposes of performing duties required by Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

218 A1. Any person, agency, or institution that may inspect juvenile case files pursuant to subdivisions A
 219 1 through A 4 shall be authorized to have copies made of such records, subject to any restrictions,
 220 conditions, or prohibitions that the court may impose.

221 B. All or any part of the records enumerated in subsection A, or information secured from such
 222 records, which is presented to the judge in court or otherwise in a proceeding under this law shall also
 223 be made available to the parties to the proceedings and their attorneys.

224 B1. If a juvenile 14 years of age or older at the time of the offense is adjudicated delinquent on the
 225 basis of an act which would be a felony if committed by an adult, all court records regarding that
 226 adjudication and any subsequent adjudication of delinquency, other than those records specified in
 227 subsection A, shall be open to the public. However, if a hearing was closed, the judge may order that
 228 certain records or portions thereof remain confidential to the extent necessary to protect any juvenile
 229 victim or juvenile witness.

230 C. All other juvenile records, including the docket, petitions, motions and other papers filed with a
 231 case, transcripts of testimony, findings, verdicts, orders and decrees shall be open to inspection only by
 232 those persons and agencies designated in subsections A and B of this section. However, a licensed bail
 233 bondsman shall be entitled to know the status of a bond he has posted or provided surety on for a
 234 juvenile under § 16.1-258. This shall not authorize a bail bondsman to have access to or inspect any
 235 other portion of his principal's juvenile court records.

236 D. Attested copies of papers filed in connection with an adjudication of guilty for an offense for
 237 which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles,
 238 which shows the charge, finding, disposition, name of the attorney for the juvenile, or waiver of attorney
 239 shall be furnished to an attorney for the Commonwealth upon certification by the prosecuting attorney

240 that such papers are needed as evidence in a pending criminal, *or* traffic, ~~or habitual offender~~ proceeding
 241 and that such papers will be only used for such evidentiary purpose.

242 D1. Attested copies of papers filed in connection with an adjudication of guilt for a delinquent act
 243 that would be a felony if committed by an adult, which show the charge, finding, disposition, name of
 244 the attorney for the juvenile, or waiver of attorney by the juvenile, shall be furnished to an attorney for
 245 the Commonwealth upon his certification that such papers are needed as evidence in a pending criminal
 246 prosecution for a violation of § 18.2-308.2 and that such papers will be only used for such evidentiary
 247 purpose.

248 E. Upon request, a copy of the court order of disposition in a delinquency case shall be provided to
 249 the Virginia Workers' Compensation Commission solely for purposes of determining whether to make an
 250 award to the victim of a crime, and such information shall not be disseminated or used by the
 251 Commission for any other purpose including but not limited to actions pursuant to § 19.2-368.15.

252 F. Staff of the court services unit or the attorney for the Commonwealth shall provide notice of the
 253 disposition in a case involving a juvenile who is committed to state care after being adjudicated for a
 254 criminal sexual assault as specified in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 to the
 255 victim or a parent of a minor victim, upon request. Additionally, if the victim or parent submits a
 256 written request, the Department of Juvenile Justice shall provide advance notice of such juvenile
 257 offender's anticipated date of release from commitment.

258 G. Any record in a juvenile case file which is open for inspection by the professional staff of the
 259 Department of Juvenile Justice pursuant to subsection A and is maintained in an electronic format by the
 260 court, may be transmitted electronically to the Department of Juvenile Justice. Any record so transmitted
 261 shall be subject to the provisions of § 16.1-300.

262 **§ 17.1-213. Disposition of papers in ended cases.**

263 A. All case files for cases ended prior to January 1, 1913, shall be permanently maintained in
 264 hardcopy form, either in the locality served by the circuit court where such files originated or in The
 265 Library of Virginia in accordance with the provisions of § 42.1-86 and subsection C of § 42.1-87.

266 B. The following records for cases ending on or after January 1, 1913, shall be retained for 10 years
 267 after conclusion:

- 268 1. Conditional sales contracts;
- 269 2. Concealed weapons permit applications;
- 270 3. Minister appointments;
- 271 4. Petitions for appointment of trustee;
- 272 5. Name changes;
- 273 6. Nolle prosequi cases;
- 274 7. Civil actions that are voluntarily dismissed, including nonsuits, cases that are dismissed as settled
 275 and agreed, cases that are dismissed with or without prejudice, cases that are discontinued or dismissed
 276 under § 8.01-335, and district court appeals dismissed under § 16.1-113 prior to 1988;
- 277 8. Misdemeanor and traffic cases, except as provided in subdivision C 3, including those which were
 278 commenced on a felony charge but concluded as a misdemeanor;
- 279 9. Suits to enforce a lien;
- 280 10. Garnishments;
- 281 11. Executions except for those covered in § 8.01-484; *and*
- 282 12. Miscellaneous oaths and qualifications, but only if the order or oath or qualification is spread in
 283 the appropriate order book; ~~and~~
- 284 ~~13. Civil cases pertaining to declarations of habitual offender status and full restoration of driving~~
 285 ~~privileges.~~

286 C. All other records or cases ending on or after January 1, 1913, shall be retained subject to the
 287 following:

- 288 1. All civil case files to which subsection D does not pertain shall be retained 20 years from the
 289 court order date.
- 290 2. All criminal cases dismissed, including those not a true bill, acquittals, and not guilty verdicts,
 291 shall be retained 10 years from the court order date.
- 292 3. Except as otherwise provided in this subdivision, criminal case files involving a felony conviction
 293 and all criminal case files involving a misdemeanor conviction under § 16.1-253.2, 18.2-57.2, or
 294 18.2-60.4 shall be retained (i) 20 years from the sentencing date or (ii) until the sentence term ends,
 295 whichever comes later. Case files involving a conviction for a sexually violent offense as defined in
 296 § 37.2-900, a violent felony as defined in § 17.1-805, or an act of violence as defined in § 19.2-297.1
 297 shall be retained (a) 50 years from the sentencing date or (b) until the sentence term ends, whichever
 298 comes later.

299 D. Under the provisions of subsections B and C, the entire file of any case deemed by the local clerk
 300 of court to have historical value, as defined in § 42.1-77, or genealogical or sensational significance shall

301 be retained permanently as shall all cases in which the title to real estate is established, conveyed or
 302 condemned by an order or decree of the court. The final order for all cases in which the title to real
 303 estate is so affected shall include an appropriate notification thereof to the clerk.

304 E. Except as provided in subsection A, the clerk of a circuit court may cause (i) any or all papers or
 305 documents pertaining to civil and criminal cases; (ii) any unexecuted search warrants and affidavits for
 306 unexecuted search warrants, provided at least three years have passed since issued; (iii) any abstracts of
 307 judgments; and (iv) original wills, to be destroyed if such records, papers, documents, or wills no longer
 308 have administrative, fiscal, historical, or legal value to warrant continued retention, provided such
 309 records, papers, or documents have been microfilmed or converted to an electronic format. Such
 310 microfilm and microphotographic processes and equipment shall meet state archival microfilm standards
 311 pursuant to § 42.1-82, or such electronic format shall follow state electronic records guidelines, and such
 312 records, papers, or documents so converted shall be placed in conveniently accessible files and
 313 provisions made for examining and using same. The clerk shall further provide security negative copies
 314 of any such microfilmed materials for storage in The Library of Virginia.

315 **§ 19.2-389. (Effective until July 1, 2021) Dissemination of criminal history record information.**

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

318 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
 319 purposes of the administration of criminal justice and the screening of an employment application or
 320 review of employment by a criminal justice agency with respect to its own employees or applicants, and
 321 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
 322 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
 323 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
 324 purposes of this subdivision, criminal history record information includes information sent to the Central
 325 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
 326 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
 327 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
 328 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
 329 Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

349 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
 350 owned, operated or controlled by any political subdivision, and any public service corporation that
 351 operates a public transit system owned by a local government for the conduct of investigations of
 352 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
 353 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
 354 conviction record would be compatible with the nature of the employment, permit, or license under
 355 consideration;

356 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
 357 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
 358 position of employment whenever, in the interest of public welfare or safety and as authorized in the
 359 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
 360 with a conviction record would be compatible with the nature of the employment under consideration;

361 8. Public or private agencies when authorized or required by federal or state law or interstate

362 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
 363 adult members of that individual's household, with whom the agency is considering placing a child or
 364 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,
 365 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that
 366 the data shall not be further disseminated to any party other than a federal or state authority or court as
 367 may be required to comply with an express requirement of law;

368 9. To the extent permitted by federal law or regulation, public service companies as defined in
 369 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
 370 personal contact with the public or when past criminal conduct of an applicant would be incompatible
 371 with the nature of the employment under consideration;

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

374 11. A person requesting a copy of his own criminal history record information as defined in
 375 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
 376 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
 377 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
 378 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
 379 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
 380 Solvers or Crime Line program as defined in § 15.2-1713.1;

381 12. Administrators and board presidents of and applicants for licensure or registration as a child
 382 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
 383 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
 384 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved
 385 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,
 386 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction
 387 that the data shall not be further disseminated by the facility or agency to any party other than the data
 388 subject, the Commissioner of Social Services' representative or a federal or state authority or court as
 389 may be required to comply with an express requirement of law for such further dissemination;

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

393 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
 394 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,
 395 and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth
 396 in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

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

401 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
 402 investigations of applicants for compensated employment in licensed assisted living facilities and
 403 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

404 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
 405 in § 4.1-103.1;

406 18. The State Board of Elections and authorized officers and employees thereof and general registrars
 407 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
 408 voter registration, limited to any record of felony convictions;

409 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
 410 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
 411 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

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

415 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
 416 Department of Education, or the Department of Behavioral Health and Developmental Services for the
 417 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
 418 services;

419 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
 420 Department for the purpose of determining an individual's fitness for employment pursuant to
 421 departmental instructions;

422 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or

secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

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

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

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

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

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current

484 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
 485 Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any
 486 other provision of law, if an application is denied based in whole or in part on information obtained
 487 from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the
 488 Commissioner of Financial Institutions or his designee may disclose such information to the applicant or
 489 its designee;

490 39. The Department of Professional and Occupational Regulation for the purpose of investigating
 491 individuals for initial licensure pursuant to § 54.1-2106.1;

492 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
 493 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
 494 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
 495 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

496 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

497 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
 498 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

499 43. The Department of Social Services and directors of local departments of social services for the
 500 purpose of screening individuals seeking to enter into a contract with the Department of Social Services
 501 or a local department of social services for the provision of child care services for which child care
 502 subsidy payments may be provided;

503 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
 504 a juvenile's household when completing a predispositional or postdispositional report required by
 505 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

506 45. The State Corporation Commission, for the purpose of screening applicants for insurance
 507 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

508 46. Other entities as otherwise provided by law.

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

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

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

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

525 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
 526 Exchange prior to dissemination of any criminal history record information on offenses required to be
 527 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
 528 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
 529 where time is of the essence and the normal response time of the Exchange would exceed the necessary
 530 time period. A criminal justice agency to whom a request has been made for the dissemination of
 531 criminal history record information that is required to be reported to the Central Criminal Records
 532 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
 533 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
 534 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

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

538 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
 539 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
 540 for any offense specified in § 63.2-1720.

541 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
 542 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
 543 definition of barrier crime in § 19.2-392.02.

544 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal

545 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
546 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
547 the request to the employer or prospective employer making the request, provided that the person on
548 whom the data is being obtained has consented in writing to the making of such request and has
549 presented a photo-identification to the employer or prospective employer. In the event no conviction data
550 is maintained on the person named in the request, the requesting employer or prospective employer shall
551 be furnished at his cost a certification to that effect. The criminal history record search shall be
552 conducted on forms provided by the Exchange.

553 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
554 information pursuant to the rules of court for obtaining discovery or for review by the court.

555 **§ 19.2-389. (Effective July 1, 2021) Dissemination of criminal history record information.**

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

558 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
559 purposes of the administration of criminal justice and the screening of an employment application or
560 review of employment by a criminal justice agency with respect to its own employees or applicants, and
561 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
562 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
563 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
564 purposes of this subdivision, criminal history record information includes information sent to the Central
565 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
566 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
567 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
568 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
569 Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

589 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
590 owned, operated or controlled by any political subdivision, and any public service corporation that
591 operates a public transit system owned by a local government for the conduct of investigations of
592 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
593 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
594 conviction record would be compatible with the nature of the employment, permit, or license under
595 consideration;

596 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
597 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
598 position of employment whenever, in the interest of public welfare or safety and as authorized in the
599 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
600 with a conviction record would be compatible with the nature of the employment under consideration;

601 8. Public or private agencies when authorized or required by federal or state law or interstate
602 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
603 adult members of that individual's household, with whom the agency is considering placing a child or
604 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,
605 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that

606 the data shall not be further disseminated to any party other than a federal or state authority or court as
607 may be required to comply with an express requirement of law;

608 9. To the extent permitted by federal law or regulation, public service companies as defined in
609 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
610 personal contact with the public or when past criminal conduct of an applicant would be incompatible
611 with the nature of the employment under consideration;

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

614 11. A person requesting a copy of his own criminal history record information as defined in
615 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
616 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
617 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
618 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
619 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
620 Solvers or Crime Line program as defined in § 15.2-1713.1;

621 12. Administrators and board presidents of and applicants for licensure or registration as a child
622 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
623 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
624 volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing
625 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data
626 shall not be further disseminated by the facility or agency to any party other than the data subject, the
627 Commissioner of Social Services' representative or a federal or state authority or court as may be
628 required to comply with an express requirement of law for such further dissemination;

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

632 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
633 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,
634 and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth
635 in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

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

640 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
641 investigations of applicants for compensated employment in licensed assisted living facilities and
642 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

643 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
644 in § 4.1-103.1;

645 18. The State Board of Elections and authorized officers and employees thereof and general registrars
646 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
647 voter registration, limited to any record of felony convictions;

648 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
649 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
650 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

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

654 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
655 Department of Education, or the Department of Behavioral Health and Developmental Services for the
656 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
657 services;

658 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
659 Department for the purpose of determining an individual's fitness for employment pursuant to
660 departmental instructions;

661 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
662 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
663 records information on behalf of such governing boards or administrators pursuant to a written
664 agreement with the Department of State Police;

665 24. Public institutions of higher education and nonprofit private institutions of higher education for
666 the purpose of screening individuals who are offered or accept employment;

667 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
 668 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
 669 higher education, for the purpose of assessing or intervening with an individual whose behavior may
 670 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
 671 history record information obtained pursuant to this section or otherwise use any record of an individual
 672 beyond the purpose that such disclosure was made to the threat assessment team;

673 26. Executive directors of community services boards or the personnel director serving the
 674 community services board for the purpose of determining an individual's fitness for employment,
 675 approval as a sponsored residential service provider, or permission to enter into a shared living
 676 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
 677 §§ 37.2-506 and 37.2-607;

678 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
 679 determining an individual's fitness for employment, approval as a sponsored residential service provider,
 680 or permission to enter into a shared living arrangement with a person receiving medical assistance
 681 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

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

685 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
 686 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
 687 purpose of determining if any applicant who accepts employment in any direct care position or requests
 688 approval as a sponsored residential service provider or permission to enter into a shared living
 689 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
 690 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
 691 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
 692 37.2-607;

693 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
 694 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
 695 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

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

699 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
 700 determining an individual's fitness for employment in positions designated as sensitive under Department
 701 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

702 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
 703 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
 704 Violent Predators Act (§ 37.2-900 et seq.);

705 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
 706 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
 707 companies, for the conduct of investigations of applications for employment or for access to facilities,
 708 by contractors, leased laborers, and other visitors;

709 35. Any employer of individuals whose employment requires that they enter the homes of others, for
 710 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

711 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
 712 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
 713 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
 714 subject to the restriction that the data shall not be further disseminated by the agency to any party other
 715 than a federal or state authority or court as may be required to comply with an express requirement of
 716 law for such further dissemination, subject to limitations set out in subsection G;

717 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
 718 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
 719 or have accepted a position related to the provision of transportation services to enrollees in the
 720 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other
 721 program administered by the Department of Medical Assistance Services;

722 38. The State Corporation Commission for the purpose of investigating individuals who are current
 723 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
 724 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of
 725 Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in
 726 part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19,
 727 or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such

728 information to the applicant or its designee;
729 39. The Department of Professional and Occupational Regulation for the purpose of investigating
730 individuals for initial licensure pursuant to § 54.1-2106.1;
731 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
732 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
733 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
734 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;
735 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;
736 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
737 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;
738 43. The Department of Education or its agents or designees for the purpose of screening individuals
739 seeking to enter into a contract with the Department of Education or its agents or designees for the
740 provision of child care services for which child care subsidy payments may be provided;
741 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
742 a juvenile's household when completing a predispositional or postdispositional report required by
743 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;
744 45. The State Corporation Commission, for the purpose of screening applicants for insurance
745 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;
746 46. Administrators and board presidents of and applicants for licensure or registration as a child day
747 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
748 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
749 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
750 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the
751 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's
752 representative, or a federal or state authority or court as may be required to comply with an express
753 requirement of law for such further dissemination; and
754 47. Other entities as otherwise provided by law.
755 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
756 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
757 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
758 designated in the order on whom a report has been made under the provisions of this chapter.
759 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
760 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
761 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
762 copy of conviction data covering the person named in the request to the person making the request;
763 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
764 making of such request. A person receiving a copy of his own conviction data may utilize or further
765 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
766 subject, the person making the request shall be furnished at his cost a certification to that effect.
767 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
768 section shall be limited to the purposes for which it was given and may not be disseminated further.
769 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
770 history record information for employment or licensing inquiries except as provided by law.
771 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
772 Exchange prior to dissemination of any criminal history record information on offenses required to be
773 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
774 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
775 where time is of the essence and the normal response time of the Exchange would exceed the necessary
776 time period. A criminal justice agency to whom a request has been made for the dissemination of
777 criminal history record information that is required to be reported to the Central Criminal Records
778 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
779 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
780 made by the criminal justice agency maintaining the record as required by § 15.2-1722.
781 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
782 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
783 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.
784 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
785 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
786 for any offense specified in § 63.2-1720.
787 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
788 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the

789 definition of barrier crime in § 19.2-392.02.

790 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
 791 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
 792 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
 793 the request to the employer or prospective employer making the request, provided that the person on
 794 whom the data is being obtained has consented in writing to the making of such request and has
 795 presented a photo-identification to the employer or prospective employer. In the event no conviction data
 796 is maintained on the person named in the request, the requesting employer or prospective employer shall
 797 be furnished at his cost a certification to that effect. The criminal history record search shall be
 798 conducted on forms provided by the Exchange.

799 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
 800 information pursuant to the rules of court for obtaining discovery or for review by the court.

801 **§ 46.2-301. Driving while license, permit, or privilege to drive suspended or revoked.**

802 A. In addition to any other penalty provided by this section, any motor vehicle administratively
 803 impounded or immobilized under the provisions of § 46.2-301.1 may, in the discretion of the court, be
 804 impounded or immobilized for an additional period of up to 90 days upon conviction of an offender for
 805 driving while his driver's license, learner's permit, or privilege to drive a motor vehicle has been (i)
 806 suspended or revoked for ~~(+)~~ a violation of § 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-272, or 46.2-341.24 or
 807 a substantially similar ordinance or law in any other jurisdiction or (ii) ~~driving after adjudication as an~~
 808 ~~habitual offender, where such adjudication was based in whole or in part on an alcohol-related offense,~~
 809 ~~or where such person's license has been~~ administratively suspended under the provisions of § 46.2-391.2.
 810 However, if, at the time of the violation, the offender was driving a motor vehicle owned by another
 811 person, the court shall have no jurisdiction over such motor vehicle but may order the impoundment or
 812 immobilization of a motor vehicle owned solely by the offender at the time of arrest. All costs of
 813 impoundment or immobilization, including removal or storage expenses, shall be paid by the offender
 814 prior to the release of his motor vehicle.

815 B. Except as provided in §§ § 46.2-304 ~~and 46.2-357~~, no resident or nonresident (i) whose driver's
 816 license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked or (ii) who
 817 has been directed not to drive by any court or by the Commissioner, or (iii) who has been forbidden, as
 818 prescribed by operation of any statute of the Commonwealth or a substantially similar ordinance of any
 819 county, city or town, to operate a motor vehicle in the Commonwealth shall thereafter drive any motor
 820 vehicle or any self-propelled machinery or equipment on any highway in the Commonwealth until the
 821 period of such suspension or revocation has terminated or the privilege has been reinstated or a
 822 restricted license is issued pursuant to subsection E. For the purposes of this section, the phrase "motor
 823 vehicle or any self-propelled machinery or equipment" shall not include mopeds.

824 C. A violation of subsection B is a Class 1 misdemeanor.

825 D. Upon a violation of subsection B, the court shall suspend the person's license or privilege to drive
 826 a motor vehicle for the same period for which it had been previously suspended or revoked. In the event
 827 the person violated subsection B by driving during a period of suspension or revocation which was not
 828 for a definite period of time, the court shall suspend the person's license, permit or privilege to drive for
 829 an additional period not to exceed 90 days, to commence upon the expiration of the previous suspension
 830 or revocation or to commence immediately if the previous suspension or revocation has expired.

831 E. Any person who is otherwise eligible for a restricted license may petition each court that
 832 suspended his license pursuant to subsection D for authorization for a restricted license, provided that
 833 the period of time for which the license was suspended by the court pursuant to subsection D, if
 834 measured from the date of conviction, has expired, even though the suspension itself has not expired. A
 835 court may, for good cause shown, authorize the Department of Motor Vehicles to issue a restricted
 836 license for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license shall be
 837 issued unless each court that issued a suspension of the person's license pursuant to subsection D
 838 authorizes the Department to issue a restricted license. Any restricted license issued pursuant to this
 839 subsection shall be in effect until the expiration of any and all suspensions issued pursuant to subsection
 840 D, except that it shall automatically terminate upon the expiration, cancellation, suspension, or
 841 revocation of the person's license or privilege to drive for any other cause. No restricted license issued
 842 pursuant to this subsection shall permit a person to operate a commercial motor vehicle as defined in the
 843 Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall forward to the Commissioner a
 844 copy of its authorization entered pursuant to this subsection, which shall specifically enumerate the
 845 restrictions imposed and contain such information regarding the person to whom such a license is issued
 846 as is reasonably necessary to identify the person. The court shall also provide a copy of its authorization
 847 to the person, who may not operate a motor vehicle until receipt from the Commissioner of a restricted
 848 license. A copy of the restricted license issued by the Commissioner shall be carried at all times while
 849 operating a motor vehicle.

850 F. Any person who operates a motor vehicle or any self-propelled machinery or equipment in
851 violation of the terms of a restricted license issued pursuant to subsection E of § 18.2-271.1 is not guilty
852 of a violation of this section but is guilty of a violation of § 18.2-272.

853 **§ 46.2-301.1. Administrative impoundment of motor vehicle for certain driving while license**
854 **suspended or revoked offenses; judicial impoundment upon conviction; penalty for permitting**
855 **violation with one's vehicle.**

856 A. The motor vehicle being driven by any person (i) whose driver's license, learner's permit or
857 privilege to drive a motor vehicle has been suspended or revoked for a violation of § 18.2-51.4 or
858 18.2-272 or driving while under the influence in violation of § 18.2-266, 46.2-341.24 or a substantially
859 similar ordinance or law in any other jurisdiction; (ii) driving after adjudication as an habitual offender,
860 where such adjudication was based in whole or in part on an alcohol-related offense, or where such
861 person's license has been administratively suspended under the provisions of § 46.2-391.2; (iii) driving
862 after such person's driver's license, learner's permit or privilege to drive a motor vehicle has been
863 suspended or revoked for unreasonable refusal of tests in violation of § 18.2-268.3, 46.2-341.26:3 or a
864 substantially similar ordinance or law in any other jurisdiction; or (iv) driving without an operator's
865 license in violation of § 46.2-300 having been previously convicted of such offense or a substantially
866 similar ordinance of any county, city, or town or law in any other jurisdiction shall be impounded or
867 immobilized by the arresting law-enforcement officer at the time the person is arrested for driving after
868 his driver's license, learner's permit or privilege to drive has been so revoked or suspended or for driving
869 without an operator's license in violation of § 46.2-300 having been previously convicted of such offense
870 or a substantially similar ordinance of any county, city, or town or law in any other jurisdiction. The
871 impoundment or immobilization for a violation of ~~clauses~~ clause (i) through, (ii), or (iii) shall be for a
872 period of 30 days. The period of impoundment or immobilization for a violation of clause (iv) shall be
873 until the offender obtains a valid operator's license pursuant to § 46.2-300 or three days, whichever is
874 less. In the event that the offender obtains a valid operator's license at any time during the three-day
875 impoundment period and presents such license to the court, the court shall authorize the release of the
876 vehicle upon payment of all reasonable costs of impoundment or immobilization to the person holding
877 the vehicle.

878 The provisions of this section as to the offense described in clause (iv) of ~~this subsection~~ shall not
879 apply to a person who drives a motor vehicle with no operator's license ~~(i)~~ (a) whose license has been
880 expired for less than one year prior to the offense or ~~(ii)~~ (b) who is under 18 years of age at the time of
881 the offense. The arresting officer, acting on behalf of the Commonwealth, shall serve notice of the
882 impoundment upon the arrested person. The notice shall include information on the person's right to
883 petition for review of the impoundment pursuant to subsection B. A copy of the notice of impoundment
884 shall be delivered to the magistrate and thereafter promptly forwarded to the clerk of the general district
885 court of the jurisdiction where the arrest was made. Transmission of the notice may be by electronic
886 means.

887 At least five days prior to the expiration of the period of impoundment imposed pursuant to this
888 section or § 46.2-301, the clerk shall provide the offender with information on the location of the motor
889 vehicle and how and when the vehicle will be released; however, for a violation of clause (iv) ~~above~~,
890 such information shall be provided at the time of arrest.

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

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

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

911 civil or criminal.

912 C. The owner or co-owner of any motor vehicle impounded or immobilized under subsection A who
 913 was not the driver at the time of the violation may petition the general district court in the jurisdiction
 914 where the violation occurred for the release of his motor vehicle. The motor vehicle shall be released if
 915 the owner or co-owner proves by a preponderance of the evidence that he (i) did not know that the
 916 offender's driver's license was suspended or revoked when he authorized the offender to drive such
 917 motor vehicle; (ii) did not know that the offender had no operator's license and that the operator had
 918 been previously convicted of driving a motor vehicle without an operator's license in violation of
 919 § 46.2-300 or a substantially similar ordinance of any county, city, or town or law in any other
 920 jurisdiction when he authorized the offender to drive such motor vehicle; or (iii) did not consent to the
 921 operation of the motor vehicle by the offender. If the owner proves by a preponderance of the evidence
 922 that his immediate family has only one motor vehicle and will suffer a substantial hardship if that motor
 923 vehicle is impounded or immobilized for the period of impoundment that otherwise would be imposed
 924 pursuant to this section, the court, in its discretion, may release the vehicle after some period of less
 925 than such impoundment period.

926 D. Notwithstanding any provision of this section, a subsequent dismissal or acquittal of the charge of
 927 driving without an operator's license or of driving on a suspended or revoked license shall result in an
 928 immediate rescission of the impoundment or immobilization provided in subsection A. Upon rescission,
 929 the motor vehicle shall be released and the Commonwealth shall pay or reimburse the person for all
 930 reasonable costs of impoundment or immobilization, including removal or storage costs, incurred or paid
 931 by him.

932 E. Any person who knowingly authorizes the operation of a motor vehicle by (i) a person he knows
 933 has had his driver's license, learner's permit or privilege to drive a motor vehicle suspended or revoked
 934 for any of the reasons set forth in subsection A or (ii) a person who he knows has no operator's license
 935 and who he knows has been previously convicted of driving a motor vehicle without an operator's
 936 license in violation of § 46.2-300 or a substantially similar ordinance of any county, city, or town or law
 937 in any other jurisdiction shall be guilty of a Class 1 misdemeanor.

938 F. Notwithstanding the provisions of this section or § 46.2-301, nothing in this section shall impede
 939 or infringe upon a valid lienholder's rights to cure a default under an existing security agreement.
 940 Furthermore, such lienholder shall not be liable for any cost of impoundment or immobilization,
 941 including removal or storage expenses which may accrue pursuant to the provisions of this section or
 942 § 46.2-301. In the event a lienholder repossesses or removes a vehicle from storage pursuant to an
 943 existing security agreement, the Commonwealth shall pay all reasonable costs of impoundment or
 944 immobilization, including removal and storage expenses, to any person or entity providing such services
 945 to the Commonwealth, except to the extent such costs or expenses have already been paid by the
 946 offender to such person or entity. Such payment shall be made within seven calendar days after a
 947 request is made by such person or entity to the Commonwealth for payment. Nothing herein, however,
 948 shall relieve the offender from liability to the Commonwealth for reimbursement or payment of all such
 949 reasonable costs and expenses.

950 **§ 46.2-411. Reinstatement of suspended or revoked license or other privilege to operate or**
 951 **register a motor vehicle; proof of financial responsibility; reinstatement fee.**

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

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

961 C. Whenever the driver's license or registration cards, license plates and decals, or other privilege to
 962 drive or to register motor vehicles of any resident or nonresident person is suspended or revoked by the
 963 Commissioner or by a district court or circuit court pursuant to the provisions of Title 18.2 or this title,
 964 or any valid local ordinance, the order of suspension or revocation shall remain in effect and the driver's
 965 license, registration cards, license plates and decals, or other privilege to drive or register motor vehicles
 966 shall not be reinstated and no new driver's license, registration cards, license plates and decals, or other
 967 privilege to drive or register motor vehicles shall be issued or granted unless such person, in addition to
 968 complying with all other provisions of law, pays to the Commissioner a reinstatement fee of \$30. The
 969 reinstatement fee shall be increased by \$30 whenever such suspension or revocation results from
 970 conviction of involuntary manslaughter in violation of § 18.2-36.1; conviction of maiming resulting from
 971 driving while intoxicated in violation of § 18.2-51.4; conviction of driving while intoxicated in violation

972 of § 18.2-266 or 46.2-341.24; conviction of driving after illegally consuming alcohol in violation of
 973 § 18.2-266.1 or failure to comply with court imposed conditions pursuant to subsection D of
 974 § 18.2-271.1; unreasonable refusal to submit to drug or alcohol testing in violation of § 18.2-268.2;
 975 conviction of driving while a license, permit or privilege to drive was suspended or revoked in violation
 976 of § 46.2-301 or 46.2-341.21; disqualification pursuant to § 46.2-341.20; violation of driver's license
 977 probation pursuant to § 46.2-499; failure to attend a driver improvement clinic pursuant to § 46.2-503 or
 978 habitual offender interventions pursuant to former § 46.2-351.1; conviction of eluding police in violation
 979 of § 46.2-817; conviction of hit and run in violation of § 46.2-894; conviction of reckless driving in
 980 violation of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 or a conviction, finding or
 981 adjudication under any similar local ordinance, federal law or law of any other state. Five dollars of the
 982 additional amount shall be retained by the Department as provided in this section and \$25 shall be
 983 transferred to the Commonwealth Neurotrauma Initiative Trust Fund established pursuant to Article 12
 984 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5. When three years have elapsed from the termination
 985 date of the order of suspension or revocation and the person has complied with all other provisions of
 986 law, the Commissioner may relieve him of paying the reinstatement fee.

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

993 E. Except as otherwise provided in this section and § 18.2-271.1, reinstatement fees collected under
 994 the provisions of this section shall be paid by the Commissioner into the state treasury and shall be set
 995 aside as a special fund to be used to meet the expenses of the Department.

996 F. Before granting or restoring a license or registration to any person whose driver's license or other
 997 privilege to drive motor vehicles or privilege to register a motor vehicle has been revoked or suspended,
 998 the Commissioner shall collect from such person, in addition to all other fees provided for in this
 999 section, an additional fee of \$40. The Commissioner shall pay all fees collected pursuant to this
 1000 subsection into the Trauma Center Fund, created pursuant to § 18.2-270.01, for the purpose of defraying
 1001 the costs of providing emergency medical care to victims of automobile accidents attributable to alcohol
 1002 or drug use.

1003 G. Whenever any person is required to pay a reinstatement fee pursuant to subsection C or pursuant
 1004 to subsection E of § 18.2-271.1 and such person has more than one suspension or revocation on his
 1005 record for which reinstatement is required, then such person shall be required to pay one reinstatement
 1006 fee, the amount of which shall equal the full reinstatement fee attributable to the one of his revocations
 1007 or suspensions that would trigger the highest reinstatement fee, plus an additional \$5 fee for
 1008 administrative costs associated with compliance for each additional suspension or revocation. Fees
 1009 collected pursuant to this subsection shall be set aside as a special fund to be used to meet the expenses
 1010 of the Department.

1011 **§ 53.1-21. Transfer of prisoners into and between state and local correctional facilities.**

1012 A. Any person who ~~(1)~~ (i) is accused or convicted of an offense (a) in violation of any county, city,
 1013 or town ordinance within the Commonwealth, (b) against the laws of the Commonwealth, or (c) against
 1014 the laws of any other state or country; or ~~(2)~~ (ii) is a witness held in any case in which the
 1015 Commonwealth is a party and who is confined in a state or local correctional facility; may be
 1016 transferred by the Director, subject to the provisions of § 53.1-20, to any other state or local correctional
 1017 facility which he may designate.

1018 B. The following limitations shall apply to the transfer of persons into the custody of the
 1019 Department:

1020 1. No person convicted of violating § 20-61 shall be committed or transferred to the custody of the
 1021 Department.

1022 ~~2. No person who is convicted of any violation pursuant to Article 9 (§ 46.2-355.1 et seq.) of~~
 1023 ~~Chapter 3 of Title 46.2 shall be committed or transferred to the custody of the Department without the~~
 1024 ~~consent of the Director.~~

1025 ~~3. No person who is convicted of a misdemeanor or a felony and receives a jail sentence of twelve~~
 1026 ~~12 months or less shall be committed or transferred to the custody of the Department without the~~
 1027 ~~consent of the Director.~~

1028 4. Beginning July 1, 1991, and subject to the provisions of § 53.1-20, no person, whether
 1029 convicted of a felony or misdemeanor, shall be transferred to the custody of the Department when the
 1030 combined length of all sentences to be served totals two years or less, without the consent of the
 1031 Director.

1032 **2. That Article 9 (§§ 46.2-355.1 through 46.2-363) of Chapter 3 of Title 46.2 of the Code of**

1033 Virginia is repealed.

1034 3. That the Commissioner of the Department of Motor Vehicles shall reinstate a person's privilege
1035 to drive a motor vehicle that was suspended or revoked solely on the basis that such person was
1036 determined to be or adjudicated a habitual offender pursuant to the provisions of Article 9
1037 (§ 46.2-355.1 et seq.) of Chapter 3 of Title 46.2 of the Code of Virginia prior to the effective date
1038 of this act. Nothing in this act shall require the Commissioner to reinstate a person's driving
1039 privileges if such privileges have been otherwise lawfully suspended or revoked or if such person is
1040 otherwise ineligible for a driver's license.

1041 4. That the Virginia Alcohol and Safety Action Program (VASAP) shall be authorized to
1042 administer intervention interviews pursuant to former § 46.2-355.1 of the Code of Virginia for
1043 individuals who were ordered to attend an intervention interview on or before June 30, 2021. The
1044 Department of Motor Vehicles shall suspend the driving privileges of any person who fails to
1045 attend such intervention interview within 60 days of the date of such notice for an intervention
1046 interview, in accordance with former § 46.2-355.1 of the Code of Virginia.

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 388

An Act to amend and reenact §§ 19.2-353.5 through 19.2-355 of the Code of Virginia, relating to fines and costs; accrual of interest; deferral or installment payment agreements.

[H 1895]

Approved March 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-353.5 through 19.2-355 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-353.5. Interest on fines and costs.

A. For purposes of this section, "incarcerated" or "incarceration" means confinement in a local or regional correctional facility, juvenile correctional facility, state correctional facility, residential detention center, or facility operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.).

B. No interest shall accrue on any fine or costs imposed in a criminal case or in a case involving a traffic infraction (i) for a period of ~~40~~ 180 days ~~from~~ following the date of the final judgment imposing such fine or costs ~~or~~; (ii) during any period the defendant is incarcerated; and (iii) for a period of 180 days following the date of the defendant's release from incarceration if the sentence includes an active term of incarceration.

C. A person who owes fines and costs on which interest has accrued during a period of incarceration may move any court in which he owes fines and costs to waive the interest that accrued on such fines and costs during such period of incarceration. Upon certification of the period of incarceration by the superintendent, warden, or other official in charge of a correctional facility on a form developed by the Office of the Executive Secretary of the Supreme Court, such interest shall be waived.

D. In no event shall interest accrue ~~in such cases~~ during any period in which a fine, costs, or both a fine and costs are being paid in deferred or installment payments pursuant to an order of the court. Whenever interest on any unpaid fine or costs accrues, it shall accrue at the judgment rate of interest set forth in § 6.2-302.

§ 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment.

A. ~~Whenever (i) a~~ Any defendant, convicted of a traffic infraction or a violation of any criminal law of the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a juvenile, who is sentenced to pay a fine, restitution, forfeiture, or penalty and (ii) ~~the defendant is unable to make payment of the fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing, the court shall order the defendant to~~ may pay such fine, restitution, forfeiture, or penalty and any costs ~~which that~~ the defendant may be required to pay in deferred payments or installments. The court assessing the fine, restitution, forfeiture, or penalty and costs ~~may~~ shall authorize the clerk to establish and approve individual deferred or installment payment agreements. If the defendant owes court-ordered restitution and enters into a deferred or installment payment agreement, any ~~money~~ moneys collected pursuant to such agreement shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any other fine, forfeiture, penalty, or cost owed. Any payment agreement authorized under this section shall be consistent with the provisions of § 19.2-354.1, ~~including any required minimum payments or other required conditions~~. The requirements set forth in § 19.2-354.1 shall be posted in the clerk's office and on the court's website, if a website is available. As a condition of every such agreement, a defendant who enters into an installment or deferred payment agreement shall promptly inform the court of any change of mailing address during the term of the agreement. If the defendant is unable to make payment within 90 days of sentencing, the court may assess a one-time fee not to exceed \$10 to cover the costs of management of the defendant's account until such account is paid in full. This one-time fee shall not apply to cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9. Installment or deferred payment agreements shall include terms for payment if the defendant participates in a program as provided in subsection B or C. The court, if such sum or sums are not paid in full by the date ordered, shall proceed in accordance with § 19.2-358.

B. When a person sentenced to the Department of Corrections or a local correctional facility owes any fines, costs, forfeitures, restitution, or penalties, he shall be required as a condition of participating in any work release, home/electronic incarceration, or nonconsecutive days program as set forth in § 53.1-60, 53.1-131, 53.1-131.1, or 53.1-131.2 to either make full payment or make payments in accordance with his installment or deferred payment agreement while participating in such program. If,

after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his participation in the program may be terminated until all fines, costs, forfeitures, restitution, and penalties are satisfied. The Director of the Department of Corrections and any sheriff or other administrative head of any local correctional facility shall withhold such ordered payments from any amounts due to such person. Distribution of the ~~money~~ moneys collected shall be made in the following order of priority to:

1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;
2. Pay any restitution as ordered by the court;
3. Pay any fines or costs as ordered by the court;
4. Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and
5. Defray the offender's keep.

The balance shall be credited to the offender's account or sent to his family in an amount the offender so chooses.

The State Board of Local and Regional Jails shall promulgate regulations governing the receipt of wages paid to persons sentenced to local correctional facilities participating in such programs, the withholding of payments, and the disbursement of appropriate funds. The Director of the Department of Corrections shall prescribe rules governing the receipt of wages paid to persons sentenced to state correctional facilities participating in such programs, the withholding of payments, and the disbursement of appropriate funds.

C. The court shall establish a program and may provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work (i) before or after imprisonment or (ii) in accordance with the provisions of § 19.2-316.4, 53.1-59, 53.1-60, 53.1-128, 53.1-129, or 53.1-131 during imprisonment. The program shall specify the rate at which credits are earned and provide for the manner of applying earned credits against the fine or costs. The court assessing the fine or costs against a person shall inform such person of the availability of earning credit toward discharge of the fine or costs through the performance of community service work under this program and provide such person with written notice of terms and conditions of this program. The court shall have such other authority as is reasonably necessary for or incidental to carrying out this program.

D. When the court has authorized deferred payment or installment payments, the clerk shall give notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant to § 19.2-358.

E. The failure of the defendant to enter into a deferred payment or installment payment agreement with the court or the failure of the defendant to make payments as ordered by the agreement shall allow the Tax Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures, and penalties.

§ 19.2-354.1. Deferred or installment payment agreements.

A. For purposes of this section:

"Deferred payment agreement" means an agreement in which no installment payments are required and the defendant agrees to pay the full amount of the fines and costs at the end of the agreement's stated term.

"Fines and costs" means all fines, court costs, forfeitures, and penalties assessed in any case by a single court against a defendant for the commission of any crime or traffic infraction. "Fines and costs" includes restitution unless the court orders a separate payment schedule for restitution.

"Installment payment agreement" means an agreement in which the defendant agrees to make monthly or other periodic payments until the fines and costs are paid in full.

"Modified deferred payment agreement" means a deferred payment agreement in which the defendant also agrees to use best efforts to make monthly or other periodic payments.

B. The court shall give a defendant ordered to pay fines and costs written notice of the availability of deferred, modified deferred, and installment payment agreements and, if a community service program has been established, the availability of earning credit toward discharge of fines and costs through the performance of community service work. The court shall offer any defendant ~~who is unable to pay in full the fines and costs within 30 days of sentencing~~ the opportunity to enter into a deferred payment agreement, modified deferred payment agreement, or installment payment agreement.

C. The court shall not deny a defendant the opportunity to enter into a deferred, modified deferred, or installment payment agreement solely (i) because of the category of offense for which the defendant was convicted or found not innocent, (ii) because of the total amount of all fines and costs, (iii) because the defendant previously defaulted under the terms of a payment agreement, (iv) because the fines and costs have been referred for collections pursuant to § 19.2-349, or (v) because the defendant has not established a payment history.

D. In determining the length of time to pay under a deferred, modified deferred, or installment payment agreement and the amount of the payments, a court shall take into account the defendant's

financial resources and obligations, including any fines and costs owed by the defendant in other courts. In assessing the defendant's ability to pay, the court shall use a written financial statement, on a form developed by the Executive Secretary of the Supreme Court, setting forth the defendant's financial resources and obligations or conduct an oral examination of the defendant to determine his financial resources and obligations. The length of a payment agreement and the amount of the payments shall be reasonable in light of the defendant's financial resources and obligations and shall not be based solely on the amount of fines and costs. The court may offer a payment agreement combining an initial period during which no payment of fines and costs is required followed by a period of installment payments.

E. ~~A court may require a down payment as a condition of a defendant entering a deferred, modified deferred, or installment payment agreement. Any down payment shall be a minimal amount to demonstrate the defendant's commitment to paying the fines and costs. In the case of an installment payment agreement, the required down payment may not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. A defendant may make a larger down payment than what is provided by this subsection. No court shall require a defendant to make a down payment upon entering a deferred, modified deferred, or installment payment agreement, other than a subsequent payment agreement, in which case the court may require a down payment pursuant to subsection I. Nothing in this section shall prevent a defendant from voluntarily making a down payment upon entering any payment agreement.~~

F. All fines and costs that a defendant owes for all cases in any single court may be incorporated into one payment agreement, unless otherwise ordered by the court in specific cases. A payment agreement shall include only those outstanding fines and costs for which the limitations period set forth in § 19.2-341 has not run.

G. Any payment received within 10 days of its due date shall be considered to be timely made.

H. At any time during the duration of a payment agreement, the defendant may request a modification of the agreement in writing on a form provided by the Executive Secretary of the Supreme Court, and the court may grant such modification based on a good faith showing of need.

I. ~~A court shall consider a request by a defendant who has defaulted on a payment agreement to enter into a subsequent payment agreement. A defendant who has defaulted on a payment agreement may petition the court for a subsequent payment agreement.~~ In determining whether to approve the request for a subsequent payment agreement, the court shall consider any change in the defendant's circumstances. A court ~~shall~~ *may* require a down payment to enter into a subsequent payment agreement, provided that the down payment required to enter into a subsequent payment agreement shall not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. When a defendant enters into a subsequent payment agreement, a court shall not require a defendant to establish a payment history on the subsequent payment agreement before restoring the defendant's driver's license.

§ 19.2-355. Petition of defendant.

(a) ~~In determining whether the defendant is unable to pay such fine forthwith, the~~ *The* court may require ~~such~~ *any* defendant *entering a deferred, modified deferred, or installment payment agreement* to file a petition, under oath, with the court, upon a form provided by the court, setting forth the financial condition of the defendant.

(b) Such form shall be a questionnaire, and shall include, but shall not be limited to: the name and residence of the defendant; his occupation, if any; his family status and the number of persons dependent upon him; his monthly income; whether or not his dependents are employed and, if so, their approximate monthly income; his banking accounts, if any; real estate owned by the defendant, or any interest he may have in real estate; income produced therefrom; any independent income accruing to the defendant; tangible and intangible personal property owned by the defendant, or in which he may have an interest; and a statement listing the approximate indebtedness of the defendant to other persons. Such form shall also include a payment plan of the defendant; ~~if the court should exercise its discretion in permitting the payment of such fine and costs in installments or other conditions to be fixed by the court.~~ At the end of such form there shall be printed in bold face type, in a distinctive color the following: THIS STATEMENT IS MADE UNDER OATH, ANY FALSE STATEMENT OF A MATERIAL FACT TO ANY QUESTION CONTAINED HEREIN SHALL CONSTITUTE PERJURY UNDER THE PROVISIONS OF § 18.2-434 OF THE CODE OF VIRGINIA. THE MAXIMUM PENALTY FOR PERJURY IS CONFINEMENT IN THE PENITENTIARY FOR A PERIOD OF TEN YEARS. A copy of the petition shall be retained by the defendant.

(c) If the defendant is unable to read or write, the court, or the clerk, may assist the defendant in completing the petition and require him to affix his mark thereto. The consequences of the making of a false statement shall be explained to such defendant.

Circuit Court Form CC-1390 ORDER FOR DNA OR HIV TESTING AND/OR FOR
PREPARATION OF REPORTS TO CENTRAL CRIMINAL
RECORDS EXCHANGE

Abstract Senate Bill 1138 repeals Va. Code § 18.2-62 and revises Va.
Code § 18.2-346.1 relating to court-ordered testing for sexually
transmitted infection. This makes testing optional for the
defendant upon conviction. It is proposed that the CC-1390
Order be revised to reflect these changes.

Source Senate Bill 1138 (Chapter 465, effective July 1, 2021)

Revision Legislative

Form Type Printed

_____, Circuit Court General District Court Case No(s)
_____, Juvenile and Domestic Relations District Court

Commonwealth of Virginia }
 _____ } In re/v. _____
(FULL NAME)

Complete line below only if ordered to report and not remanded into custody

..... D.O.B. SOCIAL SECURITY NUMBER RACE M F
..... CHARGE CODE SECTION OFFENSE DATE
GENDER

Warrant or Petition Attached

ORDER FOR DNA OR HIV AND HEPATITIS B, C VIRUSES TESTING AND/OR FOR PREPARATION OF REPORTS TO CENTRAL CRIMINAL RECORDS EXCHANGE

The defendant is

ordered to report to
AGENCY/FACILITY
on at m. with the following proof of identity: Virginia driver's license
 remanded to the custody of

for the purposes checked below:

- the taking of a sample of blood, saliva or tissue for DNA analysis to be sent to the Department of Forensic Science within fifteen days after taking of the sample, §§ 19.2-310.2 and 19.2-310.3, unless a sample was previously taken. If the defendant fails to appear by the date stated above and to allow the required DNA sample to be taken, the agency/facility identified above shall report such failure to the court.
- ~~testing for infection with HIV (human immunodeficiency virus) or hepatitis B or C viruses, § 18.2-62.~~
- testing for ~~infection with HIV (human immunodeficiency viruses) and hepatitis C~~ [a sexually transmitted infection at the request of the defendant upon conviction](#), § 18.2-346.1.
- fingerprinting and obtaining data for the preparation of a report to the Central Criminal Records Exchange, § 19.2-390.

The defendant is Ordered to cooperate fully and promptly in providing information and permitting fingerprinting, taking or withdrawal of samples and/or testing as required by this Order. Upon completion of these procedure(s), the defendant shall be released but shall be subject to the terms and conditions of any other order(s) governing the defendant's release/incarceration.

Complete only if remanded into custody:
After completion of the above-described requirements, the defendant shall:
 remain in custody to serve time.
 be released but required to return to custody on for deferred execution of sentence.
 be released on probation or on suspended execution of sentence.
 be released.

DATE ENTERED JUDGE

To Agency/Facility:
Complete and return to the above-named court.
 Fingerprinting/sampling/testing completed as ordered.
 Defendant failed to appear as ordered.
 Defendant failed to provide required proof of identity.
 DNA sample previously taken.

I acknowledge receipt of this Order.

DATE SIGNATURE AND TITLE DEFENDANT

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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An Act to amend and reenact §§ 18.2-52.1, 18.2-67.4:1, 18.2-346.1, 32.1-291.16, 54.1-2982, 54.1-2983, and 57-48 of the Code of Virginia and to repeal §§ 18.2-62 and 32.1-289.2 of the Code of Virginia, relating to sexually transmitted infections, infected sexual battery.

[S 1138]

Approved

Be it enacted by the General Assembly of Virginia:
1. That §§ 18.2-52.1, 18.2-67.4:1, 18.2-346.1, 32.1-291.16, 54.1-2982, 54.1-2983, and 57-48 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-52.1. Possession of infectious biological substances or radiological agents; penalties.

A. Any person who possesses, with the intent thereby to injure another, an infectious biological substance or radiological agent is guilty of a Class 5 felony.

B. Any person who (i) destroys or damages, or attempts to destroy or damage, any facility, equipment or material involved in the sale, manufacturing, storage or distribution of an infectious biological substance or radiological agent, with the intent to injure another by releasing the substance, or (ii) manufactures, sells, gives, distributes or uses an infectious biological substance or radiological agent with the intent to injure another is guilty of a Class 4 felony.

C. Any person who maliciously and intentionally causes any other person bodily injury by means of an infectious biological substance or radiological agent is guilty of a felony and shall be punished by confinement in a state correctional facility for a period of not less than five years nor more than 30 years.

For purposes of this section:

An "infectious biological substance" includes any bacteria, viruses, fungi, protozoa, or rickettsiae capable of causing death or serious bodily injury. This definition shall "Infectious biological substance" does not include the human immunodeficiency virus (HIV as defined in § 18.2-67.4:1) or any other related virus that causes acquired immunodeficiency syndrome (AIDS), syphilis, or hepatitis B.

A "radiological agent" includes any substance able to release radiation at levels that are capable of causing death or serious bodily injury.

§ 18.2-67.4:1. Infected sexual battery; penalty.

A. Any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anilingus or anal intercourse is diagnosed with a sexually transmitted infection and engages in sexual behavior that poses a substantial risk of transmission to another person with the intent to transmit the infection to another that person and transmits such infection to that person is guilty of a Class 6 felony.

B. Any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anilingus or anal intercourse with another person without having previously disclosed the existence of his infection to the other person is guilty of a Class 1 misdemeanor.

C. "HIV" means the human immunodeficiency virus or any other related virus that causes acquired immunodeficiency syndrome (AIDS).

Nothing in this section shall prevent the prosecution of any other crime against persons under Chapter 4 (§ 18.2-30 et seq.) of this title. Any person charged with a violation of this section alleging he is infected with HIV shall be subject to the testing provisions of § 18.2-62.

§ 18.2-346.1. Testing of convicted prostitutes and injection drug users for sexually transmitted infection.

A. As soon as practicable following conviction of any person for violation of § 18.2-346 or 18.2-361, or any violation of Article 1 (§ 18.2-247 et seq.) or 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 involving the possession, sale, or use of a controlled substance in a form amenable to intravenous use; or the possession, sale, or use of hypodermic syringes, needles, or other objects designed or intended for use in parenterally injecting controlled substances into the human body, such person shall be required provided the option to submit to testing for infection with human immunodeficiency viruses and hepatitis C a sexually transmitted infection. The convicted person shall receive counseling from personnel of the Department of Health concerning (i) the meaning of the test, (ii) acquired immunodeficiency syndrome and hepatitis C sexually transmitted infections, and (iii) the transmission and prevention of infection with human immunodeficiency viruses and hepatitis C sexually transmitted infections.

B. Tests for human immunodeficiency viruses shall be conducted to confirm any initial positive test results before any test result shall be determined to be positive for infection. Any tests performed

57 pursuant to this section shall be consistent with current Centers for Disease Control and Prevention
 58 recommendations. The results of such test for a sexually transmitted infection shall be confidential as
 59 provided in § 32.1-36.1 and shall be disclosed to the person who is the subject of the test and to the
 60 Department of Health as required by § 32.1-36. The Department shall conduct surveillance and
 61 investigation in accordance with the requirements of § 32.1-39.

62 C. Upon receiving a report of a positive test for hepatitis C, the State Health Commissioner may
 63 share protected health information relating to such positive test with relevant sheriffs' offices, the state
 64 police, local police departments, adult or youth correctional facilities, salaried or volunteer firefighters,
 65 paramedics or emergency medical technicians, officers of the court, and regional or local jails (i) to the
 66 extent necessary to advise exposed individuals of the risk of infection and to enable exposed individuals
 67 to seek appropriate testing and treatment, and (ii) as may be needed to prevent and control disease and
 68 is deemed necessary to prevent serious harm and serious threats to the health and safety of individuals
 69 and the public.

70 The disclosed protected health information shall be held confidential; no person to whom such
 71 information is disclosed shall redisclose or otherwise reveal the protected health information without first
 72 obtaining the specific authorization from the individual who was the subject of the test for such
 73 redisclosure.

74 Such protected health information shall only be used to protect the health and safety of individuals
 75 and the public in conformance with the regulations concerning patient privacy promulgated by the
 76 federal Department of Health and Human Services, as such regulations may be amended.

77 D. The results of the tests shall not be admissible in any criminal proceeding related to prostitution
 78 or drug use.

79 The cost of the tests shall be paid by the Commonwealth and taxed as part of the cost of such
 80 criminal proceedings.

81 **§ 32.1-291.16. Sale or purchase of parts prohibited; penalty.**

82 A. With the exception of hair, ova, blood, and other self-replicating body fluids, it shall be unlawful
 83 for any person to sell, to offer to sell, to buy, to offer to buy, or to procure through purchase any
 84 natural body part for any reason including, but not limited to, medical and scientific uses such as
 85 transplantation, implantation, infusion, or injection. Any person engaging in any of these prohibited
 86 activities shall be guilty of a Class 4 felony.

87 B. Nothing in this section shall prohibit the reimbursement of reasonable expenses associated with
 88 the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of
 89 a part.

90 C. *This section shall not be construed to prohibit the donation of any organs, tissues, or any natural*
 91 *body part, knowing that the donor is, or was, infected with a sexually transmitted infection, for use in*
 92 *medical or scientific research.*

93 D. *Notwithstanding the provisions of subsection A, this section shall not prohibit the donation or*
 94 *acquisition of organs for transplantation, provided that (i) the recipient of such organ is informed that*
 95 *such organ is infected with human immunodeficiency virus and, following such notice, consents to the*
 96 *receipt of such organ and (ii) acquisition and transplantation of such organ is in compliance with the*
 97 *provisions of the federal HIV Organ Policy Equity Act, 42 U.S.C. § 274f-5.*

98 **§ 54.1-2982. Definitions.**

99 As used in this article:

100 "Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in
 101 accordance with the requirements of § 54.1-2983 or (ii) a witnessed oral statement, made by the
 102 declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in
 103 accordance with the provisions of § 54.1-2983.

104 "Agent" means an adult appointed by the declarant under an advance directive, executed or made in
 105 accordance with the provisions of § 54.1-2983, to make health care decisions for him. The declarant
 106 may also appoint an adult to make, after the declarant's death, an anatomical gift of all or any part of
 107 his body pursuant to Article 2 (~~§ 32.1-289.2~~ 32.1-291.1 et seq.) of Chapter 8 of Title 32.1.

108 "Attending physician" means the primary physician who has responsibility for the health care of the
 109 patient.

110 "Capacity reviewer" means a licensed physician or clinical psychologist who is qualified by training
 111 or experience to assess whether a person is capable or incapable of making an informed decision.

112 "Declarant" means an adult who makes an advance directive, as defined in this article, while capable
 113 of making and communicating an informed decision.

114 "Durable Do Not Resuscitate Order" means a written physician's order issued pursuant to
 115 § 54.1-2987.1 to withhold cardiopulmonary resuscitation from a particular patient in the event of cardiac
 116 or respiratory arrest. For purposes of this article, cardiopulmonary resuscitation shall include cardiac
 117 compression, endotracheal intubation and other advanced airway management, artificial ventilation, and

118 defibrillation and related procedures. As the terms "advance directive" and "Durable Do Not Resuscitate
119 Order" are used in this article, a Durable Do Not Resuscitate Order is not and shall not be construed as
120 an advance directive.

121 "Health care" means the furnishing of services to any individual for the purpose of preventing,
122 alleviating, curing, or healing human illness, injury or physical disability, including but not limited to,
123 medications; surgery; blood transfusions; chemotherapy; radiation therapy; admission to a hospital,
124 nursing home, assisted living facility, or other health care facility; psychiatric or other mental health
125 treatment; and life-prolonging procedures and palliative care.

126 "Health care provider" shall have the same meaning as provided in § 8.01-581.1.

127 "Incapable of making an informed decision" means the inability of an adult patient, because of
128 mental illness, intellectual disability, or any other mental or physical disorder that precludes
129 communication or impairs judgment, to make an informed decision about providing, continuing,
130 withholding or withdrawing a specific health care treatment or course of treatment because he is unable
131 to understand the nature, extent or probable consequences of the proposed health care decision, or to
132 make a rational evaluation of the risks and benefits of alternatives to that decision. For purposes of this
133 article, persons who are deaf, dysphasic or have other communication disorders, who are otherwise
134 mentally competent and able to communicate by means other than speech, shall not be considered
135 incapable of making an informed decision.

136 "Life-prolonging procedure" means any medical procedure, treatment or intervention which (i) utilizes
137 mechanical or other artificial means to sustain, restore or supplant a spontaneous vital function, or is
138 otherwise of such a nature as to afford a patient no reasonable expectation of recovery from a terminal
139 condition and (ii) when applied to a patient in a terminal condition, would serve only to prolong the
140 dying process. The term includes artificially administered hydration and nutrition. However, nothing in
141 this act shall prohibit the administration of medication or the performance of any medical procedure
142 deemed necessary to provide comfort care or to alleviate pain, including the administration of pain
143 relieving medications in excess of recommended dosages in accordance with §§ 54.1-2971.01 and
144 54.1-3408.1. For purposes of §§ 54.1-2988, 54.1-2989, and 54.1-2991, the term also shall include
145 cardiopulmonary resuscitation.

146 "Patient care consulting committee" means a committee duly organized by a facility licensed to
147 provide health care under Title 32.1 or Title 37.2, or a hospital or nursing home as defined in
148 § 32.1-123 owned or operated by an agency of the Commonwealth that is exempt from licensure
149 pursuant to § 32.1-124, to consult on health care issues only as authorized in this article. Each patient
150 care consulting committee shall consist of five individuals, including at least one physician, one person
151 licensed or holding a multistate licensure privilege under Chapter 30 (§ 54.1-3000 et seq.) to practice
152 professional nursing, and one individual responsible for the provision of social services to patients of the
153 facility. At least one committee member shall have experience in clinical ethics and at least two
154 committee members shall have no employment or contractual relationship with the facility or any
155 involvement in the management, operations, or governance of the facility, other than serving on the
156 patient care consulting committee. A patient care consulting committee may be organized as a
157 subcommittee of a standing ethics or other committee established by the facility or may be a separate
158 and distinct committee. Four members of the patient care consulting committee shall constitute a quorum
159 of the patient care consulting committee.

160 "Persistent vegetative state" means a condition caused by injury, disease or illness in which a patient
161 has suffered a loss of consciousness, with no behavioral evidence of self-awareness or awareness of
162 surroundings in a learned manner, other than reflex activity of muscles and nerves for low level
163 conditioned response, and from which, to a reasonable degree of medical probability, there can be no
164 recovery.

165 "Physician" means a person licensed to practice medicine in the Commonwealth of Virginia or in the
166 jurisdiction where the health care is to be rendered or withheld.

167 "Qualified advance directive facilitator" means a person who has successfully completed a training
168 program approved by the Department of Health for providing assistance in completing and executing a
169 written advance directive, including successful demonstration of competence in assisting a person in
170 completing and executing a valid advance directive and successful passage of a written examination.

171 "Terminal condition" means a condition caused by injury, disease or illness from which, to a
172 reasonable degree of medical probability a patient cannot recover and (i) the patient's death is imminent
173 or (ii) the patient is in a persistent vegetative state.

174 "Witness" means any person over the age of 18, including a spouse or blood relative of the
175 declarant. Employees of health care facilities and physician's offices, who act in good faith, shall be
176 permitted to serve as witnesses for purposes of this article.

177 **§ 54.1-2983. Procedure for making advance directive; notice to physician.**

178 Any adult capable of making an informed decision may, at any time, make a written advance

179 directive to address any or all forms of health care in the event the declarant is later determined to be
 180 incapable of making an informed decision. A written advance directive shall be signed by the declarant
 181 in the presence of two subscribing witnesses and may (i) specify the health care the declarant does or
 182 does not authorize; (ii) appoint an agent to make health care decisions for the declarant; and (iii) specify
 183 an anatomical gift, after the declarant's death, of all of the declarant's body or an organ, tissue or eye
 184 donation pursuant to Article 2 (§ ~~32.1-289.2~~ 32.1-291.1 et seq.) of Chapter 8 of Title 32.1. A written
 185 advance directive may be submitted to the Advance Health Care Directive Registry, pursuant to Article
 186 9 (§ 54.1-2994 et seq.).

187 Further, any adult capable of making an informed decision who has been diagnosed by his attending
 188 physician as being in a terminal condition may make an oral advance directive (i) directing the specific
 189 health care the declarant does or does not authorize in the event the declarant is incapable of making an
 190 informed decision, and (ii) appointing an agent to make health care decisions for the declarant under the
 191 circumstances stated in the advance directive if the declarant should be determined to be incapable of
 192 making an informed decision. An oral advance directive shall be made in the presence of the attending
 193 physician and two witnesses.

194 An advance directive may authorize an agent to take any lawful actions necessary to carry out the
 195 declarant's decisions, including, but not limited to, granting releases of liability to medical providers,
 196 releasing medical records, and making decisions regarding who may visit the patient.

197 It shall be the responsibility of the declarant to provide for notification to his attending physician that
 198 an advance directive has been made. If an advance directive has been submitted to the Advance Health
 199 Care Directive Registry pursuant to Article 9 (§ 54.1-2994 et seq.), it shall be the responsibility of the
 200 declarant to provide his attending physician, legal representative, or other person with the information
 201 necessary to access the advance directive. In the event the declarant is comatose, incapacitated or
 202 otherwise mentally or physically incapable of communication, any other person may notify the physician
 203 of the existence of an advance directive and, if applicable, the fact that it has been submitted to the
 204 Advance Health Care Directive Registry. An attending physician who is so notified shall promptly make
 205 the advance directive or a copy of the advance directive, if written, or the fact of the advance directive,
 206 if oral, a part of the declarant's medical records.

207 In the event that any portion of an advance directive is invalid or illegal, such invalidity or illegality
 208 shall not affect the remaining provisions of the advance directive.

209 **§ 57-48. Definitions.**

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

211 "Board" means the Board of Agriculture and Consumer Services.

212 "Charitable organization" means any person that is or holds itself out to be organized or operated for
 213 any charitable purpose, or any person that solicits or obtains contributions solicited from the public.
 214 "Charitable organization" does not include (i) any church or convention or association of churches,
 215 primarily operated for nonsecular purposes and no part of the net income of which inures to the direct
 216 benefit of any individual; (ii) any political party as defined in § 24.2-101 or any political campaign
 217 committee or political action committee or other political committee required by state or federal law to
 218 file a report or statement of contributions and expenditures; or (iii) any authorized individual who
 219 solicits, by authority of such organization, solely on behalf of a registered or exempt charitable
 220 organization or on behalf of an organization excluded from the definition of charitable organization.

221 "Charitable purpose" means any charitable, benevolent, humane, philanthropic, patriotic, or
 222 eleemosynary purpose and the purposes of influencing legislation or influencing the actions of any
 223 public official or instigating, prosecuting, or intervening in litigation.

224 "Charitable sales promotion" means advertised sales that feature the names of both the commercial
 225 co-venturer and the charitable or civic organization and that state that the purchase or use of the goods,
 226 services, entertainment, or any other thing of value that the commercial co-venturer normally sells will
 227 benefit the charitable or civic organization or its purposes. To qualify as a charitable sales promotion,
 228 the consumer must pay the same price for the thing of value as the commercial co-venturer usually
 229 charges without the charitable sales promotion and the consumer retains the thing of value.

230 "Civic organization" means any local service club, veterans post, fraternal society or association,
 231 volunteer fire or rescue group, or local civic league or association of 10 or more persons not organized
 232 for profit but operated exclusively for educational or charitable purposes as defined in this section,
 233 including the promotion of community welfare, and the net earnings of which are devoted exclusively to
 234 charitable, educational, recreational, or social welfare purposes.

235 "Commercial co-venturer" means any person who (i) is organized for profit, (ii) is regularly and
 236 primarily engaged in trade or commerce, other than in connection with soliciting for charitable or civic
 237 organizations or charitable purposes, and (iii) conducts an advertised charitable sales promotion for a
 238 specified limited period of time.

239 "Commissioner" means the Commissioner of Agriculture and Consumer Services or a member of his

240 staff to whom he may delegate his duties under this chapter.

241 "Contribution" means any gift, bequest, devise, or other grant of any money, credit, financial
 242 assistance, or property of any kind or value, including the promise to contribute, except payments by the
 243 membership of an organization for membership fees, dues, fines, or assessments, or for services rendered
 244 to individual members, and except money, credit, financial assistance, or property received from any
 245 governmental authority. "Contribution" does not include any donation of blood or any gift made
 246 pursuant to Article 2 (§ ~~32.1-289.2~~ 32.1-291.1 et seq.) of Chapter 8 of Title 32.1.

247 "Department" means the Department of Agriculture and Consumer Services.

248 "Federated fund-raising organization" means any federation of independent charitable organizations
 249 that have voluntarily joined together, including but not limited to a United Fund or Community Chest,
 250 for purposes of raising and distributing money for and among themselves and where membership does
 251 not confer operating authority and control of the individual agencies upon the federated group
 252 organization.

253 "File with the Commissioner" means depositing the originals of the documents required to be filed,
 254 along with the payment of the appropriate fee and all supporting documents with the Department or
 255 submitting the required documents and any appropriate attachments and fees by utilizing an online filing
 256 system approved by the Commissioner.

257 "Fund-raising expenses" means the expenses of all activities that constitute or are an integral and
 258 inseparable part of a solicitation.

259 "Membership" means those persons to whom, for payment of fees, dues, assessments, etc., an
 260 organization provides services and confers a bona fide right, privilege, professional standing, honor, or
 261 other direct benefit, in addition to the right to vote, elect officers, or hold offices. "Membership" does
 262 not include those persons who are granted a membership upon making a contribution as the result of
 263 solicitation.

264 "Parent organization" means that part of a charitable organization that coordinates, supervises, or
 265 exercises control over policy, fund raising, and expenditures or assists or advises one or more chapters,
 266 branches, or affiliates.

267 "Person" means any individual, organization, trust, foundation, association, partnership, corporation,
 268 society, or other group or combination acting as a unit.

269 "Professional fund-raising counsel" means any person who for a flat fixed fee under a written
 270 agreement plans, conducts, manages, carries on, advises, or acts as a consultant, whether directly or
 271 indirectly, in connection with soliciting contributions for, or on behalf of, any charitable or civic
 272 organization, but who actually solicits no contributions as a part of such services. A bona fide salaried
 273 officer or employee of a registered or exempt charitable organization or the bona fide salaried officer or
 274 employee of a registered parent organization shall not be deemed to be a professional fund-raising
 275 counsel.

276 "Professional solicitor" means any person who, for a financial or other consideration, solicits
 277 contributions for, or on behalf of, a charitable or civic organization, whether such solicitation is
 278 performed personally or through his agents, servants, or employees or through agents, servants, or
 279 employees who are specially employed by or for a charitable or civic organization and are engaged in
 280 the solicitation of contributions under the direction of such person or any person who, for a financial or
 281 other consideration, plans, conducts, manages, carries on, advises, or acts as a consultant to a charitable
 282 or civic organization in connection with the solicitation of contributions but does not qualify as a
 283 professional fund-raising counsel. A bona fide salaried officer or employee of a registered or exempt
 284 charitable organization or a bona fide salaried officer or employee of a registered parent organization
 285 shall not be deemed to be a professional solicitor.

286 "Sale," "sell," and "sold" mean the transfer of any property or the rendition of any service to any
 287 person in exchange for consideration, including any purported contribution without which such property
 288 would not have been transferred or such services would not have been rendered.

289 "Solicit" and "solicitation" mean the request or appeal, directly or indirectly, for any contribution on
 290 the plea or representation that such contribution will be used for a charitable purpose, including, without
 291 limitation, the following methods of requesting such contribution:

292 1. Any oral or written request;

293 2. Any announcement to the press, over the radio or television, or by telephone or telegraph
 294 concerning an appeal or campaign to which the public is requested to make a contribution for any
 295 charitable purpose connected therewith;

296 3. The distribution, circulation, posting, or publishing of any handbill, written advertisement, or other
 297 publication that directly or by implication seeks to obtain public support; or

298 4. The sale of, offer, or attempt to sell, any advertisement, advertising space, subscription, ticket, or
 299 any service or tangible item in connection with which any appeal is made for any charitable purpose or
 300 where the name of any charitable or civic organization is used or referred to in any such appeal as an

301 inducement or reason for making any such sale, or when or where in connection with any such sale, any
302 statement is made that the whole or any part of the proceeds from any such sale will be donated to any
303 charitable purpose.

304 "Solicitation," as defined in this section, shall be deemed to occur when the request is made, at the
305 place the request is received, whether or not the person making the same actually receives any
306 contribution.

307 "Terrorists and terrorist organizations" means any person, organization, group, or conspiracy who
308 assists or has assisted terrorist organizations, as provided in 18 U.S.C. § 2339B, or who commits or
309 attempts to commit acts of terrorism, as defined in § 18.2-46.4.

310 **2. That §§ 18.2-62 and 32.1-289.2 of the Code of Virginia are repealed.**

Circuit Court Form

CC-1393 SENTENCING ORDER

Abstract

House Bill 2038 makes changes to the dispositional alternatives for various types of probation violations and limits the time period for which a suspended sentence may be ordered by a court. It is proposed that the language on page 3 of the CC-1393 order be revised to remove the option to order supervised probation indefinitely as a condition of a suspended sentence and to re-label the “special conditions” box to “Additional conditions of suspended sentence.” The proposed changes also include eliminating the use of the word “shall” to be consistent with recent revisions to the Rules of the Supreme Court of Virginia.

Source

House Bill 2038 (Chapter 538, effective July 1, 2021)

Revision

Legislative

Form Type

Intranet master

SENTENCING ORDER

VIRGINIA: IN THE CIRCUIT COURT OF

FEDERAL INFORMATION PROCESSING
STANDARDS CODE:

Hearing Date:

Judge:

COMMONWEALTH OF VIRGINIA v. _____, Defendant

This case came before the Court for sentencing of the defendant, who appeared in person with his attorney, _____.

The Commonwealth was represented by _____.

On _____ the defendant was found guilty of the following offenses:

Offense Tracking Number	Virginia Crime Code (For Administrative Use Only)	Code Section	Case Number
Offense Date:	Description:		
Offense Date:	Description:		
Offense Date:	Description:		
Offense Date:	Description:		
Offense Date:	Description:		
Offense Date:	Description:		
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The presentence report was considered and is ordered filed as a part of the record in this case in accordance with the provisions of Virginia Code § 19.2-299.

No presentence report was ordered.

Pursuant to the provisions of Virginia Code § 19.2-298.01, the Court has considered and reviewed the applicable discretionary sentencing guidelines and the guidelines worksheets. The sentencing guidelines worksheets and the written explanation of any departure from the guidelines are ordered filed as a part of the record in this case.

Before pronouncing the sentence, the Court inquired if the defendant desired to make a statement and if the defendant desired to advance any reason why judgment should not be pronounced.

COMMONWEALTH OF VIRGINIA v. _____, Defendant

The court **SENTENCES** the defendant to:

- Case No. _____ Description _____
- Incarceration with the Virginia Department of Corrections for the term of: _____ years _____ months _____ days
 - FINE. The defendant is ordered to pay fine(s) in the amount of \$ _____.
 - COSTS. The defendant is ordered to pay all costs of this case.
 - RESTITUTION. The defendant is ordered to make restitution as set forth in the ORDER FOR RESTITUTION.
 - DRIVER'S LICENSE SUSPENSION: The defendant's license has been suspended
 - for a period of _____ years _____ months _____ days
 - indefinitely.
 - RESTRICTED DRIVER'S LICENSE: A restricted driver's license was issued by separate order.
 - The court **SUSPENDS** _____ years _____ months _____ days of incarceration _____ fine for a period of _____ upon the condition(s) specified in Suspended Sentence Conditions.
-

- Case No. _____ Description _____
- Incarceration with the Virginia Department of Corrections for the term of: _____ years _____ months _____ days
 - FINE. The defendant is ordered to pay fine(s) in the amount of \$ _____.
 - COSTS. The defendant is ordered to pay all costs of this case.
 - RESTITUTION. The defendant is ordered to make restitution as set forth in the ORDER FOR RESTITUTION.
 - DRIVER'S LICENSE SUSPENSION: The defendant's license has been suspended
 - for a period of _____ years _____ months _____ days
 - indefinitely.
 - RESTRICTED DRIVER'S LICENSE: A restricted driver's license was issued by separate order.
 - The court **SUSPENDS** _____ years _____ months _____ days of incarceration _____ fine for a period of _____ upon the condition(s) specified in Suspended Sentence Conditions.
-

- Case No. _____ Description _____
- Incarceration with the Virginia Department of Corrections for the term of: _____ years _____ months _____ days
 - FINE. The defendant is ordered to pay fine(s) in the amount of \$ _____.
 - COSTS. The defendant is ordered to pay all costs of this case.
 - RESTITUTION. The defendant is ordered to make restitution as set forth in the ORDER FOR RESTITUTION.
 - DRIVER'S LICENSE SUSPENSION: The defendant's license has been suspended
 - for a period of _____ years _____ months _____ days
 - indefinitely.
 - RESTRICTED DRIVER'S LICENSE: A restricted driver's license was issued by separate order.
 - The court **SUSPENDS** _____ years _____ months _____ days of incarceration _____ fine for a period of _____ upon the condition(s) specified in Suspended Sentence Conditions.
-

Consecutive/concurrent:

- These sentences shall will run consecutively with all other sentences.
- These sentences shall will run concurrently with all other sentences.
- These sentences shall will run consecutively/concurrently as described:

Suspended Sentence Conditions:

Good Behavior: The defendant shall must be of good behavior for the entire period of any suspended sentence ordered.

Supervised Probation: The defendant is placed on probation under the supervision of a Probation Officer to commence upon sentencing upon release from incarceration for years months days ~~indefinite~~ or unless sooner released by the court or by the Probation Officer. The defendant shall must comply with all the rules and requirements set by the Probation Officer. Probation shall may include substance abuse counseling and/or testing as prescribed by the Probation Officer.

Community Corrections Alternative Program pursuant to Virginia Code § 19.2-316.4: The defendant shall must successfully complete the Community Corrections Alternative Program. Successful completion of the program shall must be followed by a period of supervised probation of

The defendant shall will remain in custody until program entry.

Registration pursuant to Code § 9.1-903 for offenses defined in § 9.1-902 is required.

The defendant shall must provide a DNA sample and legible fingerprints as directed.

~~Special~~ Additional conditions of suspended sentence:

The defendant shall must make restitution as set forth in the ORDER FOR RESTITUTION.

Post-incarceration supervision following felony conviction pursuant to Virginia Code § 18.2-10 and 19.2-295.2:

Post-Incarceration Supervised Probation: The defendant is placed on supervised probation to commence upon release from incarceration for a period of _____, unless released earlier by the court. The defendant ~~shall~~must comply with all the rules and requirements set by the Probation Officer.

Post-Incarceration Post-Release Supervision: In addition to the above sentence of incarceration, the court imposes an additional term of _____ of incarceration. This term is suspended and a period of post-release supervision of _____ is imposed, which is to commence upon release from incarceration. The defendant ~~shall~~must comply with all the rules and requirements set by the Probation Officer.

The defendant was remanded to the custody of the sheriff.

The defendant was allowed to depart.

The defendant ~~shall~~will be given credit for time spent in confinement while awaiting trial pursuant to Virginia Code § 53.1-187.

ENTER this _____ day of _____ .

_____, Judge

DEFENDANT IDENTIFICATION:

Name: _____

Alias: _____

SSN: _____ DOB: _____/_____/_____ Sex:_____

SENTENCE SUMMARY:

Total Incarceration Sentence Imposed: _____

Total Sentence Suspended: _____

Total Supervised Probation Term: _____

Total Post-release Term Imposed and Suspended: _____

Total Fine Imposed: \$ _____ Total Fine Suspended: \$ _____

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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An Act to amend and reenact §§ 19.2-303, 19.2-303.1, and 19.2-306 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-306.1, relating to probation, revocation, and suspension of sentence; limitations.

[H 2038]

Approved

Be it enacted by the General Assembly of Virginia:
1. That §§ 19.2-303, 19.2-303.1, and 19.2-306 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-306.1 as follows:

§ 19.2-303. Suspension or modification of sentence; probation; taking of fingerprints and blood, saliva, or tissue sample as condition of probation.

After conviction, whether with or without jury, the court may suspend imposition of sentence or suspend the sentence in whole or part and in addition may place the defendant on probation under such conditions as the court shall determine, including monitoring by a GPS (Global Positioning System) tracking device, or other similar device, or may, as a condition of a suspended sentence, require the defendant to make at least partial restitution to the aggrieved party or parties for damages or loss caused by the offense for which convicted, or to perform community service, or both, under terms and conditions which shall be entered in writing by the court. *The court may fix the period of probation for up to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned. Any period of supervised probation shall not exceed five years from the release of the defendant from any active period of incarceration. The limitation on the period of probation shall not apply to the extent that an additional period of probation is necessary (i) for the defendant to participate in a court-ordered program or (ii) if a defendant owes restitution and is still subject to restitution compliance review hearings in accordance with § 19.2-305.1.* The defendant may be ordered by the court to pay the cost of the GPS tracking device or other similar device. If, however, the court suspends or modifies any sentence fixed by a jury pursuant to § 19.2-295, the court shall file a statement of the reasons for the suspension or modification in the same manner as the statement required pursuant to subsection B of § 19.2-298.01. The judge, after convicting the defendant of any offense for which a report to the Central Criminal Records Exchange is required in accordance with subsection A of § 19.2-390, shall determine whether a copy of the defendant's fingerprints or fingerprint identification information has been provided by a law-enforcement officer to the clerk of court for each such offense. In any case where fingerprints or fingerprint identification information has not been provided by a law-enforcement officer to the clerk of court, the judge shall require that fingerprints and a photograph be taken by a law-enforcement officer as a condition of probation or of the suspension of the imposition or execution of any sentence for such offense. Such fingerprints shall be submitted to the Central Criminal Records Exchange under the provisions of subsection D of § 19.2-390.

In those courts having electronic access to the Local Inmate Data System (LIDS) within the courtroom, prior to or upon sentencing, the clerk of court shall also determine by reviewing LIDS whether a blood, saliva, or tissue sample has been taken for DNA analysis and submitted to the DNA data bank maintained by the Department of Forensic Science pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of this title. In any case in which the clerk has determined that a DNA sample or analysis is not stored in the DNA data bank, or in any case in which electronic access to LIDS is not available in the courtroom, the court shall order that the defendant appear within 30 days before the sheriff or probation officer and allow the sheriff or probation officer to take the required sample. The order shall also require that, if the defendant has not appeared and allowed the sheriff or probation officer to take the required sample by the date stated in the order, then the sheriff or probation officer shall report to the court the defendant's failure to appear and provide the required sample.

After conviction and upon sentencing of an active participant or member of a criminal street gang, the court may, as a condition for suspending the imposition of the sentence in whole or in part or for placing the accused on probation, place reasonable restrictions on those persons with whom the accused may have contact. Such restrictions may include prohibiting the accused from having contact with anyone whom he knows to be a member of a criminal street gang, except that contact with a family or household member, as defined in § 16.1-228, shall be permitted unless expressly prohibited by the court.

Notwithstanding any other provision of law, in any case where a defendant is convicted of a violation of § 18.2-48, 18.2-61, 18.2-63, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-370, or 18.2-370.1, committed on or after July 1, 2006, and some portion of the sentence is suspended, the judge shall order

57 that the period of suspension shall be for a length of time at least equal to the statutory maximum
 58 period for which the defendant might originally have been sentenced to be imprisoned, and the
 59 defendant shall be placed on probation for that period of suspension subject to revocation by the court.
 60 The conditions of probation may include such conditions as the court shall determine, including active
 61 supervision. Where the conviction is for a violation of clause (iii) of subsection A of § 18.2-61,
 62 subdivision A 1 of § 18.2-67.1, or subdivision A 1 of § 18.2-67.2, the court shall order that at least
 63 three years of the probation include active supervision of the defendant under a postrelease supervision
 64 program operated by the Department of Corrections, and for at least three years of such active
 65 supervision, the defendant shall be subject to electronic monitoring by means of a GPS (Global
 66 Positioning System) tracking device, or other similar device.

67 If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any
 68 time before the sentence has been completely served, suspend the unserved portion of any such sentence,
 69 place the person on probation ~~for such time as the court shall determine~~ *in accordance with the*
 70 *provisions of this section*, or otherwise modify the sentence imposed.

71 If a person has been sentenced for a felony to the Department of Corrections but has not actually
 72 been transferred to a receiving unit of the Department, the court which heard the case, if it appears
 73 compatible with the public interest and there are circumstances in mitigation of the offense, may, at any
 74 time before the person is transferred to the Department, suspend or otherwise modify the unserved
 75 portion of such a sentence. The court may place the person on probation ~~for such time as the court shall~~
 76 ~~determine~~ *in accordance with the provisions of this section*.

77 **§ 19.2-303.1. Fixing period of suspension of sentence.**

78 In any case where a court suspends the imposition or execution of a sentence, it may fix the period
 79 of suspension for a ~~reasonable time, having due regard to the gravity of the offense, without regard up~~
 80 ~~to the statutory maximum period for which the defendant might originally have been sentenced to be~~
 81 ~~imprisoned. The limitation on the period of suspension shall not apply to the extent that an additional~~
 82 ~~period of suspension is necessary for the defendant to participate in a court-ordered program.~~

83 **§ 19.2-306. Revocation of suspension of sentence and probation.**

84 A. In any case in which the court has suspended the execution or imposition of sentence, the court
 85 may revoke the suspension of sentence for any cause the court deems sufficient that occurred at any
 86 time within the probation period, or within the period of suspension fixed by the court. If neither a
 87 probation period nor a period of suspension was fixed by the court, then the court may revoke the
 88 suspension for any cause the court deems sufficient that occurred within the maximum period for which
 89 the defendant might originally have been sentenced to be imprisoned.

90 B. The court may not conduct a hearing to revoke the suspension of sentence unless the court issues
 91 process to notify the accused or to compel his appearance before the court within *90 days of receiving*
 92 *notice of the alleged violation or within one year after the expiration of the period of probation or the*
 93 *period of suspension, whichever is sooner*, or, in the case of a failure to pay restitution, within three
 94 years after such expiration. If neither a probation period nor a period of suspension was fixed by the
 95 court, then the court shall issue process within ~~one year~~ *six months* after the expiration of the maximum
 96 period for which the defendant might originally have been sentenced to be incarcerated. Such notice and
 97 service of process may be waived by the defendant, in which case the court may proceed to determine
 98 whether the defendant has violated the conditions of suspension.

99 C. If the court, after hearing, finds good cause to believe that the defendant has violated the terms of
 100 suspension, then: (i) ~~if the court originally suspended the imposition of sentence, the court shall revoke~~
 101 ~~the suspension, and the court may pronounce whatever sentence might have been originally imposed or~~
 102 (ii) ~~if the court originally suspended the execution of the sentence, the court shall revoke the suspension~~
 103 ~~and the original sentence shall be in full force and effect~~ *revoke the suspension and impose a sentence*
 104 *in accordance with the provisions of § 19.2-306.1*. The court may again suspend all or any part of this
 105 sentence *for a period up to the statutory maximum period for which the defendant might originally have*
 106 *been sentenced to be imprisoned, less any time already served*, and may place the defendant upon terms
 107 and conditions or probation. *The court shall measure the period of any suspension of sentence from the*
 108 *date of the entry of the original sentencing order. However, if a court finds that a defendant has*
 109 *absconded from the jurisdiction of the court, the court may extend the period of probation or suspended*
 110 *sentence for a period not to exceed the length of time that such defendant absconded.*

111 D. If any court has, after hearing, found no cause to impose a sentence that might have been
 112 originally imposed, or to revoke a suspended sentence or probation, then any further hearing to impose a
 113 sentence or revoke a suspended sentence or probation, based solely on the alleged violation for which
 114 the hearing was held, shall be barred.

115 E. Nothing contained herein shall be construed to deprive any person of his right to appeal in the
 116 manner provided by law to the circuit court having criminal jurisdiction from a judgment or order
 117 revoking any suspended sentence.

118 § 19.2-306.1. **Limitation on sentence upon revocation of suspension of sentence; exceptions.**

119 A. For the purposes of this section, "technical violation" means a violation based on the
120 probationer's failure to (i) report any arrest, including traffic tickets, within three days to the probation
121 officer; (ii) maintain regular employment or notify the probation officer of any changes in employment;
122 (iii) report within three days of release from incarceration; (iv) permit the probation officer to visit his
123 home and place of employment; (v) follow the instructions of the probation officer, be truthful and
124 cooperative, and report as instructed; (vi) refrain from the use of alcoholic beverages to the extent that
125 it disrupts or interferes with his employment or orderly conduct; (vii) refrain from the use, possession,
126 or distribution of controlled substances or related paraphernalia; (viii) refrain from the use, ownership,
127 possession, or transportation of a firearm; (ix) gain permission to change his residence or remain in the
128 Commonwealth or other designated area without permission of the probation officer; or (x) maintain
129 contact with the probation officer whereby his whereabouts are no longer known to the probation
130 officer. Multiple technical violations arising from a single course of conduct or a single incident or
131 considered at the same revocation hearing shall not be considered separate technical violations for the
132 purposes of sentencing pursuant to this section.

133 B. If the court finds the basis of a violation of the terms and conditions of a suspended sentence or
134 probation is that the defendant was convicted of a criminal offense that was committed after the date of
135 the suspension, or has violated another condition other than (i) a technical violation or (ii) a good
136 conduct violation that did not result in a criminal conviction, then the court may revoke the suspension
137 and impose or resuspend any or all of that period previously suspended.

138 C. The court shall not impose a sentence of a term of active incarceration upon a first technical
139 violation of the terms and conditions of a suspended sentence or probation, and there shall be a
140 presumption against imposing a sentence of a term of active incarceration for any second technical
141 violation of the terms and conditions of a suspended sentence or probation. However, if the court finds,
142 by a preponderance of the evidence, that the defendant committed a second technical violation and he
143 cannot be safely diverted from active incarceration through less restrictive means, the court may impose
144 not more than 14 days of active incarceration for a second technical violation. The court may impose
145 whatever sentence might have been originally imposed for a third or subsequent technical violation. For
146 the purposes of this subsection, a first technical violation based on clause (viii) or (x) of subsection A
147 shall be considered a second technical violation, and any subsequent technical violation also based on
148 clause (viii) or (x) of subsection A shall be considered a third or subsequent technical violation.

149 D. The limitations on sentencing in this section shall not apply to the extent that an additional term
150 of incarceration is necessary to allow a defendant to be evaluated for or to participate in a
151 court-ordered drug, alcohol, or mental health treatment program. In such case, the court shall order the
152 shortest term of incarceration possible to achieve the required evaluation or participation.

Circuit Court Form CC-1402 INFORMATION ABOUT PETITIONING A CIRCUIT COURT FOR APPROVAL OF THE RIGHT TO REGISTER TO VOTE

Abstract House Bill 2312 and Senate Bill 1406 set forth the regulatory structure and civil and criminal law changes necessary for the legalization of marijuana. Among other changes, these bills create a new Code § 4.1-1101 which sets forth certain felony violations for home cultivation of large numbers of marijuana plants. The bills also add felony violations of § 4.1-1101 to the list of offenses that disqualify a person from petitioning a circuit court for approval of the right to register to vote. Both Code § 4.1-1101 and the changes to § 53.1-231.2 are among the provisions that become effective as of July 1, 2021

Only the relevant page of the legislation has been provided in these materials. The full text is available at <https://lis.virginia.gov/000/senatecannabisgovernorsub.pdf>

Source House Bill 2312 (Chapter 551, see bill for effective date)
Senate Bill 1406 (Chapter 550, see bill for effective date)

Revision Legislative

Form Type Internet master

INFORMATION ABOUT PETITIONING A CIRCUIT COURT FOR APPROVAL OF THE RIGHT TO REGISTER TO VOTE

COMMONWEALTH OF VIRGINIA
VA. CODE § 53.1-231.2

If you are not qualified to vote because you have been convicted of a felony, you may be eligible to petition a circuit court for approval of your right to register to vote. If you are eligible to petition a circuit court and if the court approves your petition, then the Governor of Virginia will decide whether or not to restore your right to register to vote. By itself, circuit court approval of your petition does not give you back the right to register to vote. The Governor must also approve.

A felony conviction causes a person to lose other civil rights in addition to the right to vote. Even if your petition is approved by the court and approved by the Governor, only your right to vote will be restored, not these other civil rights. To seek to have these other civil rights restored in addition to your right to vote, you must ask the Governor through the Secretary of the Commonwealth.

A. Where to petition. You may petition either the circuit court where you were convicted of the felony or the circuit court where you now reside. The clerk of the circuit court has a petition form which you may use or you may draft your own petition. You must pay all the required filing fees to the clerk of the circuit court in order to have the court consider your petition, unless the court grants you permission to proceed *in forma pauperis* (as someone who cannot afford to pay the required fees).

B. The conditions for court approval. It is your responsibility to present evidence to the court showing that you meet all the conditions to have the court approve your right to register to vote. These conditions are:

- You are eligible to petition the court because the felony you were convicted of was not one of the felonies listed below under Section E.
- At least 5 years must have passed since you completed any sentence and any modification of sentence, including probation, parole and any suspended sentence.
- You must not have had any additional criminal convictions during that period of time. Convictions for traffic infractions during that period of time are not counted against you for this petition.
- You must have demonstrated civic responsibility through community or comparable service.

C. Your responsibility to prove your case. Since you are responsible for proving to the court that you are eligible to petition for approval of your right to register to vote and that you meet all the required conditions, you will need to provide to the court, along with your petition, evidence to prove that your petition should be granted, such as evidence of your convictions and sentences and evidence demonstrating civic responsibility through community or comparable service. Attested copies of the orders of your conviction and sentencing can be obtained from the clerk of the circuit court which convicted you of the felony and sentenced you. The circuit court clerk must charge you for these copies. You may obtain a copy of your criminal history from the Virginia State Police. There is a charge for a copy of this record.

D. Court Approval. If the court approves your petition, the court will provide to you a copy of the order approving your petition. The court will also send a copy of the order to the Secretary of the

Commonwealth, who will then send it to the Governor for the decision of whether you will be permitted to register to vote.

E. Who is not eligible to petition. You are not eligible to petition a circuit court for approval of your right to register to vote if you were convicted of one of the following felonies:

1. A “violent felony” as defined in Virginia Code § 19.2-297.1 or in subsection C of § 17.1-805. The felonies included in this definition are:
 - First degree murder, second degree murder, or voluntary manslaughter (see Virginia Code §§ 18.2-30 through 18.2-33 and 18.2-35).
 - Aggravated involuntary manslaughter (see Virginia Code § 18.2-36.1(B)).
 - Any mob-related felony (see Virginia Code §§ 18.2-40, 18.2-41 and 18.2-42.1).
 - Any kidnapping or abduction felony (see Virginia Code §§ 18.2-47 through 18.2-49.1).
 - Any malicious felony assault or malicious bodily wounding (see Virginia Code §§ 18.2-51 through 18.2-56, 18.2-57 and 18.2-57.2).
 - Robbery (see Virginia Code § 18.2-58).
 - Carjacking (see Virginia Code § 18.2-58.1).
 - Felony criminal sexual assault (see Virginia Code §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1 through 18.2-67.3, 18.2-67.4:1, 18.2-67.5 and 18.2-67.5:1).
 - Carnal knowledge of a child between the age of 13 and 15 (see Virginia Code § 18.2-63).
 - A third conviction for attempted aggravated sexual battery (see Virginia Code §§ 18.2-67.5(B), -67.5:1).
 - A third conviction for sexual battery (see Virginia Code §§ 18.2-67.4, -67.5:1).
 - Burning or destroying a dwelling or an occupied structure as described in Virginia Code § 18.2-77.
 - Burning or destroying a public building when occupied as described in Virginia Code § 18.2-79.
 - Burning or destroying a structure worth \$200 or more (see Virginia Code § 18.2-80).
 - Burglary (see Virginia Code § 18.2-89).
 - Entering a dwelling house with the intention to commit murder, rape or robbery (see Virginia Code § 18.2-90).

- Entering a dwelling house with the intention to commit a felony (see Virginia Code § 18.2-91).
- Breaking and entering a dwelling house with the intention to commit a misdemeanor (see Virginia Code § 18.2-92).
- Entering a bank armed with the intention to commit larceny (see Virginia Code § 18.2-93).
- Felonious personal trespass by a computer (see Virginia Code § 18.2-152.7).
- Obstructing or injuring a canal, railroad or power line, when such offense is a class 4 felony (see Virginia Code § 18.2-153).
- Shooting at or throwing missiles at a train, car or vessel, when such offense is a class 4 felony (see Virginia Code § 18.2-154).
- Injuring a signal used by a railroad, when such offense is a class 4 felony (see Virginia Code § 18.2-155).
- Damage or trespass to public services or utilities, when such offense is a felony (see Virginia Code § 18.2-162).
- Discharging firearms or missiles within or at a building or dwelling house (see Virginia Code § 18.2-279).
- Willfully discharging firearms in public places (see Virginia Code § 18.2-280).
- Setting a spring gun or other deadly weapon (see Virginia Code § 18.2-281).
- Pointing, holding or brandishing a firearm when on school property (see Virginia Code § 18.2-282(A)).
- Shooting at vehicles so as to endanger persons (see Virginia Code § 18.2-286.1).
- Use of a machine gun for a crime of violence (see Virginia Code § 18.2-289).
- Use of a machine gun for an aggressive purpose (see Virginia Code § 18.2-290).
- Possession or use of a “sawed-off” shotgun or rifle during the commission of a crime of violence (see Virginia Code § 18.2-300(A)).
- Possession of a firearm on school property (see Virginia Code § 18.2-308.1(B)).
- Possession of a firearm by a convicted felon (see Virginia Code § 18.2-308.2).

- Sale of a firearm to a person prohibited from possessing it (see Virginia Code § 18.2-308.2:1).
- Purchasing a firearm with the intent of selling it to a person forbidden to possess a firearm (see Virginia Code § 18.2-308.2:2(M)).
- Soliciting, assisting or employing a person to purchase a firearm by a person forbidden to possess a firearm (see Virginia Code § 18.2-308.2:2(N)).
- Use or attempted use of restricted ammunition in the commission or attempted commission of a crime (see Virginia Code § 18.2-308.3).
- Illegal use of a noxious or nauseating gas (see Virginia Code § 18.2-312).
- Taking or detaining a person for illegal prostitution against their will or consenting to the taking of one's child or ward for prostitution (see Virginia Code §§ 18.2-355(2), 355(3)).
- Detaining a male or female in a bawdy place against his or her will (see Virginia Code § 18.2-358).
- Crimes against nature involving an immediate family member (see Virginia Code § 18.2-361(B)).
- Adultery or fornication with certain family members (see Virginia Code § 18.2-366(B)).
- Placing or leaving one's wife for prostitution. (see Virginia Code § 18.2-368).
- Abuse or neglect of an incapacitated adult, when such offense is a felony (see Virginia Code § 18.2-369).
- Taking indecent liberties with children (see Virginia Code § 18.2-370).
- Taking indecent liberties with children under one's custody or supervision (see Virginia Code § 18.2-370.1).
- Abuse or neglect of children by a parent or guardian, causing serious injury (see Virginia Code § 18.2-371.1).
- Production, publication, sale or possession with intent to distribute of child pornography (see Virginia Code § 18.2-374.1).
- A second or subsequent conviction for possession of child pornography (see Virginia Code § 18.2-374.1:1(D)).
- Use of electronic means to facilitate the possession of child pornography (see Virginia Code § 18.2-374.3).

- A second or subsequent conviction for employing or permitting a minor to assist with certain sex crimes (see Virginia Code §§ 18.2-379, -381).
- Participating in a riot, when such offense is a felony (see Virginia Code § 18.2-405).
- Unlawful assembly, when such offense is a felony (see Virginia Code § 18.2-406).
- Solicitation or incitement of a riot (see Virginia Code § 18.2-408).
- Certain offenses committed during a state of riot or insurrection (see Virginia Code § 18.2-413).
- Injury to property or persons by persons unlawfully or riotously assembled (see Virginia Code § 18.2-414).
- Unlawful paramilitary activity (see Virginia Code § 18.2-433.2).
- Felony obstruction of justice (see Virginia Code § 18.2-460(C)).
- Delivery of drugs, firearms or explosives to prisoners (see Virginia Code § 18.2-474.1).
- Escape from jail (see Virginia Code § 18.2-477).
- Felony escape from a juvenile facility (see Virginia Code § 18.2-477.1).
- Escape from jail or custody (see Virginia Code §§ 18.2-478, -479 and 480).
- Conspiring to incite one race to insurrection against another race (see Virginia Code § 18.2-485).
- Certain felonies by prisoners (see Virginia Code § 53.1-203).
- Conspiracy to commit a “violent felony.”
- Being a principal in the second degree or an accessory before the fact to a “violent felony.”

2. Possession of more than 49 marijuana plants (see Virginia Code § 4.1-1101).

23. Manufacturing, selling, giving or distributing a controlled substance or imitation controlled substance (see Virginia Code § 18.2-248).

34. Possessing a controlled substance or imitation controlled substance with the intent to manufacture, sell, give or distribute that substance (see Virginia Code § 18.2-248).

45. Transporting into Virginia one ounce or more of cocaine in any form, any other Schedule I or II controlled substance, or 5 pounds or more of marijuana with the intent to sell or distribute that substance (see Virginia Code § 18.2-248.01).

- ~~5~~6. Selling, giving or distributing more than one-half ounce of marijuana (see Virginia Code § 18.2-248.1).
- ~~6~~7. Giving, distributing or possessing marijuana for an inmate as a favor (see Virginia Code § 18.2-248.1).
- ~~7~~8. Possessing more than one-half ounce of marijuana with the intent to sell, give or distribute the marijuana (see Virginia Code § 18.2-248.1).
- ~~8~~9. Manufacturing marijuana or possessing marijuana with the intent to manufacture it for use by another person (see Virginia Code § 18.2-248.1).
- ~~9~~10. Distributing to someone who was under eighteen, and three years younger than you, Schedule I, II, III, or IV controlled substances, an imitation controlled substance, or marijuana (see Virginia Code § 18.2-255).
- ~~10~~11. Causing someone who was under eighteen to assist in the distribution of Schedule I, II, III, or IV controlled substances, an imitation controlled substance, or marijuana (see Virginia Code § 18.2-255).
- ~~11~~12. Manufacturing, selling or distributing any controlled substance, imitation controlled substance or marijuana while on or near the type of property described in Virginia Code § 18.2-255.2, for example a school, a community center, a public library or a state hospital.
- ~~12~~13. Possessing with the intent to manufacture, sell or distribute any controlled substance, imitation controlled substance or marijuana while on or near the type of property described in Virginia Code § 18.2-255.2, for example a school, a community center, a public library or a state hospital.
- ~~13~~14. Maintaining a fortified drug house (see Virginia Code § 18.2-258.02).
- ~~14~~15. Making a false statement or entry on an election report required by Title 24.2 of the Code of Virginia (see Virginia Code § 24.2-1016).

If your felony conviction was for one of the crimes listed above, you are not eligible to petition the court for approval of your right to register to vote and the court cannot approve your petition.

13749 C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii)
13750 the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department
13751 shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier
13752 crime. To conduct its determination regarding the provider's barrier crime information, the Department shall
13753 access the national criminal history background check system, which is maintained by the Federal Bureau of
13754 Investigation and is based on fingerprints and other methods of identification, and shall access the Central
13755 Criminal Records Exchange maintained by the Department. If the Department receives a background report
13756 lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping
13757 systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond
13758 to a qualified entity's inquiry within 15 business days.

13759 D. Any background check conducted pursuant to this section for a provider employed by a private entity
13760 shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment
13761 for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer
13762 in a position that involves unsupervised access to children or the elderly or disabled.

13763 E. Any background check conducted pursuant to this section for a provider employed by a governmental
13764 entity shall be provided to that entity.

13765 F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national
13766 criminal background check, the Department and the Federal Bureau of Investigation may each charge the
13767 provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the
13768 fingerprints.

13769 G. The failure to request a criminal background check pursuant to subsection B shall not be considered
13770 negligence per se in any civil action.

13771 H. ~~[Expired.]~~

13772 **§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.**

13773 This section shall apply to any person who is not a qualified voter because of a felony conviction, who
13774 seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the
13775 conditions and requirements set out in this section.

13776 Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in subsection
13777 C of § 17.1-805 and any crime ancillary thereto; (ii) convicted of a felony pursuant to §§ § 4.1-1101, 18.2-248,
13778 18.2-248.01, 18.2-248.1, 18.2-255, 18.2-255.2, or § 18.2-258.02; or (iii) convicted of a felony pursuant to §
13779 24.2-1016, may petition the circuit court of the county or city in which he was convicted of a felony, or the
13780 circuit court of the county or city in which he presently resides, for restoration of his civil right to be eligible to
13781 register to vote through the process set out in this section. On such petition, the court may approve the petition
13782 for restoration to the person of his right if the court is satisfied from the evidence presented that the petitioner
13783 has completed, five or more years previously, service of any sentence and any modification of sentence
13784 including probation, parole, and suspension of sentence; that the petitioner has demonstrated civic responsibility
13785 through community or comparable service; and that the petitioner has been free from criminal convictions,
13786 excluding traffic infractions, for the same period.

13787 If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner,
13788 and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to
13789 be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to
13790 the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall
13791 transmit the order to the Governor who may grant or deny the petition for restoration of the right to be eligible
13792 to register to vote approved by the court order. The Secretary of the Commonwealth shall send, within 90 days
13793 of the date of the order, to the petitioner at the address stated on the court's order, a certificate of restoration of
13794 that right or notice that the Governor has denied the restoration of that right. The Governor's denial of a petition
13795 for the restoration of voting rights shall be a final decision and the petitioner shall have no right of appeal. The
13796 Secretary shall notify the court and the State Board of Elections in each case of the restoration of the right or
13797 denial of restoration by the Governor.

Circuit Court Form	CC-1414	PETITION FOR PROCEEDING IN CIVIL CASE WITHOUT PAYMENT OF FEES OR COSTS
	CC-1421	PETITION FOR PROCEEDING IN A NO-FAULT DIVORCE CASE WITHOUT PAYMENT OF FEES OR COSTS
	CC-XXXX	ORDER FOR PROCEEDING IN CIVIL CASE WITHOUT PAYMENT OF FEES OR COSTS (NEW FORM)

Abstract This proposal for revision of CC-1414 and CC-1421 would separate the petition and order parts of these forms. Circuit Court Clerks must record court orders and are concerned that doing so with a combination petition and order unnecessarily exposes the petitioner’s financial information. The proposal is to remove the order parts from both forms and create a new separate order form to be used with either petition.

Revision Non-legislative

Form Type Internet masters (CC-1414 and CC-1421)
 Intranet master (CC-XXXX (ORDER FOR PROCEEDING IN CIVIL CASE WITHOUT PAYMENT OF FEES OR COSTS (NEW FORM)))

**PETITION FOR PROCEEDING IN CIVIL CASE
WITHOUT PAYMENT OF FEES OR COSTS**

Case No.

COMMONWEALTH OF VIRGINIA VA.CODE §§ 16.1-69.48:4; 17.1-606

Juvenile & Domestic Relations District Court
 Circuit Court General District Court

v.

The undersigned petitioner(s) request the court to permit the petitioner(s) to sue or defend a civil case in this court without the payment of fees or costs and to have from all officers all needful services and process. In support of the petition, the petitioner(s) state that the following information is true:

I currently receive the following type(s) of public assistance in
CITY/COUNTY

TANF \$ Medicaid Supplemental Security Income \$
 SNAP (food stamps) \$ Other (specify type and amount)

I currently do not receive public assistance.

I am represented in this matter by a legal aid society, an attorney appearing as counsel *pro bono*, or an attorney assigned to me or referred by a legal aid society.

Names and address of employer(s) for myself and spouse:

Self

Spouse

NET INCOME:

	Self	Spouse	
Pay period (weekly, every second week, twice monthly, monthly)	
Net take home pay (salary/wages, minus deductions required by law and tax withholdings)	\$	
Other income sources (please specify)	\$	
.....	\$	
TOTAL INCOME	\$	+	= COURT USE ONLY A

LIQUID ASSETS:

Cash on hand .....	\$ .....	.....
Bank Accounts at: .....	\$ .....	.....
Any other liquid assets: (please specify)			
with a			
value of .....	\$ .....	.....
TOTAL ASSETS	\$	+	= COURT USE ONLY B

..... Number in household I have financial responsibility for, including myself.

EXCEPTIONAL EXPENSES (Total Exceptional Expenses of Family)

Medical Expenses (list only unusual and continuing expenses)	\$
Court-ordered support payments/alimony	\$
<input type="checkbox"/> deducted from paycheck <input type="checkbox"/> not deducted from paycheck	
Child-care payments (e.g. day care)	\$
Other (describe):	
.....	} \$

TOTAL EXPENSES \$ = COURT USE ONLY **C**

COLUMN "A" plus COLUMN "B" minus
 COLUMN "C" equals available funds =

ACKNOWLEDGEMENT

I understand that the court cannot provide me with legal advice, and that it may be advisable to get advice from a lawyer.

..... DATE SIGNATURE – PETITIONER PRINT NAME –PETITIONER

..... RESIDENCE ADDRESS OF PETITIONER

..... SIGNATURE – PETITIONER PRINT NAME – PETITIONER

..... RESIDENCE ADDRESS OF PETITIONER

ORDER

The petition is granted.

The petition is denied.

..... DATE JUDGE

**PETITION FOR PROCEEDING IN A NO-FAULT DIVORCE
WITHOUT PAYMENT OF FEES OR COSTS**

COMMONWEALTH OF VIRGINIA VA.CODE § 17.1-606

Case No.

..... Circuit Court

..... v.

The undersigned petitioner requests the court to permit the petitioner to proceed in a no-fault divorce case under Virginia Code § 20-91(A)(9) in this court without the payment of fees or costs and to have from all officers all needful services and process. In support of the petition, the petitioner states that the following information is true:

1. I currently receive the following type(s) of public assistance in
CITY/COUNTY
 TANF \$ Medicaid Supplemental Security Income \$
 SNAP (food stamps) \$ Other (specify type and amount)
 I currently do not receive public assistance. (If this box is checked, complete section 2, below. If not checked, proceed to section 3.)

2. Names and address of employer(s) for myself and spouse:

Self

Spouse

NET INCOME:

	Self	Spouse	
Pay period (weekly, every second week, twice monthly, monthly)	
Net take home pay (salary/wages, minus deductions required by law)	\$	
Other income sources (please specify)	
.....	\$	
TOTAL INCOME	\$	+	= COURT USE ONLY A

ASSETS:

Cash on hand .....	\$ .....	.....
Bank Accounts at: .....	\$ .....	.....
Any other assets: (please specify) .....	.....	.....
..... with a value of .....	\$ .....	.....
Real estate - \$ <small>NET VALUE</small>	\$ .....	.....
..... with net value of .....	\$ .....	.....
Motor Vehicles { with net value of .....	\$ .....	.....
..... YEAR AND MAKE			
..... with net value of .....	\$ .....	.....
..... YEAR AND MAKE			
Other Personal Property: (describe) .....	\$ .....	.....
TOTAL ASSETS	\$	+	= COURT USE ONLY B

..... Number in household I have financial responsibility for, including myself.

EXCEPTIONAL EXPENSES (Total Exceptional Expenses of Family)

Medical Expenses (list only unusual and continuing expenses)	\$	
Court-ordered support payments/alimony	\$	
<input type="checkbox"/> deducted from paycheck <input type="checkbox"/> not deducted from paycheck		
Child-care payments (e.g. day care)	\$	
Other (describe):	} \$	
.....		
TOTAL EXPENSES	\$	= COURT USE ONLY C
COLUMN "A" plus COLUMN "B" minus		
COLUMN "C" equals available funds		=

3. ACKNOWLEDGEMENT

I acknowledge that the foregoing is true and correct. I understand that the court cannot provide me with legal advice, and that it may be advisable to get advice from a lawyer.

.....
 DATE SIGNATURE – PETITIONER PRINT NAME –PETITIONER

.....
 RESIDENCE ADDRESS OF PETITIONER

.....
 SIGNATURE – PETITIONER PRINT NAME – PETITIONER

.....
 RESIDENCE ADDRESS OF PETITIONER

ORDER

The petition is

granted

denied

~~and the parties shall~~

.....

.....

.....
 DATE JUDGE

**ORDER FOR PROCEEDING IN CIVIL CASE
WITHOUT PAYMENT OF FEES OR COSTS**
Commonwealth of Virginia VA. CODE § 17.1-606

Case No.

..... Circuit Court

..... v.

Upon petition filed requesting this court to permit the petitioner(s) to sue or defend a [] civil case OR [] no-fault divorce proceeding under Virginia Code § 20-91(a)(9) in this court without the payment of fees or costs and to have from all officers all needful services and process, it is hereby **ORDERED** that the petition is

[] granted.

[] denied.

[] and the parties shall
.....
.....
.....

.....
DATE

.....
JUDGE

Circuit Court Form	CC-1462 JUDGMENT LIEN DOCKET - SUBSEQUENT ENTRIES
Abstract	House Bill 2233 and Senate Bill 1426 establish a process by which a victim may have a restitution judgment docketed in his or her own name. The proposed changes to form CC-1462 facilitate the process for a clerk to assign a restitution judgment from the Commonwealth to the victim.
Source	House Bill 2233 (Chapter 190, effective July 1, 2021) Senate Bill 1426 (Chapter 393, effective July 1, 2021)
Revision	Legislative
Form Type	Internet master

JUDGMENT LIEN DOCKET – SUBSEQUENT ENTRIES

COMMONWEALTH OF VIRGINIA VA. CODE § 8.01-446.1

Court in which Judgment Docketed:

Court rendering Judgment (if different):

Date of Judgment: Amount of Judgment: \$

Original Book No., Page OR Original Judgment No. OR Instrument No.

Original Date Docketed:

Plaintiff(s):

Defendant(s):

Type of Filing (Check One)

Release by Satisfaction by judgment creditor (Virginia Code § 8.01-453)

Release by judgment creditor against one or more parcels of real property. Identify parcel(s) below:

.....
.....

Release or Discharge by Court Order (Virginia Code §§ 8.01-455, 8.01-456). Check One:

Court order of satisfaction or discharge attached.

Court order to mark judgment discharged in bankruptcy attached.

Court order pursuant to Virginia Code § 8.01-456 directing payment to be deposited with the clerk attached.

Amount paid to clerk \$ and date paid to the clerk

Assignment (Virginia Code § 8.01-452 Virginia Code § 19.2-305.2)

Date of Assignment:

Name of Assignee

Name of Assignor:

Credit(s) (Virginia Code § 8.01-449)

Amount: \$ Date paid:

Name of Additional Debtor

Social Security Number of Debtor (last four digits) (if known)

Change of Name of Debtor (Virginia Code § 8.01-451)

New Name of Debtor

Former Name of Debtor

Social Security Number of Debtor (last four digits) (if known)

NOTICE: Any judgment creditor who knowingly gives false information on this certificate shall be guilty of a class 1 misdemeanor.

Date:

PLAINTIFF ATTORNEY FOR PLAINTIFF AGENT FOR PLAINTIFF
 CLERK DEPUTY CLERK

[AFFIDAVIT FOR ASSIGNMENTS AND NEW NAME OF DEBTOR ONLY]

STATE OF

City/County of

Acknowledged, subscribed and sworn to before me this day of

by

NOTARY PUBLIC CLERK DEPUTY CLERK

(My Commission Expires:) Registration No.

.....
PRINT NAME OF NOTARY

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 190

An Act to amend and reenact §§ 19.2-305.1, 19.2-305.2, 19.2-349, and 19.2-354 of the Code of Virginia, relating to orders of restitution; enforcement.

[H 2233]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-305.1, 19.2-305.2, 19.2-349, and 19.2-354 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-305.1. Restitution for property damage or loss; community service.

A. Notwithstanding any other provision of law, no person convicted of a crime in violation of any provision in Title 18.2, which resulted in property damage or loss, shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or loss, or shall be compelled to perform community services, or both, or shall submit a plan for doing that which appears to the court to be feasible under the circumstances.

B. Notwithstanding any other provision of law, any person who, on or after July 1, 1995, commits, and is convicted of, a crime in violation of any provision in Title 18.2 shall make at least partial restitution for any property damage or loss caused by the crime or for any medical expenses or expenses directly related to funeral or burial incurred by the victim or his estate as a result of the crime, may be compelled to perform community services and, if the court so orders, shall submit a plan for doing that which appears to be feasible to the court under the circumstances.

B1. Notwithstanding any other provision of law, any person, who on or after July 1, 2005 commits and is convicted of a crime in violation of § 18.2-248 involving the manufacture of any controlled substance, may be ordered, upon presentation of suitable evidence of such costs, by the court to reimburse the Commonwealth or the locality for the costs incurred by the jurisdiction, as the case may be, for the removal and remediation associated with the illegal manufacture of any controlled substance by the defendant.

B2. Notwithstanding any other provision of law, any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-138 for damage to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages. Any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-405, 18.2-407, or 18.2-408 in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, to which damage is caused during such riot or unlawful assembly. In any prosecution under § 18.2-138, 18.2-405, 18.2-407, or 18.2-408, testimony of the Division of Engineering and Buildings of the Department of General Services or the Division of Risk Management shall be admissible as evidence of value or extent of damages or cost of repairs to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police. For the purposes of this subsection, "Capitol Square" means the grounds and the interior and exterior of all buildings in that area in the City of Richmond bounded by Bank, Governor, Broad, and Ninth Streets. "Capitol Square" includes the exterior of all state buildings that are at least 50 years old and bordering the boundary streets.

C. At or before the time of sentencing, the court shall receive and consider any plan for making restitution submitted by the defendant. The plan shall include the defendant's home address, place of employment and address, social security number and bank information. If the court finds such plan to be reasonable and practical under the circumstances, it may consider probation or suspension of whatever portion of the sentence that it deems appropriate. By order of the court incorporating the defendant's plan or a reasonable and practical plan devised by the court, the defendant shall make restitution while he is free on probation or work release or following his release from confinement. Additionally, the court may order that the defendant make restitution during his confinement, if feasible, based upon both his earning capacity and net worth as determined by the court at sentencing.

D. At the time of sentencing, the court shall determine the amount to be repaid by the defendant and the terms and conditions thereof. If community service work is ordered, the court shall determine the terms and conditions upon which such work shall be performed. The court shall include such findings in the judgment order. The order shall specify that sums paid under such order shall be paid to the clerk, who shall disburse such sums as the court may, by order, direct. The clerk shall record receipt of restitution payments in an automated financial management system operated and maintained by the

Executive Secretary of the Supreme Court or such other system established and maintained by a circuit court clerk pursuant to § 17.1-502. Any court desiring to participate in the Setoff Debt Collection Act (§§ 58.1-520 through 58.1-535) for the purpose of collecting fines or costs or providing restitution shall, at the time of sentencing, obtain the social security number of each defendant.

E. At the time of sentencing, the court shall enter the amount of restitution to be repaid by the defendant, the date by which all restitution is to be paid, the terms and conditions of such repayment, and the victim's name and contact information, including the victim's home address, telephone number, and email address, on a form prescribed by the Office of the Executive Secretary of the Supreme Court of Virginia. If the attorney for the Commonwealth participated in the prosecution of the defendant, the attorney for the Commonwealth or his designee shall complete, to the extent possible, all portions of the form excluding the amount of restitution to be repaid by the defendant and the terms and conditions of such repayment. If the attorney for the Commonwealth did not participate in the prosecution of the defendant, the court or the clerk shall complete the form. A copy of the form, excluding contact information for the victim, shall be provided to the defendant at sentencing. A copy of the form shall be provided to the attorney for the Commonwealth and to the victim, his agent, or his estate upon request and free of charge. Except as provided in this section or otherwise required by law, the victim's contact information shall be confidential, and the clerk shall not disclose such confidential information to any person.

F. 1. In any case in which the court orders the defendant to pay restitution and places the defendant on probation that includes a period of active supervision, the probation agency supervising the defendant shall notify the court and the attorney for the Commonwealth of the amount of any restitution that remains unsatisfied and the last known address for the defendant (i) 60 days prior to the defendant's release from supervision pursuant to the terms of the sentencing order or (ii) if the agency requests that the defendant be released from supervision, at the time the agency submits its request to the court. Such notice shall be in writing and the attorney for the Commonwealth shall, if practicable, provide a copy of the notice to the victim. If any amount of restitution remains unsatisfied, the court shall conduct a hearing prior to the defendant's release from supervision after providing notice of the hearing to the defendant and the attorney for the Commonwealth. If the court finds that the defendant is not in compliance with the restitution order, the court may (a) release the defendant from supervision, (b) modify the period or terms of supervision pursuant to § 19.2-304, (c) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (d) proceed in accordance with subsection E of § 19.2-358. The court shall also docket the restitution order as a ~~civil judgment~~ pursuant to subsection B of § 19.2-305.2 unless such order has previously been docketed. Any defendant who is released from supervision shall be subject to the provisions of subdivision 3.

2. In any case in which the court orders the defendant to pay restitution and places the defendant on probation that does not include a period of active supervision, the court shall include in the order a date, not to exceed two years from the date of the entry of the order or, if the court has sentenced the defendant to an active term of incarceration, from the date of the defendant's release from incarceration, on which the defendant's compliance with the restitution order shall be reviewed and the court shall schedule a hearing for such date. The court may, on its own motion, cancel the hearing if the amount of restitution has been satisfied. If at the hearing the court finds that the defendant is not in compliance with the restitution order, the court may (i) modify the period or terms of probation pursuant to § 19.2-304, (ii) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (iii) proceed in accordance with the provisions of subsection E of § 19.2-358. The court shall also docket the restitution order as a ~~civil judgment~~ pursuant to subsection B of § 19.2-305.2 unless such order has previously been docketed. After the hearing conducted pursuant to this subdivision, the defendant shall be subject to the provisions of subdivision 3.

3. If any amount of restitution remains unsatisfied at the time of a hearing conducted pursuant to subdivision 1 or 2, the court shall continue to schedule hearings to review the defendant's compliance with the restitution order until the amount of restitution has been satisfied and provide notice of such hearings to the defendant. The court may, on its own motion, cancel any such hearing if the amount of restitution has been satisfied or if the defendant is in compliance with the restitution order. If at any hearing conducted pursuant to this subdivision the court finds that the defendant is not in compliance with the restitution order, the court may (i) modify the period or terms of probation pursuant to § 19.2-304, (ii) revoke some or all of the suspended sentence or probation pursuant to § 19.2-306, or (iii) proceed in accordance with the provisions of subsection E of § 19.2-358. The court shall follow the procedures set forth in this subdivision for the purpose of reviewing compliance with a restitution order by a defendant (a) until the amount of restitution has been satisfied or (b) if any amount of restitution remains unsatisfied, for the longer of 10 years from the date of the hearing held pursuant to subdivision 1 or 2 or the period of probation ordered by the court.

4. If the court determines at any hearing conducted pursuant to this subsection that the defendant is unable to pay restitution and will remain unable to pay restitution for the duration of the review period set forth in subdivision 3, the court may discontinue any further hearings to review a defendant's compliance with the restitution order.

5. If the court determines that a defendant would be incarcerated on the date of any hearing scheduled pursuant to this subsection, the court may remove the case from the docket, reschedule such hearing to a date after the defendant's release from incarceration, and provide notice of the hearing to the defendant and the attorney for the Commonwealth. If the defendant who is on probation that includes a period of active supervision is incarcerated, the probation agency supervising the defendant shall notify the court when the defendant has been released from incarceration.

6. No provision of this subsection shall be construed to prohibit the court from exercising any authority otherwise granted by law over a defendant during any period of probation ordered by the court.

7. At every hearing conducted pursuant to subdivision 1 where the defendant was convicted of an offense for which a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390, if the court has not previously verified that the conviction for such offense appears on the criminal history record of the defendant, the court shall review the criminal history record of the defendant and determine whether the present conviction appears on that record. The probation officer for the defendant shall provide the criminal history record to the court at such hearing. If the present conviction does not appear on the criminal history record, the court shall order that the fingerprints and photograph of the defendant be taken by a law-enforcement officer and submitted to the Central Criminal Records Exchange. If fingerprints and a photograph have previously been taken for such conviction, the probation officer shall provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that the conviction does not appear on the offender's criminal history record prior to his release from supervision.

8. At every hearing conducted pursuant to subdivision 2 where the attorney for the Commonwealth participated in the prosecution and the defendant was convicted of an offense for which a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390, if the court has not previously verified that the conviction for such offense appears on the criminal history record of the defendant, the court shall review the criminal history record of the defendant and determine whether the present conviction appears on that record. If the attorney for the Commonwealth participated in the prosecution of the offense, the attorney for the Commonwealth shall provide the criminal history record to the court at such hearing. If the present conviction does not appear on the criminal history record, the court shall order that the fingerprints and photograph of the defendant be taken by a law-enforcement officer and submitted to the Central Criminal Records Exchange. If fingerprints and a photograph have previously been taken for such conviction, the attorney for the Commonwealth shall provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that the conviction does not appear on the offender's criminal history record.

G. Unreasonable failure to execute the plan by the defendant shall result in revocation of the probation or imposition of the suspended sentence. A hearing shall be held in accordance with the provisions of this Code relating to revocation of probation or imposition of a suspended sentence before either such action is taken.

H. A defendant convicted of an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3 shall be ordered to pay mandatory restitution to the victim of the offense in an amount as determined by the court. For purposes of this subsection, "victim" means a person who is depicted in a still or videographic image involved in an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

The Commonwealth shall make reasonable efforts to notify victims of offenses under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

I. If restitution is ordered to be paid by the defendant to the victim of a crime and the victim can no longer be located or identified, the clerk shall deposit any such restitution collected to the Criminal Injuries Compensation Fund for the benefit of crime victims by November 1 of each year. If a clerk does not have any such restitution to deposit, the clerk shall provide a statement to that effect to the Fund by November 1 of each year. The administrator shall reserve a sum sufficient in the Fund from which he shall make prompt payment directly to the victim for any proper claims. When depositing such restitution to the Fund, the clerk shall report the victim's last known contact information, including the victim's home address, telephone number, and email address, and the amount of restitution being deposited for that victim. Before making the deposit, the administrator shall record the name, contact information, and amount of restitution being deposited for each victim appearing from the clerk's report to be entitled to restitution. The victim's contact information reported to the Fund shall be confidential and shall not be disseminated further except as otherwise required by law.

J. If restitution pursuant to § 19.2-305 or this section is ordered to be paid by the defendant to the victim of a crime or other entity, and the Criminal Injuries Compensation Fund has made any payments to or on behalf of the victim for any loss, damage, or expenses included in the restitution order, then upon presentation by the Fund of a written request that sets forth the amount of payments made by the Fund to the victim or on the victim's behalf, the entity collecting restitution shall pay to the Fund as much of the restitution collected as will reimburse the Fund for its payments made to the victim or on the victim's behalf.

K. Whenever a defendant is ordered to pay restitution, any sums collected shall be used first to

satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any fine, forfeiture, penalty, or cost assessed against the defendant, *unless an order for restitution is docketed in the name of the victim or it is ordered that an assignment of the judgment to the victim be docketed.*

§ 19.2-305.2. Amount of restitution; enforcement.

A. The court, when ordering restitution pursuant to § 19.2-305.1, may require that such defendant, in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense, (i) return the property to the owner or (ii) if return of the property is impractical or impossible, pay an amount equal to the greater of the value of the property at the time of the offense or the value of the property at the time of sentencing.

B. An order of restitution ~~may~~ shall be docketed, *in the name of the Commonwealth, or a locality if applicable, on behalf of the victim*, as provided in § 8.01-446 when so ordered by the court ~~or upon written request of the victim and may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action~~, *unless the victim named in the order of restitution requests in writing that the order be docketed in the name of the victim. An order of restitution docketed in the name of the victim shall be enforced by the victim as a civil judgment. The clerk shall record and disburse restitution payments as provided in subsection D of § 19.2-305.1 and subsection A of § 19.2-354 in accordance with orders of restitution or judgments for restitution docketed in the name of the Commonwealth or a locality. At any time before a judgment for restitution docketed in the name of the Commonwealth or a locality is satisfied, the court shall, at the written request of the victim, order the circuit court clerk to execute and docket an assignment of the judgment to the victim. The circuit court clerk shall remove from its automated financial system the amount of unpaid restitution upon docketing the assignment. If a judge of a district court orders the circuit court clerk to execute and docket an assignment of the judgment to the victim, the district court clerk shall remove from its automated financial system the amount of unpaid restitution upon sending the order to the circuit court clerk. If the victim requests that the order of restitution be docketed in the name of the victim or that a judgment for restitution previously docketed in the name of the Commonwealth or a locality be assigned to the victim, the victim shall provide to the court an address where the defendant can mail payment for the amount due and such address shall not be confidential. When a judgment for restitution previously docketed in the name of the Commonwealth or a locality is ordered to be assigned to the victim, the court shall provide notice of such order to the defendant at the defendant's last known address and shall include the mailing address provided by the victim. Enforcement by a victim of any order of restitution docketed as provided in § 8.01-446 is not subject to any statute of limitations. Such docketing shall not be construed to prohibit the court from exercising any authority otherwise available to enforce the order of restitution.*

§ 19.2-349. Responsibility for collections; clerks to report unsatisfied fines, etc.; duty of attorneys for Commonwealth; duties of Department of Taxation.

A. The clerk of the circuit court and district court of every county and city shall submit to the judge of his court, the Department of Taxation, the State Compensation Board and the attorney for the Commonwealth of his county or city a monthly report of all fines, costs, forfeitures and penalties which are delinquent more than 90 days, including court-ordered restitution of a sum certain, imposed in his court for a violation of state law or a local ordinance which remain unsatisfied, including those which are delinquent in installment payments. The monthly report shall include the social security number or driver's license number of the defendant, if known, and such other information as the Department of Taxation and the Compensation Board deem appropriate. The Executive Secretary shall make the report required by this subsection on behalf of those clerks who participate in the Supreme Court's automated information system.

B. The clerk of the circuit court and district court of every county and city shall submit quarterly to the attorney for the Commonwealth of his county or city and any probation agency that serves such county or city:

1. A list of all defendants with an outstanding balance of restitution ordered by the court served by such clerk. Such report shall include the defendant's name, case number, total amount of restitution ordered, amount of restitution remaining due, and last date of payment; and

2. A list of all accounts where more than 90 days have passed since an account was sent to collections and no payments have been made toward fines, costs, forfeitures, penalties, or restitution. For accounts where restitution is owed, such report shall include the defendant's name, case number, and total amount of restitution and restitution interest due.

C. It shall be the duty of the attorney for the Commonwealth to cause proper proceedings to be instituted for the collection and satisfaction of all fines, costs, forfeitures, penalties and restitution. The attorney for the Commonwealth shall determine whether it would be impractical or uneconomical for such service to be rendered by the office of the attorney for the Commonwealth. If the defendant does not enter into an installment payment agreement under § 19.2-354, the attorney for the Commonwealth and the clerk may agree to a process by which collection activity may be commenced 90 days after judgment.

If the attorney for the Commonwealth does not undertake collection, he shall contract with (i) private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, (iii) enter into an agreement with the county or city treasurer, or (iv) use the services of the Department of Taxation, upon such terms and conditions as may be established by guidelines promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court with the Department of Taxation and the Compensation Board. If the attorney for the Commonwealth undertakes collection, he shall follow the procedures established by the Department of Taxation and the Compensation Board. Such guidelines shall not supersede contracts between attorneys for the Commonwealth and private attorneys and collection agencies when active collection efforts are being undertaken. As part of such contract, private attorneys or collection agencies shall be given access to the social security number of the defendant in order to assist in the collection effort. Any such private attorney shall be subject to the penalties and provisions of § 18.2-186.3.

The fees of any private attorneys or collection agencies shall be paid on a contingency fee basis out of the proceeds of the amounts collected. However, in no event shall such attorney or collection agency receive a fee for amounts collected by the Department of Taxation under the Setoff Debt Collection Act (§ 58.1-520 et seq.). A local treasurer undertaking collection pursuant to an agreement with the attorney for the Commonwealth may collect the administrative fee authorized by § 58.1-3958.

D. The Department of Taxation and the State Compensation Board shall be responsible for the collection of any judgment which remains unsatisfied or does not meet the conditions of § 19.2-354. Persons owing such unsatisfied judgments or failing to comply with installment payment agreements under § 19.2-354 shall be subject to the delinquent tax collection provisions of Title 58.1. The Department of Taxation and the State Compensation Board shall establish procedures to be followed by clerks of courts, attorneys for the Commonwealth, other state agencies and any private attorneys or collection agents and may employ private attorneys or collection agencies, or engage other state agencies to collect the judgment. The Department of Taxation and the Commonwealth shall be entitled to deduct a fee for services from amounts collected for violations of local ordinances.

The Department of Taxation and the State Compensation Board shall annually report to the Governor and the General Assembly the total of fines, costs, forfeitures and penalties assessed, collected, and unpaid and those which remain unsatisfied or do not meet the conditions of § 19.2-354 by each circuit and district court. The report shall include the procedures established by the Department of Taxation and the State Compensation Board pursuant to this section and a plan for increasing the collection of unpaid fines, costs, forfeitures and penalties. The Auditor of Public Accounts shall annually report to the Governor, the Executive Secretary of the Supreme Court and the General Assembly as to the adherence of clerks of courts, attorneys for the Commonwealth and other state agencies to the procedures established by the Department of Taxation and the State Compensation Board.

The Office of the Executive Secretary of the Supreme Court shall annually report to the Governor, the General Assembly, the Chairmen of the House and Senate Committees for Courts of Justice, and the Virginia State Crime Commission on the total of restitution assessed, collected, and unpaid for each circuit and district court and the total of restitution collected and deposited into the Criminal Injuries Compensation Fund pursuant to subsection I of § 19.2-305.1 by each circuit and district court.

E. The provisions of this section shall not apply to any orders of restitution docketed in the name of the victim or when it is ordered that an assignment of the judgment for restitution to the victim be docketed.

§ 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment.

A. Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a juvenile, is sentenced to pay a fine, restitution, forfeiture, or penalty and (ii) the defendant is unable to make payment of the fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing, the court shall order the defendant to pay such fine, restitution, forfeiture, or penalty and any costs which the defendant may be required to pay in deferred payments or installments. The court assessing the fine, restitution, forfeiture, or penalty and costs may authorize the clerk to establish and approve individual deferred or installment payment agreements. If the defendant owes court-ordered restitution and enters into a deferred or installment payment agreement, any money collected pursuant to such agreement shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any other fine, forfeiture, penalty, or cost owed, *unless an order for restitution is docketed in the name of the victim or it is ordered that an assignment of the judgment to the victim be docketed.* Any payment agreement authorized under this section shall be consistent with the provisions of § 19.2-354.1, including any required minimum payments or other required conditions. The requirements set forth in § 19.2-354.1 shall be posted in the clerk's office and on the court's website, if a website is available. As a condition of every such agreement, a defendant who enters into an installment or deferred payment agreement shall promptly inform the court of any change of mailing address during the term of the agreement. If the defendant is unable to make payment within 90 days of sentencing, the

court may assess a one-time fee not to exceed \$10 to cover the costs of management of the defendant's account until such account is paid in full. This one-time fee shall not apply to cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9. Installment or deferred payment agreements shall include terms for payment if the defendant participates in a program as provided in subsection B or C. The court, if such sum or sums are not paid in full by the date ordered, shall proceed in accordance with § 19.2-358.

B. When a person sentenced to the Department of Corrections or a local correctional facility owes any fines, costs, forfeitures, restitution, or penalties, he shall be required as a condition of participating in any work release, home/electronic incarceration, or nonconsecutive days program as set forth in § 53.1-60, 53.1-131, 53.1-131.1, or 53.1-131.2 to either make full payment or make payments in accordance with his installment or deferred payment agreement while participating in such program. If, after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his participation in the program may be terminated until all fines, costs, forfeitures, restitution, and penalties are satisfied. The Director of the Department of Corrections and any sheriff or other administrative head of any local correctional facility shall withhold such ordered payments from any amounts due to such person. Distribution of the money collected shall be made in the following order of priority to:

1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;
2. Pay any restitution as ordered by the court;
3. Pay any fines or costs as ordered by the court;
4. Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and
5. Defray the offender's keep.

The balance shall be credited to the offender's account or sent to his family in an amount the offender so chooses.

The State Board of Local and Regional Jails shall promulgate regulations governing the receipt of wages paid to persons sentenced to local correctional facilities participating in such programs, the withholding of payments, and the disbursement of appropriate funds. The Director of the Department of Corrections shall prescribe rules governing the receipt of wages paid to persons sentenced to state correctional facilities participating in such programs, the withholding of payments, and the disbursement of appropriate funds.

C. The court shall establish a program and may provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work (i) before or after imprisonment or (ii) in accordance with the provisions of § 19.2-316.4, 53.1-59, 53.1-60, 53.1-128, 53.1-129, or 53.1-131 during imprisonment. The program shall specify the rate at which credits are earned and provide for the manner of applying earned credits against the fine or costs. The court assessing the fine or costs against a person shall inform such person of the availability of earning credit toward discharge of the fine or costs through the performance of community service work under this program and provide such person with written notice of terms and conditions of this program. The court shall have such other authority as is reasonably necessary for or incidental to carrying out this program.

D. When the court has authorized deferred payment or installment payments, the clerk shall give notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant to § 19.2-358.

E. The failure of the defendant to enter into a deferred payment or installment payment agreement with the court or the failure of the defendant to make payments as ordered by the agreement shall allow the Tax Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures, and penalties.

Circuit Court Form	CC-1465(A)	ORDER TO THE COMMISSIONER OF THE DEPARTMENT OF MOTOR VEHICLES
	CC-1465(B)	PETITION FOR RESTORATION OF DRIVING PRIVILEGE – HABITUAL OFFENDER
	CC-1465(C)	ORDER FOR EVALUATION
	CC-1465(D)	ORDER RESTORING DRIVING PRIVILEGE – HABITUAL OFFENDER
	CC-1465(E)	NOTICE OF HEARING – HABITUAL OFFENDER
	CC-1465(F)	PETITION FOR HEARING OF DMV DETERMINATION – HABITUAL OFFENDER
	CC-1465(J)	ORDER – HABITUAL OFFENDER

Abstract Senate Bill 1122 repeals remaining provisions in the Code relating to the Habitual Offender Act and orders the DMV Commissioner to restore licenses that were previously suspended for individuals declared habitual offenders. This change renders most of the CC-1465 series of forms obsolete. The CC-1465(C) Order for Evaluation is also used for third offense DUI restorations. Therefore, it is proposed that this form be retained with the references to the habitual offender Code provision removed.

Source Senate Bill 1122 (Chapter 463, effective July 1, 2021)

Revision Legislative

Form Type Internet master (CC-1465(B))
 Intranet masters (CC-1465(A), CC-1465(B), CC-1465(C), CC-1465(D), CC-1465(E), CC-1465(F), and CC-1465(J))

ORDER FOR EVALUATION

VA. CODE ANN. §§ ~~46.2-360~~, 46.2-391

Case No.

PETITIONER:

....., Circuit Court

CITY OR COUNTY

.....

LAST NAME, FIRST NAME, MIDDLE NAME

.....

STREET ADDRESS OF COURT

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN			HT.		WGT.	EYES	HAIR
		MO.	DAY	YR.	FT.	IN.			
SSN:									
VA. D.L. # (IF DIFFERENT FROM SSN)									

TO THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM OF

.....

NAME OF PROGRAM AND LOCATION

Pursuant to Virginia Code ~~[] § 46.2-360 []~~ § 46.2-391(C), you are hereby ORDERED to prepare and to file with a copy of this Order an evaluation of the Petitioner named in the attached petition for restoration of driving privileges, prior to and to submit your recommendations to this Court on
DATE
HEARING DATE AND TIME

A representative of the above-named program [] is [] is not ordered to appear at the hearing and present the program's recommendations regarding the Petitioner.

You are further ORDERED to send a copy of your written evaluation to the Petitioner, at the address indicated on the attached petition.

.....
DATE

.....
JUDGE

**PETITION FOR RESTORATION OF DRIVING
PRIVILEGE – HABITUAL OFFENDER**

COMMONWEALTH OF VIRGINIA VA. CODE ANN. §§ 46.2-358; 46.2-359; 46.2-360; 46.2-361

Case No

HEARING DATE AND TIME

Circuit Court

.....
CITY OR COUNTY

.....
PETITIONER'S NAME

.....
ADDRESS

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN			HT.		WGT.	EYES	HAIR
		MO.	DAY	YR.	FT.	IN.			

SSN

VA. D.L. # (IF DIFFERENT FROM SSN)

TO THE JUDGE OF THE ABOVE-NAMED COURT:

I respectfully represent that on, I was adjudged/determined to be an habitual offender by
DATE

the Court, the Department of Motor Vehicles,
based on the following convictions which brought me within the definition of "habitual offender":

OFFENSE	OFFENSE DATE	CONVICTION DATE	CONVICTING COURT
.....
.....
.....

I have attached a certified "Habitual Offender Restoration Transcript" of my driving record from the Department of Motor Vehicles.

CHECK ONE BOX AS THE BASIS OF YOUR PETITION:

A. Restoration under Va. Code § 46.2-360(1). (Eligibility only after five (5) years from the date of your adjudication or determination — unless you are entitled to credit under subsection (iii) below.) I have been adjudged/determined to be an habitual offender based in part on and dependent upon convictions of Va. Code § 18.2-266, § 18.2-51.4 or Subsection A of § 46.2-341.24 or valid local ordinance or law of another state or jurisdiction relating to operating a motor vehicle under the influence of intoxicants or drugs.

I represent that:

- (i) At the time of my convictions, I was addicted to or psychologically dependent on the use of alcohol or other drugs; and
- (ii) At this time I am no longer addicted to or psychologically dependent on the use of alcohol or other drugs; and
- (iii) At least five years have passed from the date on which I was adjudged/determined to be an habitual offender.
[For the purposes of determining eligibility under this section, I rely on a period of credit for an administrative suspension by the Department of Motor Vehicles pursuant to Va. Code § 46.2-391(B) (for third offense drunk driving) prior to my adjudication/determination.

Yes No if yes, period of suspension under § 46.2-391(B):

..... to]; and

- (iv) I do not constitute a threat to the safety and welfare of myself or others with respect to the operation of a motor vehicle.

I request that the Court restore my privilege to operate a motor vehicle in the Commonwealth upon my evaluation by the Virginia Alcohol Safety Action Program.

B. Restricted License under Va. Code § 46.2-360(2). (Eligibility only after three (3) years from the date of your adjudication or determination — unless you are entitled to credit under (iii) below.) I have been adjudged/determined to be an habitual offender based in part on and dependent upon convictions of Va. Code § 18.2-266, § 18.2-51.4 or Subsection A of § 46.2-341.24 or valid local ordinance or law of another state or jurisdiction relating to operating a motor vehicle under the influence of intoxicants or drugs.

I represent that:

- (i) At the time of my convictions, I was addicted to or psychologically dependent on the use of alcohol or other drugs; and
- (ii) At this time I am no longer addicted to or psychologically dependent on the use of alcohol or other drugs; and
- (iii) At least *three* years have passed from the date on which I was adjudged/determined to be an habitual offender [For the purposes of determining eligibility under this section, I rely on a period of credit for administrative suspension by the Department of Motor Vehicles pursuant to Va. Code § 46.2-391(B) (for third offense drunk driving) prior to my adjudication/determination:

Yes No if yes, period of suspension:

..... to]; and

- (iv) I do not constitute a threat to the safety and welfare of myself or others with respect to the operation of a motor vehicle.

I request that the Court order the issuance of a restricted license to allow me to drive to and from work and during the course of my employment, upon evaluation by the Virginia Alcohol Safety Action Program.

.....
NAME AND ADDRESS OF EMPLOYER

.....
DAYS AND HOURS WORKED

C. Restoration under Va. Code § 46.2-361(A). (Eligibility only after three (3) years from the adjudication/determination and after all fines, court costs, forfeitures, restitution, penalties and/or judgments have been paid in full.) I have been adjudged/determined to be an habitual offender and such adjudication/determination was not based on any drunk driving conviction(s), but was based *in part* and dependent upon a conviction(s) of driving while my license or privilege to drive was suspended or revoked where the suspension or revocation was only for:

- failure to pay fines, costs, forfeitures, restitution and/or penalties; or
- failure to furnish proof of financial responsibility; or
- failure to satisfy a judgment.

I attach proof of financial responsibility.

I represent that:

- (i) At least *three* years have passed since the date of my adjudication/determination as an habitual offender.
- (ii) I do not constitute a threat to the safety and welfare of myself or others with respect to the operation of a motor vehicle.

I request that the Court restore my privilege to operate a motor vehicle in the Commonwealth.

D. Restoration under Va. Code § 46.2-361(B). (Immediate eligibility after all fines, court costs, forfeitures, restitutions, penalties and/or judgments have been paid.) I have been adjudged/determined to be an habitual offender based *entirely* upon convictions of driving while my license or privilege to drive was suspended or revoked where the suspension or revocation was only for:

- failure to pay fines, costs, forfeitures, restitution and/or penalties; or
- failure to furnish proof of financial responsibility; or
- failure to satisfy a judgment.

I attach proof of financial responsibility.

I represent that I do not constitute a threat to the safety and welfare of myself or others with respect to the operation of a motor vehicle. I request that the Court restore my privilege to operate a motor vehicle in the Commonwealth.

E. Restoration under Va. Code § 46.2-359. (Eligibility upon reaching eighteen years of age.) I have been adjudged/determined to be an habitual offender based in whole or in part on findings of not innocent while I was a juvenile. I am now eighteen years of age or older. I request that the Court restore my privilege to operate a motor vehicle in the Commonwealth.

F. Restoration under Va. Code § 46.2-358. (Eligibility after five (5) years from the adjudication/determination where adjudication/determination was based on no drunk driving conditions.) I have been adjudged/determined to be an habitual offender and none of the convictions which brought me within the definition of "habitual offender" were for drunk driving and at least *five* years have now passed since the date of such adjudication/determination. I represent that I do not constitute a threat to the safety and welfare of myself or others with regard to the driving of a motor vehicle. I request that the Court restore my privilege to operate a motor vehicle in the Commonwealth.

I request that the Court hold a hearing on my petition not less than thirty (30) days from the date that the petition is served on the Commonwealth's Attorney and the Commissioner of the Department of Motor Vehicles.

I understand that the Commonwealth's Attorney or the Commissioner of the Department of Motor Vehicles may object to my petition and the Court may deny my request to restore my privilege to operate a motor vehicle in the Commonwealth, may deny the issuance of a restricted driver's license or may place conditions on my privilege to operate a motor vehicle.

.....
DATE

.....
PETITIONER'S SIGNATURE

RETURN — COMMONWEALTH'S ATTORNEY:	
SERVED ON	NAME
.....
DATE	SERVING OFFICER
FOR .....	.....

RETURN — COMMISSIONER OF DMV:	
SERVED ON	NAME
.....
DATE	SERVING OFFICER
FOR .....	.....

**ORDER RESTORING DRIVING PRIVILEGE –
HABITUAL OFFENDER**

Case No.

COMMONWEALTH OF VIRGINIA VA. CODE §§ 46.2-358; 46.2-359; 46.2-360, 46.2-361

..... Circuit Court
CITY OR COUNTY

.....
PETITIONER'S NAME

.....
ADDRESS

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN			HT.		WGT.	EYES	HAIR
		MO.	DAY	YR.	FT.	IN.			

SSN: _____

ON THE PETITION FOR RESTORATION OF DRIVING PRIVILEGE, AND ON THE EVIDENCE HEARD, INCLUDING THE EVALUATION OF THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM, IF APPLICABLE, THE COURT FINDS THAT:

The Petitioner was adjudged/determined to be an habitual offender by

the Court

Department of Motor Vehicles on
DATE

AND THAT:

A. (Va. Code § 46.2-360(1)) The Petitioner has been adjudged/determined to be an habitual offender based in part on and dependent upon convictions of Va. Code § 18.2-266, § 18.2-51.4 or Subsection A of § 46.2-341.24 or valid local ordinance or law of another state of jurisdiction relating to operating a motor vehicle under the influence of intoxicants or drugs, and:

- (i) At the time of the previous convictions, Petitioner was addicted to or psychologically dependent on the use of alcohol or other drugs; and
- (ii) At this time he is no longer addicted to or psychologically dependent on the use of alcohol or other drugs; and
- (iii) *Five* years have passed from the date on which Petitioner was adjudged/determined to be an habitual offender

[A period of credit is included for administrative suspension by the Department of Motor Vehicles pursuant to Virginia Code § 46.2-391(B) (for third offense drunk driving) prior to adjudication/determination.

Yes No if yes, period of suspension under § 46.2-391(B):

..... to]; and

- (iv) Petitioner does not constitute a threat to the safety and welfare of himself or others with respect to the operation of a motor vehicle; and
- (v) The Court has reviewed the evaluation of the Petitioner prepared by the Virginia Alcohol Safety Action Program and considered its recommendations.

[] **B.** (Va. Code § 46.2-360(2)) The Petitioner has been adjudged/determined to be an habitual offender based in part on and dependent upon convictions of Va. Code § 18.2-266, § 18.2-51.4 or Subsection A of § 46.2-341.24 or valid local ordinance or law of another state or jurisdiction relating to operating a motor vehicle under the influence of intoxicants or drugs, and:

- (i) At the time of the previous convictions, Petitioner was addicted to or psychologically dependent on the use of alcohol or other drugs; and
- (ii) At this time he is no longer addicted to or psychologically dependent on the use of alcohol or other drugs; and
- (iii) *Three* years have passed from the date on which Petitioner was adjudicated/determined to be an habitual offender
 [A period of credit is included for administrative suspension by the Department of Motor Vehicles pursuant to Virginia Code § 46.2-391(B) (for third offense drunk driving) prior to adjudication/determination
 Yes No if yes, period of suspension: to]; and
- (iv) Petitioner does not constitute a threat to the safety and welfare of himself or others with respect to the operation of a motor vehicle.
- (v) The Court has reviewed the evaluation of the Petitioner prepared by the Virginia Alcohol Safety Action Program and considered its recommendations.

[] **C.** (Va. Code § 46.2-361(A)) The Petitioner has been adjudged/determined to be an habitual offender and such adjudication/determination was not based on any drunk driving conviction(s), but was *based in part* and dependent upon convictions of driving while his license or privilege to drive was suspended or revoked where the suspension or revocation was only for:

- failure to pay fines and costs; or
- failure to furnish proof of financial responsibility; or
- failure to satisfy a judgment; and
 - (i) Petitioner has demonstrated proof of financial responsibility; and
 - (ii) *Three* years have passed since the date of Petitioner’s adjudication/determination to be an habitual offender; and
 - (iii) Petitioner does not constitute a threat to the safety and welfare of himself or others with respect to the operation of a motor vehicle.

[] **D.** (Virginia Code § 46.2-361(B)) The Petitioner has been adjudged/determined to be an habitual offender *based entirely* upon convictions of driving while his license or privilege to drive was suspended or revoked where the suspension or revocation was only for:

- failure to pay fines and costs; or
- failure to furnish proof of financial responsibility; or
- failure to satisfy a judgment; and
 - (i) Petitioner has demonstrated proof of financial responsibility; and
 - (ii) Petitioner does not constitute a threat to the safety and welfare of himself or others with respect to the operation of a motor vehicle.

- E.** (Virginia Code § 46.2-359) The Petitioner has been adjudged/determined to be an habitual offender in whole or in part based on findings of not innocent while Petitioner was a juvenile, and Petitioner is now eighteen years of age or older.
- F.** (Virginia Code § 46.2-358) The Petitioner has been adjudged/determined to be an habitual offender and such adjudication/determination was based on no drunk driving convictions, and five years have passed since the date of such adjudication/determination, and Petitioner does not constitute a threat to the safety and welfare of himself or others with regard to the operation of a motor vehicle.
- G.** The Petitioner has not demonstrated sufficient evidence to support the granting of his petition to have his privilege to drive in the Commonwealth restored.

IT IS THEREFORE ORDERED THAT:

- Petitioner’s privilege to drive a motor vehicle in the Commonwealth is restored under the Habitual Offender Act subject to any other requirements for restoration under other provisions of law.
- Petitioner’s privilege to drive a motor vehicle in the Commonwealth is restored subject to the following special conditions:
- Petitioner is granted a restricted license to drive a motor vehicle in the Commonwealth, until, for the purposes enumerated in the restricted driver’s license, during which time he shall be subject to the supervision of the Virginia Alcohol Safety Action Program.
 - Ignition interlock
 - travel to/from the facility that installed or monitors the ignition interlock on Petitioner's vehicle(s).
 - Travel to/from work Travel to/from VASAP Travel during work
 - Travel to/from school Travel to/from school for child
 - Travel to/from day care for child
 - Travel to/from medical service facility for you minor child elderly parent
 - person residing in Petitioner’s household:
 - Travel to/from court ordered visitation with child or children
 - Travel to/from appointments with probation officer
 - Travel to/from programs required by court or as a condition of probation
 - Travel to/from a place of religious worship

.....
NAME AND LOCATION OF PLACE OF RELIGIOUS WORSHIP

.....
DAY OF WEEK AND TIME FOR TRAVEL

 - Travel to/from appointments approved by the Division of Child Support Enforcement of the Department of Social Services as a requirement of participation in an administrative or court-ordered intensive case monitoring program for child support.
 - Travel to/from jail to serve a sentence on weekends or nonconsecutive days.
 - Travel to/from a job interview for which you have with you written proof from your prospective employer of the date, time, and location of the job interview.
 - Travel to/from the offices of the Virginia Employment Commission for the purpose of seeking employment.
- The petition to restore driving privileges in the Commonwealth of Virginia is denied.
- And this cause is ended.

NOTICE OF HEARING – HABITUAL OFFENDER

VA. CODE §§ 46.2-352(B), 46.2-362

Case No.

..... Circuit Court

.....
ADDRESS
.....
CITY STATE ZIP

COMPLETE DATA BELOW IF KNOWN									
RACE	SEX	BORN			HT.		WGT.	EYES	HAIR
		MO.	DAY	YR.	FT.	IN.			
SSN									
VA. D.L. # (IF DIFFERENT FROM SSN)									

In Re

Address:

SSN: Date of Birth

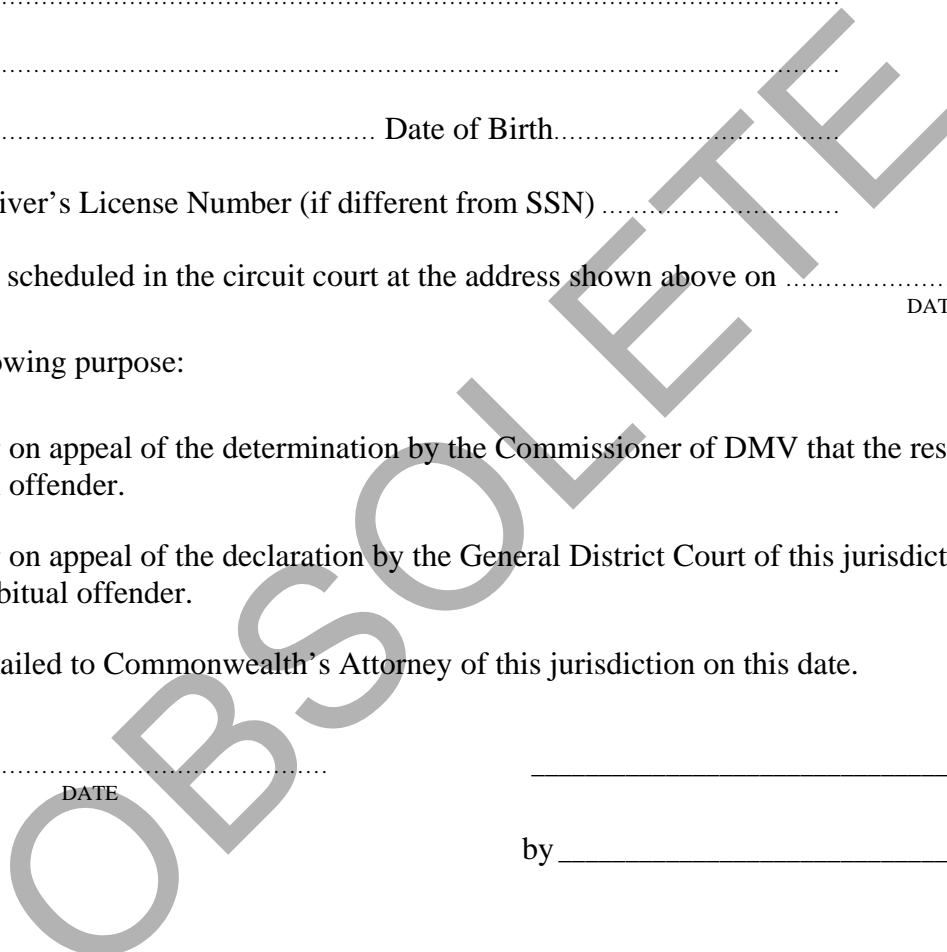
Virginia Driver’s License Number (if different from SSN)

This case is scheduled in the circuit court at the address shown above on
DATE AND TIME

for the following purpose:

- Hearing on appeal of the determination by the Commissioner of DMV that the respondent is an habitual offender.
- Hearing on appeal of the declaration by the General District Court of this jurisdiction that respondent is an habitual offender.
- Copy mailed to Commonwealth’s Attorney of this jurisdiction on this date.

..... DATE _____, Clerk
by _____, Deputy Clerk



**PETITION FOR HEARING OF
DMV DETERMINATION- HABITUAL OFFENDER**
VA. CODE § 46.2-352(B)

Case No.

....., Circuit Court

In Re:....., Petitioner

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN			HT.		WGT.	EYES	HAIR
		MO.	DAY	YR.	FT.	IN.			
SSN									
VA. D.L. # (IF DIFFERENT FROM SSN)									

To the Honorable Judge of Said Court:

Petitioner respectfully represents as follows:

1. Petitioner’s identifying information:

Address:

Social Security Number Date of Birth

Virginia Driver’s License Number (if different from SSN)

2. Petitioner has received notice from the Commissioner of the Department of Motor Vehicles that Petitioner has been determined to be an habitual offender as defined in Virginia Code Ann. § 46.2-351, and that petitioner’s driver’s license has been revoked.
3. Petitioner desires to appeal the decision of the Commissioner to this court pursuant to Virginia Code Ann. § 46.2-352(B). Petitioner requests that the Court hold a hearing on this Petition to determine whether Petitioner is or is not an habitual offender.

.....
DATE

.....
PETITIONER’S SIGNATURE

Copy mailed to the Commissioner of DMV on:

.....
 CLERK DEPUTY CLERK

ORDER --- HABITUAL OFFENDER
COMMONWEALTH OF VIRGINIA

Case No.

..... Circuit Court
COMMONWEALTH OF VIRGINIA

V.

....., RESPONDENT

.....
RESPONDENT'S ADDRESS

COMPLETE DATA BELOW IF KNOWN									
RACE	SEX	BORN			HT.		WGT.	EYES	HAIR
		MO.	DAY	YR.	FT.	IN.			
SSN									
VA. D.L. # (IF DIFFERENT FROM SSN)									

Counsel for Respondent:.....

Respondent's Guardian *ad Litem*:.....

The Respondent was this day: Absent Present in Court.

UPON THE EVIDENCE PRESENTED BEFORE THIS COURT, THE COURT FINDS:

That the Respondent is is not the same person named in the transcript or abstract.

- That the Respondent was convicted of each offense shown by the transcript or abstract.
- That the Respondent is an habitual offender. That the Respondent is not an habitual offender.
- That the Respondent has qualifying offenses based solely upon convictions for failure to pay fines and costs, and has paid in full all outstanding fines, costs and judgments, relating to such convictions, and that unless otherwise prohibited, the Respondent's privilege to drive is ordered restored.
- That the Respondent has qualifying offenses based solely upon convictions for failure to furnish proof of financial responsibility, and the respondent has furnished proof of financial responsibility, and the Respondent's privilege to drive is not revoked.
- That the Court cannot, on the evidence available to it, make a determination. The Court therefore certifies the decision of the issue to.....
the Court in which the conviction or holding of not innocent was made. The Court to which certification is made shall forthwith conduct a hearing to determine the issue and send a certified copy of its final order determining the issue to this Court and to the Department of Motor Vehicles. This case is continued to.....

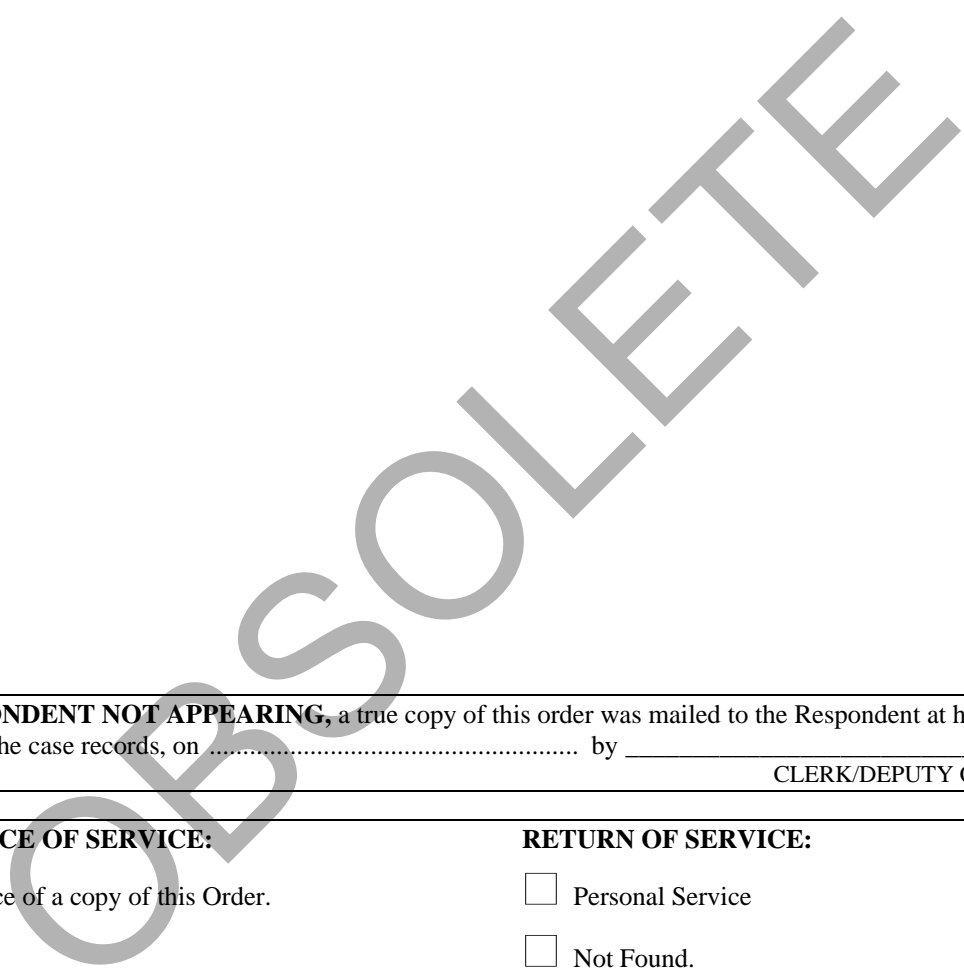
It is accordingly **ORDERED**:

- That the Respondent's driver's license be forthwith revoked and the Respondent is directed not to operate a motor vehicle on the highways of this Commonwealth until such license is restored pursuant to law. The Respondent is further ordered to surrender to the clerk of this Court all licenses or permits to drive a motor vehicle on the highways of this Commonwealth for disposal in the manner provided in § 46.2-398. Respondent is advised that violation of this order by the operation of a motor vehicle may subject Respondent, upon conviction, to a fine and/or incarceration.

- That a copy of this determination be served on the Respondent personally.
- That the matter be dismissed.

Enter this day of,

JUDGE



THE RESPONDENT NOT APPEARING, a true copy of this order was mailed to the Respondent at his last known address appearing in the case records, on by _____
CLERK/DEPUTY CLERK

<p>ACCEPTANCE OF SERVICE:</p> <p>I accept service of a copy of this Order.</p> <p>_____</p> <p style="text-align: center;">SIGNATURE OF RESPONDENT</p> <p>DATE:</p>	<p>RETURN OF SERVICE:</p> <p><input type="checkbox"/> Personal Service</p> <p><input type="checkbox"/> Not Found.</p> <p>_____</p> <p style="text-align: center;">SERVING OFFICER</p> <p>FOR DATE:</p>
--	---

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 8.01-9, 8.01-407, 16.1-77, 16.1-305, 17.1-213, 19.2-389, as it is*
 3 *currently effective and as it shall become effective, 46.2-301, 46.2-301.1, 46.2-411, and 53.1-21 of*
 4 *the Code of Virginia and to repeal Article 9 (§§ 46.2-355.1 through 46.2-363) of Chapter 3 of Title*
 5 *46.2 of the Code of Virginia, relating to habitual offenders; repeal.*

6 [S 1122]

7 Approved

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

9 **1. That §§ 8.01-9, 8.01-407, 16.1-77, 16.1-305, 17.1-213, 19.2-389, as it is currently effective and as**
 10 **it shall become effective, 46.2-301, 46.2-301.1, 46.2-411, and 53.1-21 of the Code of Virginia are**
 11 **amended and reenacted as follows:**

12 **§ 8.01-9. Guardian ad litem for persons under disability; when guardian ad litem need not be**
 13 **appointed for person under disability.**

14 A. A suit wherein a person under a disability is a party defendant shall not be stayed because of
 15 such disability, but the court in which the suit is pending, or the clerk thereof, shall appoint a discreet
 16 and competent attorney-at-law as guardian ad litem to such defendant, whether the defendant has been
 17 served with process or not. If no such attorney is found willing to act, the court shall appoint some
 18 other discreet and proper person as guardian ad litem. Any guardian ad litem so appointed shall not be
 19 liable for costs. Every guardian ad litem shall faithfully represent the estate or other interest of the
 20 person under a disability for whom he is appointed, and it shall be the duty of the court to see that the
 21 interest of the defendant is so represented and protected. Whenever the court is of the opinion that the
 22 interest of the defendant so requires, it shall remove any guardian ad litem and appoint another in his
 23 stead. When, in any case, the court is satisfied that the guardian ad litem has rendered substantial
 24 service in representing the interest of the person under a disability, it may allow the guardian reasonable
 25 compensation therefor, and his actual expenses, if any, to be paid out of the estate of the defendant.
 26 However, if the defendant's estate is inadequate for the purpose of paying compensation and expenses,
 27 all, or any part thereof, may be taxed as costs in the proceeding ~~or, in the case of proceedings to~~
 28 ~~adjudicate a person under a disability as an habitual offender pursuant to former § 46.2-351.2 or former~~
 29 ~~§ 46.2-352, shall be paid by the Commonwealth out of the state treasury from the appropriation for~~
 30 ~~criminal charges.~~ In a civil action against an incarcerated felon for damages arising out of a criminal act,
 31 the compensation and expenses of the guardian ad litem shall be paid by the Commonwealth out of the
 32 state treasury from the appropriation for criminal charges. If judgment is against the incarcerated felon,
 33 the amount allowed by the court to the guardian ad litem shall be taxed against the incarcerated felon as
 34 part of the costs of the proceeding, and if collected, the same shall be paid to the Commonwealth. By
 35 order of the court, in a civil action for divorce from an incarcerated felon, the compensation and
 36 expenses of the guardian ad litem shall be paid by the Commonwealth out of the state treasury from the
 37 appropriation for criminal charges if the crime (i) for which the felon is incarcerated occurred after the
 38 date of the marriage for which the divorce is sought, (ii) for which the felon is incarcerated was
 39 committed against the felon's spouse, child, or stepchild and involved physical injury, sexual assault, or
 40 sexual abuse, and (iii) resulted in incarceration subsequent to conviction and the felon was sentenced to
 41 confinement for more than one year. The amount allowed by the court to the guardian ad litem shall be
 42 taxed against the incarcerated felon as part of the costs of the proceeding, and if collected, the same
 43 shall be paid to the Commonwealth.

44 B. Notwithstanding the provisions of subsection A or the provisions of any other law to the contrary,
 45 in any suit wherein a person under a disability is a party and is represented by an attorney-at-law duly
 46 licensed to practice in this Commonwealth, who shall have entered of record an appearance for such
 47 person, no guardian ad litem need be appointed for such person unless the court determines that the
 48 interests of justice require such appointment; or unless a statute applicable to such suit expressly requires
 49 that the person under a disability be represented by a guardian ad litem. The court may, in its discretion,
 50 appoint the attorney of record for the person under a disability as his guardian ad litem, in which event
 51 the attorney shall perform all the duties and functions of guardian ad litem.

52 Any judgment or decree rendered by any court against a person under a disability without a guardian
 53 ad litem, but in compliance with the provisions of this subsection B, shall be as valid as if the guardian
 54 ad litem had been appointed.

55 **§ 8.01-407. How summons for witness issued, and to whom directed; prior permission of court**
 56 **to summon certain officials and judges.**

ENROLLED

SB1122ER

57 A. A summons may be issued, directed as prescribed in § 8.01-292, commanding the officer to
 58 summon any person to attend on the day and at the place that such attendance is desired, to give
 59 evidence before a court, grand jury, arbitrators, magistrate, notary, or any commissioner or other person
 60 appointed by a court or acting under its process or authority in a judicial or quasi-judicial capacity. The
 61 summons may be issued by the clerk of the court if the attendance is desired at a court or in a
 62 proceeding pending in a court. The clerk shall not impose any time restrictions limiting the right to
 63 properly request a summons up to and including the date of the proceeding:

64 If attendance is desired before a commissioner in chancery or other commissioner of a court, the
 65 summons may be issued by the clerk of the court in which the matter is pending, or by such
 66 commissioner in chancery or other commissioner;

67 If attendance is desired before a notary or other officer taking a deposition, the summons may be
 68 issued by such notary or other officer at the instance of the attorney desiring the attendance of the
 69 person sought;

70 If attendance is sought before a grand jury, the summons may be issued by the attorney for the
 71 Commonwealth, or the clerk of the court, at the instance of the attorney for the Commonwealth.

72 Except as otherwise provided in this subsection, if attendance is desired in a civil proceeding pending
 73 in a court or at a deposition in connection with such proceeding, including medical malpractice review
 74 panels, and a claim before the Workers' Compensation Commission, a summons may be issued by an
 75 attorney-at-law who is an active member of the Virginia State Bar at the time of issuance, as an officer
 76 of the court. An attorney-issued summons shall be on a form approved by the Supreme Court, signed by
 77 the attorney and shall include the attorney's address. The summons and any transmittal sheet shall be
 78 deemed to be a pleading to which the provisions of § 8.01-271.1 shall apply. A copy of the summons
 79 and, if served by a sheriff, all service of process fees, shall be mailed or delivered to the clerk's office
 80 of the court in which the case is pending or the Workers' Compensation Commission, as applicable, on
 81 the day of issuance by the attorney. The law governing summonses issued by a clerk shall apply *mutatis*
 82 *mutandis*. When an attorney-at-law who is an active member of the Virginia State Bar transmits one or
 83 more attorney-issued subpoenas to a sheriff to be served in his jurisdiction, such subpoenas shall be
 84 accompanied by a transmittal sheet. The transmittal sheet, which may be in the form of a letter, shall
 85 contain for each subpoena (i) the person to be served, (ii) the name of the city or county in which the
 86 subpoena is to be served, in parentheses, (iii) the style of the case in which the subpoena was issued,
 87 (iv) the court in which the case is pending, and (v) the amount of fees tendered or paid to each clerk in
 88 whose court the case is pending together with a photocopy of either (a) the payment instrument and a
 89 photocopy of the letter sent to the clerk's office that accompanied such payment instrument or (b) the
 90 clerk's receipt. If copies of the same transmittal sheet are used to send subpoenas to more than one
 91 sheriff for service of process, then subpoenas shall be grouped by the jurisdiction in which they are to
 92 be served. For each person to be served, an original subpoena and copy thereof shall be included. If the
 93 attorney desires a return copy of the transmittal sheet as proof of receipt, he shall also enclose an
 94 additional copy of the transmittal sheet together with an envelope addressed to the attorney with
 95 sufficient first class postage affixed. Upon receipt of such transmittal, the transmittal sheet shall be
 96 date-stamped and, if the extra copy and above-described envelope are provided, the copy shall also be
 97 date-stamped and returned to the attorney-at-law in the above-described envelope.

98 However, when such transmittal does not comply with the provisions of this section, the sheriff may
 99 promptly return such transmittal if accompanied by a short description of such noncompliance. An
 100 attorney may not issue a summons in any of the following civil proceedings: (a) habeas corpus under
 101 Article 3 (§ 8.01-654 et seq.) of Chapter 25 of this title, (b) delinquency or abuse and neglect
 102 proceedings under Article 3 (§ 16.1-241 et seq.) of Chapter 11 of Title 16.1, (c) civil forfeiture
 103 proceedings, (d) ~~habitual offender proceedings under Article 9 (§ 46.2-351 et seq.) of Chapter 3 of Title~~
 104 ~~46.2,~~ (e) administrative license suspension pursuant to § 46.2-391.2, and (f) (e) petition for writs of
 105 mandamus or prohibition in connection with criminal proceedings. A sheriff shall not be required to
 106 serve an attorney-issued subpoena that is not issued at least five business days prior to the date that
 107 attendance is desired.

108 In other cases, if attendance is desired, the summons may be issued by the clerk of the circuit court
 109 of the county or city in which the attendance is desired.

110 A summons shall express on whose behalf, and in what case or about what matter, the witness is to
 111 attend. Failure to respond to any such summons shall be punishable by the court in which the
 112 proceeding is pending as for contempt. When any subpoena is served less than five calendar days before
 113 appearance is required, the court may, after considering all of the circumstances, refuse to enforce the
 114 subpoena for lack of adequate notice. If any subpoena is served less than five calendar days before
 115 appearance is required upon any judicial officer generally incompetent to testify pursuant to § 19.2-271,
 116 such subpoena shall be without legal force or effect unless the subpoena has been issued by a judge.

117 B. No subpoena shall, without permission of the court first obtained, issue for the attendance of the

118 Governor, Lieutenant Governor, or Attorney General of this Commonwealth, a judge of any court
119 thereof; the President or Vice President of the United States; any member of the President's Cabinet; any
120 ambassador or consul; or any military officer on active duty holding the rank of admiral or general.

121 **§ 16.1-77. Civil jurisdiction of general district courts; amending amount of claim.**

122 Except as provided in Article 5 (§ 16.1-122.1 et seq.), each general district court shall have, within
123 the limits of the territory it serves, civil jurisdiction as follows:

124 (1) Exclusive original jurisdiction of any claim to specific personal property or to any debt, fine or
125 other money, or to damages for breach of contract or for injury done to property, real or personal, or for
126 any injury to the person that would be recoverable by action at law or suit in equity, when the amount
127 of such claim does not exceed \$4,500 exclusive of interest and any attorney fees, and concurrent
128 jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the
129 amount thereof exceeds \$4,500 but does not exceed \$25,000, exclusive of interest and any attorney fees.
130 However, this \$25,000 limit shall not apply with respect to distress warrants under the provisions of
131 § 8.01-130.4, cases involving liquidated damages for violations of vehicle weight limits pursuant to
132 § 46.2-1135, nor cases involving forfeiture of a bond pursuant to § 19.2-143. While a matter is pending
133 in a general district court, upon motion of the plaintiff seeking to increase the amount of the claim, the
134 court shall order transfer of the matter to the circuit court that has jurisdiction over the amended amount
135 of the claim without requiring that the case first be dismissed or that the plaintiff suffer a nonsuit, and
136 the tolling of the applicable statutes of limitations governing the pending matter shall be unaffected by
137 the transfer. Except for good cause shown, no such order of transfer shall issue unless the motion to
138 amend and transfer is made at least 10 days before trial. The plaintiff shall pay filing and other fees as
139 otherwise provided by law to the clerk of the court to which the case is transferred, and such clerk shall
140 process the claim as if it were a new civil action. The plaintiff shall prepare and present the order of
141 transfer to the transferring court for entry, after which time the case shall be removed from the pending
142 docket of the transferring court and the order of transfer placed among its records. The plaintiff shall
143 provide a certified copy of the transfer order to the receiving court.

144 (2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not
145 exceed \$25,000 exclusive of interest and any attorney fees.

146 (3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.)
147 of Chapter 3 of Title 8.01, and in Chapter 14 (§ 55.1-1400 et seq.) of Title 55.1, and the maximum
148 jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or
149 cross-claim in an unlawful detainer action that includes a claim for damages sustained or rent against
150 any person obligated on the lease or guarantee of such lease.

151 (4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil
152 action or proceeding conferred upon any general district court judge or magistrate under or by virtue of
153 any provisions of the Code.

154 (5) Jurisdiction to try and decide suits in interpleader involving personal or real property where the
155 amount of money or value of the property is not more than the maximum jurisdictional limits of the
156 general district court. However, the maximum jurisdictional limits prescribed in subdivision (1) shall not
157 apply to any claim, counter-claim, or cross-claim in an interpleader action that is limited to the
158 disposition of an earnest money deposit pursuant to a real estate purchase contract. The action shall be
159 brought in accordance with the procedures for interpleader as set forth in § 8.01-364. However, the
160 general district court shall not have any power to issue injunctions. Actions in interpleader may be
161 brought by either the stakeholder or any of the claimants. The initial pleading shall be either by motion
162 for judgment, by warrant in debt, or by other uniform court form established by the Supreme Court of
163 Virginia. The initial pleading shall briefly set forth the circumstances of the claim and shall name as
164 defendant all parties in interest who are not parties plaintiff.

165 (6) Jurisdiction to try and decide any cases pursuant to § 2.2-3713 of the Virginia Freedom of
166 Information Act (§ 2.2-3700 et seq.) or § 2.2-3809 of the Government Data Collection and
167 Dissemination Practices Act (§ 2.2-3800 et seq.), for writs of mandamus or for injunctions.

168 (7) ~~Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate~~
169 ~~habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title~~
170 ~~46.2.~~

171 ~~(8)~~ Jurisdiction to try and decide any cases pursuant to § 55.1-1819 of the Property Owners'
172 Association Act (§ 55.1-1800 et seq.) or § 55.1-1959 of the Virginia Condominium Act (§ 55.1-1900 et
173 seq.).

174 ~~(9)~~ (8) Concurrent jurisdiction with the circuit courts to submit matters to arbitration pursuant to
175 Chapter 21 (§ 8.01-577 et seq.) of Title 8.01 where the amount in controversy is within the jurisdictional
176 limits of the general district court. Any party that disagrees with an order by a general district court
177 granting an application to compel arbitration may appeal such decision to the circuit court pursuant to
178 § 8.01-581.016.

179 For purposes of this section, the territory served by a county general district court expressly
 180 authorized by statute to be established in a city includes the general district court courtroom.

181 **§ 16.1-305. Confidentiality of court records.**

182 A. Social, medical and psychiatric or psychological records, including reports or preliminary
 183 inquiries, predisposition studies and supervision records, of neglected and abused children, children in
 184 need of services, children in need of supervision and delinquent children shall be filed with the other
 185 papers in the juvenile's case file. All juvenile case files shall be filed separately from adult files and
 186 records of the court and shall be open for inspection only to the following:

187 1. The judge, probation officers and professional staff assigned to serve the juvenile and domestic
 188 relations district courts;

189 2. Representatives of a public or private agency or department providing supervision or having legal
 190 custody of the child or furnishing evaluation or treatment of the child ordered or requested by the court;

191 3. The attorney for any party, including the attorney for the Commonwealth;

192 4. Any other person, agency or institution, by order of the court, having a legitimate interest in the
 193 case or in the work of the court. However, for the purposes of an investigation conducted by a local
 194 community-based probation services agency, preparation of a pretrial investigation report, or of a
 195 presentence or postsentence report upon a finding of guilty in a circuit court or for the preparation of a
 196 background report for the Parole Board, adult probation and parole officers, including United States
 197 Probation and Pretrial Services Officers, any officer of a local pretrial services agency established or
 198 operated pursuant to Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2, and any officer of a
 199 local community-based probation services agency established or operated pursuant to the Comprehensive
 200 Community Corrections Act for Local-Responsible Offenders (§ 9.1-173 et seq.) shall have access to an
 201 accused's or inmate's records in juvenile court without a court order and for the purpose of preparing the
 202 discretionary sentencing guidelines worksheets and related risk assessment instruments as directed by the
 203 court pursuant to subsection C of § 19.2-298.01, the attorney for the Commonwealth and any pretrial
 204 services or probation officer shall have access to the defendant's records in juvenile court without a
 205 court order;

206 5. Any attorney for the Commonwealth and any local pretrial services or community-based probation
 207 officer or state adult probation or parole officer shall have direct access to the defendant's juvenile court
 208 delinquency records maintained in an electronic format by the court for the strictly limited purposes of
 209 preparing a pretrial investigation report, including any related risk assessment instrument, any
 210 presentence report, any discretionary sentencing guidelines worksheets, including related risk assessment
 211 instruments, any post-sentence investigation report or preparing for any transfer or sentencing hearing.

212 A copy of the court order of disposition in a delinquency case shall be provided to a probation
 213 officer or attorney for the Commonwealth, when requested for the purpose of calculating sentencing
 214 guidelines. The copies shall remain confidential, but reports may be prepared using the information
 215 contained therein as provided in §§ 19.2-298.01 and 19.2-299.

216 6. The Office of the Attorney General, for all criminal justice activities otherwise permitted and for
 217 purposes of performing duties required by Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

218 A1. Any person, agency, or institution that may inspect juvenile case files pursuant to subdivisions A
 219 1 through A 4 shall be authorized to have copies made of such records, subject to any restrictions,
 220 conditions, or prohibitions that the court may impose.

221 B. All or any part of the records enumerated in subsection A, or information secured from such
 222 records, which is presented to the judge in court or otherwise in a proceeding under this law shall also
 223 be made available to the parties to the proceedings and their attorneys.

224 B1. If a juvenile 14 years of age or older at the time of the offense is adjudicated delinquent on the
 225 basis of an act which would be a felony if committed by an adult, all court records regarding that
 226 adjudication and any subsequent adjudication of delinquency, other than those records specified in
 227 subsection A, shall be open to the public. However, if a hearing was closed, the judge may order that
 228 certain records or portions thereof remain confidential to the extent necessary to protect any juvenile
 229 victim or juvenile witness.

230 C. All other juvenile records, including the docket, petitions, motions and other papers filed with a
 231 case, transcripts of testimony, findings, verdicts, orders and decrees shall be open to inspection only by
 232 those persons and agencies designated in subsections A and B of this section. However, a licensed bail
 233 bondsman shall be entitled to know the status of a bond he has posted or provided surety on for a
 234 juvenile under § 16.1-258. This shall not authorize a bail bondsman to have access to or inspect any
 235 other portion of his principal's juvenile court records.

236 D. Attested copies of papers filed in connection with an adjudication of guilty for an offense for
 237 which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles,
 238 which shows the charge, finding, disposition, name of the attorney for the juvenile, or waiver of attorney
 239 shall be furnished to an attorney for the Commonwealth upon certification by the prosecuting attorney

240 that such papers are needed as evidence in a pending criminal, *or* traffic, ~~or habitual offender~~ proceeding
241 and that such papers will be only used for such evidentiary purpose.

242 D1. Attested copies of papers filed in connection with an adjudication of guilt for a delinquent act
243 that would be a felony if committed by an adult, which show the charge, finding, disposition, name of
244 the attorney for the juvenile, or waiver of attorney by the juvenile, shall be furnished to an attorney for
245 the Commonwealth upon his certification that such papers are needed as evidence in a pending criminal
246 prosecution for a violation of § 18.2-308.2 and that such papers will be only used for such evidentiary
247 purpose.

248 E. Upon request, a copy of the court order of disposition in a delinquency case shall be provided to
249 the Virginia Workers' Compensation Commission solely for purposes of determining whether to make an
250 award to the victim of a crime, and such information shall not be disseminated or used by the
251 Commission for any other purpose including but not limited to actions pursuant to § 19.2-368.15.

252 F. Staff of the court services unit or the attorney for the Commonwealth shall provide notice of the
253 disposition in a case involving a juvenile who is committed to state care after being adjudicated for a
254 criminal sexual assault as specified in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 to the
255 victim or a parent of a minor victim, upon request. Additionally, if the victim or parent submits a
256 written request, the Department of Juvenile Justice shall provide advance notice of such juvenile
257 offender's anticipated date of release from commitment.

258 G. Any record in a juvenile case file which is open for inspection by the professional staff of the
259 Department of Juvenile Justice pursuant to subsection A and is maintained in an electronic format by the
260 court, may be transmitted electronically to the Department of Juvenile Justice. Any record so transmitted
261 shall be subject to the provisions of § 16.1-300.

262 **§ 17.1-213. Disposition of papers in ended cases.**

263 A. All case files for cases ended prior to January 1, 1913, shall be permanently maintained in
264 hardcopy form, either in the locality served by the circuit court where such files originated or in The
265 Library of Virginia in accordance with the provisions of § 42.1-86 and subsection C of § 42.1-87.

266 B. The following records for cases ending on or after January 1, 1913, shall be retained for 10 years
267 after conclusion:

- 268 1. Conditional sales contracts;
- 269 2. Concealed weapons permit applications;
- 270 3. Minister appointments;
- 271 4. Petitions for appointment of trustee;
- 272 5. Name changes;
- 273 6. Nolle prosequi cases;
- 274 7. Civil actions that are voluntarily dismissed, including nonsuits, cases that are dismissed as settled
275 and agreed, cases that are dismissed with or without prejudice, cases that are discontinued or dismissed
276 under § 8.01-335, and district court appeals dismissed under § 16.1-113 prior to 1988;
- 277 8. Misdemeanor and traffic cases, except as provided in subdivision C 3, including those which were
278 commenced on a felony charge but concluded as a misdemeanor;
- 279 9. Suits to enforce a lien;
- 280 10. Garnishments;
- 281 11. Executions except for those covered in § 8.01-484; *and*
- 282 12. Miscellaneous oaths and qualifications, but only if the order or oath or qualification is spread in
283 the appropriate order book; ~~and~~
- 284 ~~13. Civil cases pertaining to declarations of habitual offender status and full restoration of driving~~
285 ~~privileges.~~

286 C. All other records or cases ending on or after January 1, 1913, shall be retained subject to the
287 following:

- 288 1. All civil case files to which subsection D does not pertain shall be retained 20 years from the
289 court order date.
- 290 2. All criminal cases dismissed, including those not a true bill, acquittals, and not guilty verdicts,
291 shall be retained 10 years from the court order date.
- 292 3. Except as otherwise provided in this subdivision, criminal case files involving a felony conviction
293 and all criminal case files involving a misdemeanor conviction under § 16.1-253.2, 18.2-57.2, or
294 18.2-60.4 shall be retained (i) 20 years from the sentencing date or (ii) until the sentence term ends,
295 whichever comes later. Case files involving a conviction for a sexually violent offense as defined in
296 § 37.2-900, a violent felony as defined in § 17.1-805, or an act of violence as defined in § 19.2-297.1
297 shall be retained (a) 50 years from the sentencing date or (b) until the sentence term ends, whichever
298 comes later.

299 D. Under the provisions of subsections B and C, the entire file of any case deemed by the local clerk
300 of court to have historical value, as defined in § 42.1-77, or genealogical or sensational significance shall

301 be retained permanently as shall all cases in which the title to real estate is established, conveyed or
 302 condemned by an order or decree of the court. The final order for all cases in which the title to real
 303 estate is so affected shall include an appropriate notification thereof to the clerk.

304 E. Except as provided in subsection A, the clerk of a circuit court may cause (i) any or all papers or
 305 documents pertaining to civil and criminal cases; (ii) any unexecuted search warrants and affidavits for
 306 unexecuted search warrants, provided at least three years have passed since issued; (iii) any abstracts of
 307 judgments; and (iv) original wills, to be destroyed if such records, papers, documents, or wills no longer
 308 have administrative, fiscal, historical, or legal value to warrant continued retention, provided such
 309 records, papers, or documents have been microfilmed or converted to an electronic format. Such
 310 microfilm and microphotographic processes and equipment shall meet state archival microfilm standards
 311 pursuant to § 42.1-82, or such electronic format shall follow state electronic records guidelines, and such
 312 records, papers, or documents so converted shall be placed in conveniently accessible files and
 313 provisions made for examining and using same. The clerk shall further provide security negative copies
 314 of any such microfilmed materials for storage in The Library of Virginia.

315 **§ 19.2-389. (Effective until July 1, 2021) Dissemination of criminal history record information.**

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

318 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
 319 purposes of the administration of criminal justice and the screening of an employment application or
 320 review of employment by a criminal justice agency with respect to its own employees or applicants, and
 321 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
 322 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
 323 3, 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
 324 purposes of this subdivision, criminal history record information includes information sent to the Central
 325 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
 326 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
 327 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
 328 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
 329 Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

349 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
 350 owned, operated or controlled by any political subdivision, and any public service corporation that
 351 operates a public transit system owned by a local government for the conduct of investigations of
 352 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
 353 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
 354 conviction record would be compatible with the nature of the employment, permit, or license under
 355 consideration;

356 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
 357 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
 358 position of employment whenever, in the interest of public welfare or safety and as authorized in the
 359 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
 360 with a conviction record would be compatible with the nature of the employment under consideration;

361 8. Public or private agencies when authorized or required by federal or state law or interstate

362 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
 363 adult members of that individual's household, with whom the agency is considering placing a child or
 364 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,
 365 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that
 366 the data shall not be further disseminated to any party other than a federal or state authority or court as
 367 may be required to comply with an express requirement of law;

368 9. To the extent permitted by federal law or regulation, public service companies as defined in
 369 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
 370 personal contact with the public or when past criminal conduct of an applicant would be incompatible
 371 with the nature of the employment under consideration;

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

374 11. A person requesting a copy of his own criminal history record information as defined in
 375 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
 376 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
 377 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
 378 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
 379 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
 380 Solvers or Crime Line program as defined in § 15.2-1713.1;

381 12. Administrators and board presidents of and applicants for licensure or registration as a child
 382 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
 383 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
 384 volunteers at such facilities, caretakers, and other adults living in family day homes or homes approved
 385 by family day systems, and foster and adoptive parent applicants of private child-placing agencies,
 386 pursuant to §§ 63.2-1719, 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1, subject to the restriction
 387 that the data shall not be further disseminated by the facility or agency to any party other than the data
 388 subject, the Commissioner of Social Services' representative or a federal or state authority or court as
 389 may be required to comply with an express requirement of law for such further dissemination;

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

393 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
 394 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,
 395 and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth
 396 in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

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

401 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
 402 investigations of applicants for compensated employment in licensed assisted living facilities and
 403 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

404 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
 405 in § 4.1-103.1;

406 18. The State Board of Elections and authorized officers and employees thereof and general registrars
 407 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
 408 voter registration, limited to any record of felony convictions;

409 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
 410 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
 411 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

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

415 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
 416 Department of Education, or the Department of Behavioral Health and Developmental Services for the
 417 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
 418 services;

419 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
 420 Department for the purpose of determining an individual's fitness for employment pursuant to
 421 departmental instructions;

422 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or

secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such records information on behalf of such governing boards or administrators pursuant to a written agreement with the Department of State Police;

24. Public institutions of higher education and nonprofit private institutions of higher education for the purpose of screening individuals who are offered or accept employment;

25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education, for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal history record information obtained pursuant to this section or otherwise use any record of an individual beyond the purpose that such disclosure was made to the threat assessment team;

26. Executive directors of community services boards or the personnel director serving the community services board for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of determining an individual's fitness for employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

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

29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the purpose of determining if any applicant who accepts employment in any direct care position or requests approval as a sponsored residential service provider or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and 37.2-607;

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

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

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1;

33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.);

34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary companies, for the conduct of investigations of applications for employment or for access to facilities, by contractors, leased laborers, and other visitors;

35. Any employer of individuals whose employment requires that they enter the homes of others, for the purpose of screening individuals who apply for, are offered, or have accepted such employment;

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

37. The Department of Medical Assistance Services, or its designee, for the purpose of screening individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered, or have accepted a position related to the provision of transportation services to enrollees in the Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program administered by the Department of Medical Assistance Services;

38. The State Corporation Commission for the purpose of investigating individuals who are current

484 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
 485 Chapter 16 (§ 6.2-1600 et seq.) or Chapter 19 (§ 6.2-1900 et seq.) of Title 6.2. Notwithstanding any
 486 other provision of law, if an application is denied based in whole or in part on information obtained
 487 from the Central Criminal Records Exchange pursuant to Chapter 16 or 19 of Title 6.2, the
 488 Commissioner of Financial Institutions or his designee may disclose such information to the applicant or
 489 its designee;

490 39. The Department of Professional and Occupational Regulation for the purpose of investigating
 491 individuals for initial licensure pursuant to § 54.1-2106.1;

492 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
 493 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
 494 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
 495 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

496 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;

497 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
 498 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;

499 43. The Department of Social Services and directors of local departments of social services for the
 500 purpose of screening individuals seeking to enter into a contract with the Department of Social Services
 501 or a local department of social services for the provision of child care services for which child care
 502 subsidy payments may be provided;

503 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
 504 a juvenile's household when completing a predispositional or postdispositional report required by
 505 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

506 45. The State Corporation Commission, for the purpose of screening applicants for insurance
 507 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2; and

508 46. Other entities as otherwise provided by law.

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

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

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

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

525 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
 526 Exchange prior to dissemination of any criminal history record information on offenses required to be
 527 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
 528 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
 529 where time is of the essence and the normal response time of the Exchange would exceed the necessary
 530 time period. A criminal justice agency to whom a request has been made for the dissemination of
 531 criminal history record information that is required to be reported to the Central Criminal Records
 532 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
 533 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
 534 made by the criminal justice agency maintaining the record as required by § 15.2-1722.

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

538 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
 539 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
 540 for any offense specified in § 63.2-1720.

541 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
 542 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the
 543 definition of barrier crime in § 19.2-392.02.

544 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal

545 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
 546 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
 547 the request to the employer or prospective employer making the request, provided that the person on
 548 whom the data is being obtained has consented in writing to the making of such request and has
 549 presented a photo-identification to the employer or prospective employer. In the event no conviction data
 550 is maintained on the person named in the request, the requesting employer or prospective employer shall
 551 be furnished at his cost a certification to that effect. The criminal history record search shall be
 552 conducted on forms provided by the Exchange.

553 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
 554 information pursuant to the rules of court for obtaining discovery or for review by the court.

555 **§ 19.2-389. (Effective July 1, 2021) Dissemination of criminal history record information.**

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

558 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for
 559 purposes of the administration of criminal justice and the screening of an employment application or
 560 review of employment by a criminal justice agency with respect to its own employees or applicants, and
 561 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all
 562 state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2,
 563 4, and 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For
 564 purposes of this subdivision, criminal history record information includes information sent to the Central
 565 Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time
 566 or part-time employee of the State Police, a police department or sheriff's office that is a part of or
 567 administered by the Commonwealth or any political subdivision thereof, and who is responsible for the
 568 prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
 569 Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

589 7. Agencies of any political subdivision of the Commonwealth, public transportation companies
 590 owned, operated or controlled by any political subdivision, and any public service corporation that
 591 operates a public transit system owned by a local government for the conduct of investigations of
 592 applicants for employment, permit, or license whenever, in the interest of public welfare or safety, it is
 593 necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a
 594 conviction record would be compatible with the nature of the employment, permit, or license under
 595 consideration;

596 7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of
 597 Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered a
 598 position of employment whenever, in the interest of public welfare or safety and as authorized in the
 599 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person
 600 with a conviction record would be compatible with the nature of the employment under consideration;

601 8. Public or private agencies when authorized or required by federal or state law or interstate
 602 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the
 603 adult members of that individual's household, with whom the agency is considering placing a child or
 604 from whom the agency is considering removing a child due to abuse or neglect, on an emergency,
 605 temporary, or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that

606 the data shall not be further disseminated to any party other than a federal or state authority or court as
607 may be required to comply with an express requirement of law;

608 9. To the extent permitted by federal law or regulation, public service companies as defined in
609 § 56-1, for the conduct of investigations of applicants for employment when such employment involves
610 personal contact with the public or when past criminal conduct of an applicant would be incompatible
611 with the nature of the employment under consideration;

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

614 11. A person requesting a copy of his own criminal history record information as defined in
615 § 9.1-101 at his cost, except that criminal history record information shall be supplied at no charge to a
616 person who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of
617 America; (ii) a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any
618 affiliate of Prevent Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board
619 member or any individual who has been offered membership on the board of a Crime Stoppers, Crime
620 Solvers or Crime Line program as defined in § 15.2-1713.1;

621 12. Administrators and board presidents of and applicants for licensure or registration as a child
622 welfare agency as defined in § 63.2-100 for dissemination to the Commissioner of Social Services'
623 representative pursuant to § 63.2-1702 for the conduct of investigations with respect to employees of and
624 volunteers at such facilities, caretakers, and foster and adoptive parent applicants of private child-placing
625 agencies, pursuant to §§ 63.2-1719, 63.2-1720, and 63.2-1721, subject to the restriction that the data
626 shall not be further disseminated by the facility or agency to any party other than the data subject, the
627 Commissioner of Social Services' representative or a federal or state authority or court as may be
628 required to comply with an express requirement of law for such further dissemination;

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

632 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law
633 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1,
634 and the Department of Agriculture and Consumer Services for the conduct of investigations as set forth
635 in Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

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

640 16. Licensed assisted living facilities and licensed adult day care centers for the conduct of
641 investigations of applicants for compensated employment in licensed assisted living facilities and
642 licensed adult day care centers pursuant to § 63.2-1720, subject to the limitations set out in subsection F;

643 17. The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth
644 in § 4.1-103.1;

645 18. The State Board of Elections and authorized officers and employees thereof and general registrars
646 appointed pursuant to § 24.2-110 in the course of conducting necessary investigations with respect to
647 voter registration, limited to any record of felony convictions;

648 19. The Commissioner of Behavioral Health and Developmental Services for those individuals who
649 are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,
650 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

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

654 21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the
655 Department of Education, or the Department of Behavioral Health and Developmental Services for the
656 purpose of determining applicants' fitness for employment or for providing volunteer or contractual
657 services;

658 22. The Department of Behavioral Health and Developmental Services and facilities operated by the
659 Department for the purpose of determining an individual's fitness for employment pursuant to
660 departmental instructions;

661 23. Pursuant to § 22.1-296.3, the governing boards or administrators of private elementary or
662 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such
663 records information on behalf of such governing boards or administrators pursuant to a written
664 agreement with the Department of State Police;

665 24. Public institutions of higher education and nonprofit private institutions of higher education for
666 the purpose of screening individuals who are offered or accept employment;

667 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-79.4,
 668 by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of
 669 higher education, for the purpose of assessing or intervening with an individual whose behavior may
 670 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal
 671 history record information obtained pursuant to this section or otherwise use any record of an individual
 672 beyond the purpose that such disclosure was made to the threat assessment team;

673 26. Executive directors of community services boards or the personnel director serving the
 674 community services board for the purpose of determining an individual's fitness for employment,
 675 approval as a sponsored residential service provider, or permission to enter into a shared living
 676 arrangement with a person receiving medical assistance services pursuant to a waiver pursuant to
 677 §§ 37.2-506 and 37.2-607;

678 27. Executive directors of behavioral health authorities as defined in § 37.2-600 for the purpose of
 679 determining an individual's fitness for employment, approval as a sponsored residential service provider,
 680 or permission to enter into a shared living arrangement with a person receiving medical assistance
 681 services pursuant to a waiver pursuant to §§ 37.2-506 and 37.2-607;

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

685 29. Authorized officers or directors of agencies licensed pursuant to Article 2 (§ 37.2-403 et seq.) of
 686 Chapter 4 of Title 37.2 by the Department of Behavioral Health and Developmental Services for the
 687 purpose of determining if any applicant who accepts employment in any direct care position or requests
 688 approval as a sponsored residential service provider or permission to enter into a shared living
 689 arrangement with a person receiving medical assistance services pursuant to a waiver has been convicted
 690 of a crime that affects his fitness to have responsibility for the safety and well-being of individuals with
 691 mental illness, intellectual disability, or substance abuse pursuant to §§ 37.2-416, 37.2-506, and
 692 37.2-607;

693 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating applicants
 694 for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20
 695 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

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

699 32. Heads of state agencies in which positions have been identified as sensitive for the purpose of
 700 determining an individual's fitness for employment in positions designated as sensitive under Department
 701 of Human Resource Management policies developed pursuant to § 2.2-1201.1;

702 33. The Office of the Attorney General, for all criminal justice activities otherwise permitted under
 703 subdivision A 1 and for purposes of performing duties required by the Civil Commitment of Sexually
 704 Violent Predators Act (§ 37.2-900 et seq.);

705 34. Shipyards, to the extent permitted by federal law or regulation, engaged in the design,
 706 construction, overhaul, or repair of nuclear vessels for the United States Navy, including their subsidiary
 707 companies, for the conduct of investigations of applications for employment or for access to facilities,
 708 by contractors, leased laborers, and other visitors;

709 35. Any employer of individuals whose employment requires that they enter the homes of others, for
 710 the purpose of screening individuals who apply for, are offered, or have accepted such employment;

711 36. Public agencies when and as required by federal or state law to investigate (i) applicants as
 712 providers of adult foster care and home-based services or (ii) any individual with whom the agency is
 713 considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1,
 714 subject to the restriction that the data shall not be further disseminated by the agency to any party other
 715 than a federal or state authority or court as may be required to comply with an express requirement of
 716 law for such further dissemination, subject to limitations set out in subsection G;

717 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening
 718 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,
 719 or have accepted a position related to the provision of transportation services to enrollees in the
 720 Medicaid Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other
 721 program administered by the Department of Medical Assistance Services;

722 38. The State Corporation Commission for the purpose of investigating individuals who are current
 723 or proposed members, senior officers, directors, and principals of an applicant or person licensed under
 724 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of
 725 Title 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in
 726 part on information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19,
 727 or 26 of Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such

728 information to the applicant or its designee;
729 39. The Department of Professional and Occupational Regulation for the purpose of investigating
730 individuals for initial licensure pursuant to § 54.1-2106.1;
731 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and
732 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment
733 and for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11
734 (§ 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;
735 41. Bail bondsmen, in accordance with the provisions of § 19.2-120;
736 42. The State Treasurer for the purpose of determining whether a person receiving compensation for
737 wrongful incarceration meets the conditions for continued compensation under § 8.01-195.12;
738 43. The Department of Education or its agents or designees for the purpose of screening individuals
739 seeking to enter into a contract with the Department of Education or its agents or designees for the
740 provision of child care services for which child care subsidy payments may be provided;
741 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members of
742 a juvenile's household when completing a predispositional or postdispositional report required by
743 § 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;
744 45. The State Corporation Commission, for the purpose of screening applicants for insurance
745 licensure under Chapter 18 (§ 38.2-1800 et seq.) of Title 38.2;
746 46. Administrators and board presidents of and applicants for licensure or registration as a child day
747 program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the
748 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of
749 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034
750 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the
751 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's
752 representative, or a federal or state authority or court as may be required to comply with an express
753 requirement of law for such further dissemination; and
754 47. Other entities as otherwise provided by law.
755 Upon an ex parte motion of a defendant in a felony case and upon the showing that the records
756 requested may be relevant to such case, the court shall enter an order requiring the Central Criminal
757 Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons
758 designated in the order on whom a report has been made under the provisions of this chapter.
759 Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to
760 before an officer authorized to take acknowledgments, the Central Criminal Records Exchange, or the
761 criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a
762 copy of conviction data covering the person named in the request to the person making the request;
763 however, such person on whom the data is being obtained shall consent in writing, under oath, to the
764 making of such request. A person receiving a copy of his own conviction data may utilize or further
765 disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data
766 subject, the person making the request shall be furnished at his cost a certification to that effect.
767 B. Use of criminal history record information disseminated to noncriminal justice agencies under this
768 section shall be limited to the purposes for which it was given and may not be disseminated further.
769 C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal
770 history record information for employment or licensing inquiries except as provided by law.
771 D. Criminal justice agencies shall establish procedures to query the Central Criminal Records
772 Exchange prior to dissemination of any criminal history record information on offenses required to be
773 reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is
774 being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases
775 where time is of the essence and the normal response time of the Exchange would exceed the necessary
776 time period. A criminal justice agency to whom a request has been made for the dissemination of
777 criminal history record information that is required to be reported to the Central Criminal Records
778 Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination.
779 Dissemination of information regarding offenses not required to be reported to the Exchange shall be
780 made by the criminal justice agency maintaining the record as required by § 15.2-1722.
781 E. Criminal history information provided to licensed nursing homes, hospitals and to home care
782 organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange
783 for any offense specified in §§ 32.1-126.01, 32.1-126.02, and 32.1-162.9:1.
784 F. Criminal history information provided to licensed assisted living facilities and licensed adult day
785 care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange
786 for any offense specified in § 63.2-1720.
787 G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be
788 limited to the convictions on file with the Exchange for any offense set forth in clause (i) of the

789 definition of barrier crime in § 19.2-392.02.

790 H. Upon receipt of a written request from an employer or prospective employer, the Central Criminal
 791 Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the
 792 Exchange, shall furnish at the employer's cost a copy of conviction data covering the person named in
 793 the request to the employer or prospective employer making the request, provided that the person on
 794 whom the data is being obtained has consented in writing to the making of such request and has
 795 presented a photo-identification to the employer or prospective employer. In the event no conviction data
 796 is maintained on the person named in the request, the requesting employer or prospective employer shall
 797 be furnished at his cost a certification to that effect. The criminal history record search shall be
 798 conducted on forms provided by the Exchange.

799 I. Nothing in this section shall preclude the dissemination of a person's criminal history record
 800 information pursuant to the rules of court for obtaining discovery or for review by the court.

801 **§ 46.2-301. Driving while license, permit, or privilege to drive suspended or revoked.**

802 A. In addition to any other penalty provided by this section, any motor vehicle administratively
 803 impounded or immobilized under the provisions of § 46.2-301.1 may, in the discretion of the court, be
 804 impounded or immobilized for an additional period of up to 90 days upon conviction of an offender for
 805 driving while his driver's license, learner's permit, or privilege to drive a motor vehicle has been (i)
 806 suspended or revoked for ~~(+)~~ a violation of § 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-272, or 46.2-341.24 or
 807 a substantially similar ordinance or law in any other jurisdiction or (ii) ~~driving after adjudication as an~~
 808 ~~habitual offender, where such adjudication was based in whole or in part on an alcohol-related offense,~~
 809 ~~or where such person's license has been~~ administratively suspended under the provisions of § 46.2-391.2.
 810 However, if, at the time of the violation, the offender was driving a motor vehicle owned by another
 811 person, the court shall have no jurisdiction over such motor vehicle but may order the impoundment or
 812 immobilization of a motor vehicle owned solely by the offender at the time of arrest. All costs of
 813 impoundment or immobilization, including removal or storage expenses, shall be paid by the offender
 814 prior to the release of his motor vehicle.

815 B. Except as provided in §§ § 46.2-304 and ~~46.2-357~~, no resident or nonresident (i) whose driver's
 816 license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked or (ii) who
 817 has been directed not to drive by any court or by the Commissioner, or (iii) who has been forbidden, as
 818 prescribed by operation of any statute of the Commonwealth or a substantially similar ordinance of any
 819 county, city or town, to operate a motor vehicle in the Commonwealth shall thereafter drive any motor
 820 vehicle or any self-propelled machinery or equipment on any highway in the Commonwealth until the
 821 period of such suspension or revocation has terminated or the privilege has been reinstated or a
 822 restricted license is issued pursuant to subsection E. For the purposes of this section, the phrase "motor
 823 vehicle or any self-propelled machinery or equipment" shall not include mopeds.

824 C. A violation of subsection B is a Class 1 misdemeanor.

825 D. Upon a violation of subsection B, the court shall suspend the person's license or privilege to drive
 826 a motor vehicle for the same period for which it had been previously suspended or revoked. In the event
 827 the person violated subsection B by driving during a period of suspension or revocation which was not
 828 for a definite period of time, the court shall suspend the person's license, permit or privilege to drive for
 829 an additional period not to exceed 90 days, to commence upon the expiration of the previous suspension
 830 or revocation or to commence immediately if the previous suspension or revocation has expired.

831 E. Any person who is otherwise eligible for a restricted license may petition each court that
 832 suspended his license pursuant to subsection D for authorization for a restricted license, provided that
 833 the period of time for which the license was suspended by the court pursuant to subsection D, if
 834 measured from the date of conviction, has expired, even though the suspension itself has not expired. A
 835 court may, for good cause shown, authorize the Department of Motor Vehicles to issue a restricted
 836 license for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license shall be
 837 issued unless each court that issued a suspension of the person's license pursuant to subsection D
 838 authorizes the Department to issue a restricted license. Any restricted license issued pursuant to this
 839 subsection shall be in effect until the expiration of any and all suspensions issued pursuant to subsection
 840 D, except that it shall automatically terminate upon the expiration, cancellation, suspension, or
 841 revocation of the person's license or privilege to drive for any other cause. No restricted license issued
 842 pursuant to this subsection shall permit a person to operate a commercial motor vehicle as defined in the
 843 Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall forward to the Commissioner a
 844 copy of its authorization entered pursuant to this subsection, which shall specifically enumerate the
 845 restrictions imposed and contain such information regarding the person to whom such a license is issued
 846 as is reasonably necessary to identify the person. The court shall also provide a copy of its authorization
 847 to the person, who may not operate a motor vehicle until receipt from the Commissioner of a restricted
 848 license. A copy of the restricted license issued by the Commissioner shall be carried at all times while
 849 operating a motor vehicle.

850 F. Any person who operates a motor vehicle or any self-propelled machinery or equipment in
851 violation of the terms of a restricted license issued pursuant to subsection E of § 18.2-271.1 is not guilty
852 of a violation of this section but is guilty of a violation of § 18.2-272.

853 **§ 46.2-301.1. Administrative impoundment of motor vehicle for certain driving while license**
854 **suspended or revoked offenses; judicial impoundment upon conviction; penalty for permitting**
855 **violation with one's vehicle.**

856 A. The motor vehicle being driven by any person (i) whose driver's license, learner's permit or
857 privilege to drive a motor vehicle has been suspended or revoked for a violation of § 18.2-51.4 or
858 18.2-272 or driving while under the influence in violation of § 18.2-266, 46.2-341.24 or a substantially
859 similar ordinance or law in any other jurisdiction; (ii) driving after adjudication as an habitual offender,
860 where such adjudication was based in whole or in part on an alcohol-related offense, or where such
861 person's license has been administratively suspended under the provisions of § 46.2-391.2; (iii) driving
862 after such person's driver's license, learner's permit or privilege to drive a motor vehicle has been
863 suspended or revoked for unreasonable refusal of tests in violation of § 18.2-268.3, 46.2-341.26:3 or a
864 substantially similar ordinance or law in any other jurisdiction; or (iv) driving without an operator's
865 license in violation of § 46.2-300 having been previously convicted of such offense or a substantially
866 similar ordinance of any county, city, or town or law in any other jurisdiction shall be impounded or
867 immobilized by the arresting law-enforcement officer at the time the person is arrested for driving after
868 his driver's license, learner's permit or privilege to drive has been so revoked or suspended or for driving
869 without an operator's license in violation of § 46.2-300 having been previously convicted of such offense
870 or a substantially similar ordinance of any county, city, or town or law in any other jurisdiction. The
871 impoundment or immobilization for a violation of ~~clauses~~ clause (i) through, (ii), or (iii) shall be for a
872 period of 30 days. The period of impoundment or immobilization for a violation of clause (iv) shall be
873 until the offender obtains a valid operator's license pursuant to § 46.2-300 or three days, whichever is
874 less. In the event that the offender obtains a valid operator's license at any time during the three-day
875 impoundment period and presents such license to the court, the court shall authorize the release of the
876 vehicle upon payment of all reasonable costs of impoundment or immobilization to the person holding
877 the vehicle.

878 The provisions of this section as to the offense described in clause (iv) of ~~this subsection~~ shall not
879 apply to a person who drives a motor vehicle with no operator's license ~~(i)~~ (a) whose license has been
880 expired for less than one year prior to the offense or ~~(ii)~~ (b) who is under 18 years of age at the time of
881 the offense. The arresting officer, acting on behalf of the Commonwealth, shall serve notice of the
882 impoundment upon the arrested person. The notice shall include information on the person's right to
883 petition for review of the impoundment pursuant to subsection B. A copy of the notice of impoundment
884 shall be delivered to the magistrate and thereafter promptly forwarded to the clerk of the general district
885 court of the jurisdiction where the arrest was made. Transmission of the notice may be by electronic
886 means.

887 At least five days prior to the expiration of the period of impoundment imposed pursuant to this
888 section or § 46.2-301, the clerk shall provide the offender with information on the location of the motor
889 vehicle and how and when the vehicle will be released; however, for a violation of clause (iv) ~~above~~,
890 such information shall be provided at the time of arrest.

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

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

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

911 civil or criminal.

912 C. The owner or co-owner of any motor vehicle impounded or immobilized under subsection A who
 913 was not the driver at the time of the violation may petition the general district court in the jurisdiction
 914 where the violation occurred for the release of his motor vehicle. The motor vehicle shall be released if
 915 the owner or co-owner proves by a preponderance of the evidence that he (i) did not know that the
 916 offender's driver's license was suspended or revoked when he authorized the offender to drive such
 917 motor vehicle; (ii) did not know that the offender had no operator's license and that the operator had
 918 been previously convicted of driving a motor vehicle without an operator's license in violation of
 919 § 46.2-300 or a substantially similar ordinance of any county, city, or town or law in any other
 920 jurisdiction when he authorized the offender to drive such motor vehicle; or (iii) did not consent to the
 921 operation of the motor vehicle by the offender. If the owner proves by a preponderance of the evidence
 922 that his immediate family has only one motor vehicle and will suffer a substantial hardship if that motor
 923 vehicle is impounded or immobilized for the period of impoundment that otherwise would be imposed
 924 pursuant to this section, the court, in its discretion, may release the vehicle after some period of less
 925 than such impoundment period.

926 D. Notwithstanding any provision of this section, a subsequent dismissal or acquittal of the charge of
 927 driving without an operator's license or of driving on a suspended or revoked license shall result in an
 928 immediate rescission of the impoundment or immobilization provided in subsection A. Upon rescission,
 929 the motor vehicle shall be released and the Commonwealth shall pay or reimburse the person for all
 930 reasonable costs of impoundment or immobilization, including removal or storage costs, incurred or paid
 931 by him.

932 E. Any person who knowingly authorizes the operation of a motor vehicle by (i) a person he knows
 933 has had his driver's license, learner's permit or privilege to drive a motor vehicle suspended or revoked
 934 for any of the reasons set forth in subsection A or (ii) a person who he knows has no operator's license
 935 and who he knows has been previously convicted of driving a motor vehicle without an operator's
 936 license in violation of § 46.2-300 or a substantially similar ordinance of any county, city, or town or law
 937 in any other jurisdiction shall be guilty of a Class 1 misdemeanor.

938 F. Notwithstanding the provisions of this section or § 46.2-301, nothing in this section shall impede
 939 or infringe upon a valid lienholder's rights to cure a default under an existing security agreement.
 940 Furthermore, such lienholder shall not be liable for any cost of impoundment or immobilization,
 941 including removal or storage expenses which may accrue pursuant to the provisions of this section or
 942 § 46.2-301. In the event a lienholder repossesses or removes a vehicle from storage pursuant to an
 943 existing security agreement, the Commonwealth shall pay all reasonable costs of impoundment or
 944 immobilization, including removal and storage expenses, to any person or entity providing such services
 945 to the Commonwealth, except to the extent such costs or expenses have already been paid by the
 946 offender to such person or entity. Such payment shall be made within seven calendar days after a
 947 request is made by such person or entity to the Commonwealth for payment. Nothing herein, however,
 948 shall relieve the offender from liability to the Commonwealth for reimbursement or payment of all such
 949 reasonable costs and expenses.

950 **§ 46.2-411. Reinstatement of suspended or revoked license or other privilege to operate or**
 951 **register a motor vehicle; proof of financial responsibility; reinstatement fee.**

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

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

961 C. Whenever the driver's license or registration cards, license plates and decals, or other privilege to
 962 drive or to register motor vehicles of any resident or nonresident person is suspended or revoked by the
 963 Commissioner or by a district court or circuit court pursuant to the provisions of Title 18.2 or this title,
 964 or any valid local ordinance, the order of suspension or revocation shall remain in effect and the driver's
 965 license, registration cards, license plates and decals, or other privilege to drive or register motor vehicles
 966 shall not be reinstated and no new driver's license, registration cards, license plates and decals, or other
 967 privilege to drive or register motor vehicles shall be issued or granted unless such person, in addition to
 968 complying with all other provisions of law, pays to the Commissioner a reinstatement fee of \$30. The
 969 reinstatement fee shall be increased by \$30 whenever such suspension or revocation results from
 970 conviction of involuntary manslaughter in violation of § 18.2-36.1; conviction of maiming resulting from
 971 driving while intoxicated in violation of § 18.2-51.4; conviction of driving while intoxicated in violation

972 of § 18.2-266 or 46.2-341.24; conviction of driving after illegally consuming alcohol in violation of
 973 § 18.2-266.1 or failure to comply with court imposed conditions pursuant to subsection D of
 974 § 18.2-271.1; unreasonable refusal to submit to drug or alcohol testing in violation of § 18.2-268.2;
 975 conviction of driving while a license, permit or privilege to drive was suspended or revoked in violation
 976 of § 46.2-301 or 46.2-341.21; disqualification pursuant to § 46.2-341.20; violation of driver's license
 977 probation pursuant to § 46.2-499; failure to attend a driver improvement clinic pursuant to § 46.2-503 or
 978 habitual offender interventions pursuant to former § 46.2-351.1; conviction of eluding police in violation
 979 of § 46.2-817; conviction of hit and run in violation of § 46.2-894; conviction of reckless driving in
 980 violation of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 or a conviction, finding or
 981 adjudication under any similar local ordinance, federal law or law of any other state. Five dollars of the
 982 additional amount shall be retained by the Department as provided in this section and \$25 shall be
 983 transferred to the Commonwealth Neurotrauma Initiative Trust Fund established pursuant to Article 12
 984 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5. When three years have elapsed from the termination
 985 date of the order of suspension or revocation and the person has complied with all other provisions of
 986 law, the Commissioner may relieve him of paying the reinstatement fee.

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

993 E. Except as otherwise provided in this section and § 18.2-271.1, reinstatement fees collected under
 994 the provisions of this section shall be paid by the Commissioner into the state treasury and shall be set
 995 aside as a special fund to be used to meet the expenses of the Department.

996 F. Before granting or restoring a license or registration to any person whose driver's license or other
 997 privilege to drive motor vehicles or privilege to register a motor vehicle has been revoked or suspended,
 998 the Commissioner shall collect from such person, in addition to all other fees provided for in this
 999 section, an additional fee of \$40. The Commissioner shall pay all fees collected pursuant to this
 1000 subsection into the Trauma Center Fund, created pursuant to § 18.2-270.01, for the purpose of defraying
 1001 the costs of providing emergency medical care to victims of automobile accidents attributable to alcohol
 1002 or drug use.

1003 G. Whenever any person is required to pay a reinstatement fee pursuant to subsection C or pursuant
 1004 to subsection E of § 18.2-271.1 and such person has more than one suspension or revocation on his
 1005 record for which reinstatement is required, then such person shall be required to pay one reinstatement
 1006 fee, the amount of which shall equal the full reinstatement fee attributable to the one of his revocations
 1007 or suspensions that would trigger the highest reinstatement fee, plus an additional \$5 fee for
 1008 administrative costs associated with compliance for each additional suspension or revocation. Fees
 1009 collected pursuant to this subsection shall be set aside as a special fund to be used to meet the expenses
 1010 of the Department.

1011 **§ 53.1-21. Transfer of prisoners into and between state and local correctional facilities.**

1012 A. Any person who ~~(1)~~ (i) is accused or convicted of an offense (a) in violation of any county, city,
 1013 or town ordinance within the Commonwealth, (b) against the laws of the Commonwealth, or (c) against
 1014 the laws of any other state or country; or ~~(2)~~ (ii) is a witness held in any case in which the
 1015 Commonwealth is a party and who is confined in a state or local correctional facility; may be
 1016 transferred by the Director, subject to the provisions of § 53.1-20, to any other state or local correctional
 1017 facility which he may designate.

1018 B. The following limitations shall apply to the transfer of persons into the custody of the
 1019 Department:

1020 1. No person convicted of violating § 20-61 shall be committed or transferred to the custody of the
 1021 Department.

1022 2. ~~No person who is convicted of any violation pursuant to Article 9 (§ 46.2-355.1 et seq.) of~~
 1023 ~~Chapter 3 of Title 46.2 shall be committed or transferred to the custody of the Department without the~~
 1024 ~~consent of the Director.~~

1025 3. No person who is convicted of a misdemeanor or a felony and receives a jail sentence of ~~twelve~~
 1026 ~~12~~ months or less shall be committed or transferred to the custody of the Department without the
 1027 consent of the Director.

1028 4. 3. Beginning July 1, 1991, and subject to the provisions of § 53.1-20, no person, whether
 1029 convicted of a felony or misdemeanor, shall be transferred to the custody of the Department when the
 1030 combined length of all sentences to be served totals two years or less, without the consent of the
 1031 Director.

1032 2. That Article 9 (§§ 46.2-355.1 through 46.2-363) of Chapter 3 of Title 46.2 of the Code of

1033 Virginia is repealed.

1034 3. That the Commissioner of the Department of Motor Vehicles shall reinstate a person's privilege
1035 to drive a motor vehicle that was suspended or revoked solely on the basis that such person was
1036 determined to be or adjudicated a habitual offender pursuant to the provisions of Article 9
1037 (§ 46.2-355.1 et seq.) of Chapter 3 of Title 46.2 of the Code of Virginia prior to the effective date
1038 of this act. Nothing in this act shall require the Commissioner to reinstate a person's driving
1039 privileges if such privileges have been otherwise lawfully suspended or revoked or if such person is
1040 otherwise ineligible for a driver's license.

1041 4. That the Virginia Alcohol and Safety Action Program (VASAP) shall be authorized to
1042 administer intervention interviews pursuant to former § 46.2-355.1 of the Code of Virginia for
1043 individuals who were ordered to attend an intervention interview on or before June 30, 2021. The
1044 Department of Motor Vehicles shall suspend the driving privileges of any person who fails to
1045 attend such intervention interview within 60 days of the date of such notice for an intervention
1046 interview, in accordance with former § 46.2-355.1 of the Code of Virginia.

Circuit Court Form	CC-1474	EXPUNGEMENT ORDER
	CC-XXXX	PETITION FOR WRIT OF VACATUR (NEW FORM)
	CC-XXXX	WRIT OF VACATUR (NEW FORM)
Abstract	<p>House Bill 2133 authorizes a circuit court to issue a writ of vacatur upon petition by a victim of commercial sex trafficking. After issuance of a writ of vacatur that is not appealed or is upheld on appeal, the court must issue an expungement order in accordance with the writ of vacatur. Two new forms are proposed to facilitate the petition and order for a writ of vacatur. In addition, it is proposed that the existing expungement order form be modified to include provisions for issuance of an expungement order pursuant to a writ of vacatur.</p>	
Source	House Bill 2133 (Chapter 543, effective July 1, 2021)	
Revision	Legislative	
Form Type	<p>Intranet master (CC-1474) Internet masters (CC-XXXX, PETITION FOR WRIT OF VACATUR, CC-XXXX, WRIT OF VACATUR)</p>	

EXPUNGEMENT ORDER

Commonwealth of Virginia
VA. CODE § 19.2-392.2

Case No.

..... Circuit Court
CITY OR COUNTY

.....
NAME OF PETITIONER SUBJECT OF WRIT OF ACTUAL INNOCENCE
 PERSON GRANTED AN ABSOLUTE PARDON

The petitioner is seeking relief pursuant to subsection A of Va. Code § 19.2-392.2 because the petitioner was charged with the commission of the following crime(s) or offense(s) , AND

has been acquitted of the following charge(s)
AND/OR

a nolle prosequi of the following charge(s) has been taken or the charge(s) have been otherwise dismissed, including dismissal by accord and satisfaction pursuant to Va. Code § 19.2-151

After receiving the criminal history record information from the Central Criminal Records Exchange (CCRE) and

conducting a hearing on the petition relating to the following charges

AND/OR

waiving a hearing on the petition for expungement of the following misdemeanor charge(s) upon receipt of written notice from the attorney for the Commonwealth that he does not object to the petition,

AND/OR

waiving a hearing on the petition for expungement of the following felony charge(s) upon receipt of written notice and stipulation from the attorney for the Commonwealth that he does not object to the petition and that the continued existence and possible dissemination of information relating to the arrest of the petitioner causes or may cause circumstances which constitute a manifest injustice to the petitioner,

the court FINDS that

the continued existence and possible dissemination of information relating to the arrest of the petitioner causes or may cause circumstances that constitute a manifest injustice to the petitioner.

the petitioner has no prior criminal record, the arrest was for a misdemeanor and the Commonwealth did not show good cause why the police and court records relating to the charge should not be expunged.

The court has received the attached copy of a writ of actual innocence pursuant to Va. Code § 19.2-327.5 or § 19.2-327.13 vacating a conviction

Pursuant to Va. Code § 2.2-402, the court has received the attached copy of an absolute pardon granted by the Governor.

The court entered a WRIT OF VACATUR pursuant to §§ 19.2-327.16-19.2-327.18 and no appeal was made OR the appellate court refused or denied the Commonwealth’s petition for appeal OR the appellate court upheld the issuance of the WRIT OF VACATUR.

The court ORDERS that:

- The police and court records, including electronic records, relating to the following charge(s) or offense(s) be expunged pursuant to subsection F (acquittal/dismissal) subsection I (absolute pardon) subsection J (writ of actual innocence) of Va. Code § 19.2-392.2 OR Va. Code § 19.2-327.19 (writ of vacatur)

.....
LIST CHARGE(S)/OFFENSE(S) INCLUDING CIRCUIT COURT AND ~~GENERAL~~-DISTRICT COURT CASE NUMBERS, IF KNOWN

- The clerk of this court shall send a copy of this ORDER, along with a copy of the PETITION FOR EXPUNGEMENT, ~~or~~ writ of actual innocence, or writ of vacatur and complete set of petitioner's fingerprints, to the Department of State Police to be acted upon in accordance with the rules and regulations adopted pursuant to Va. Code § 9.1-134.
- The court FINDS that the statutory requirements for expungement have not been satisfied for the following charge(s) and therefore, the court ORDERS that the petition be denied as to the following charge(s).

.....
LIST CHARGE(S)

.....
DATE

.....
JUDGE

I certify that I forwarded a copy of this ORDER, along with a copy of the PETITION FOR EXPUNGEMENT or a copy of the writ of actual innocence, to the Virginia Department of State Police

on
DATE

.....
CLERK

PETITION FOR WRIT OF VACATUR

Commonwealth of Virginia VA. CODE § 19.2-327.17

Case No.

..... Circuit Court
CITY OR COUNTY

.....
STREET ADDRESS OF COURT

..... v. Commonwealth of Virginia
NAME OF PETITIONER

I, the undersigned Petitioner, swear/affirm that

1. I was convicted adjudicated delinquent of the following qualifying offense(s):
 Charge(s) to be vacated
 Date(s) of final disposition of charge(s)
 Court(s) disposing of charge(s)
 Date(s) on which qualifying offense(s) occurred
 Petitioner’s date of birth
 Petitioner’s full name used at time of offense(s)
2. I further state that I committed the qualifying offense(s) as a direct result of being a victim of sex trafficking.
3. I have have not previously filed a PETITION FOR WRIT OF VACATUR. (Include disposition of previously filed Petition, if applicable.)
4. Provide any additional relevant allegations of fact below:

I declare, under penalty of perjury, that the foregoing is true and correct.

..... DATE
SIGNATURE OF PETITIONER ATTORNEY FOR PETITIONER

..... PRINT NAME

..... ADDRESS/TELEPHONE NUMBER OF PETITIONER ATTORNEY FOR PETITIONER

I certify that I provided the petitioner a certified copy of this petition. Hearing date and time:

..... DATE
CLERK

Checklist for Petitioner:

- File completed PETITION FOR WRIT OF VACATUR in the circuit court of the county or city in which the conviction or adjudication of delinquency was entered, together with all applicable fees and costs and, if required by the clerk of the court, a completed COVER SHEET FOR FILING CIVIL ACTIONS, circuit court form CC-1416.
- Obtain one complete set of fingerprints from a law-enforcement agency.
- Provide a copy of this petition to the Commonwealth’s Attorney in the county or city in which the PETITION FOR WRIT OF VACATUR is filed by delivery or first-class mail, postage prepaid.

WRIT OF VACATUR

Commonwealth of Virginia
VA. CODE §§ 19.2-327.16, 19.2-327.18

Case No.

..... Circuit Court
CITY OR COUNTY

.....
NAME OF PETITIONER

[] The petitioner is seeking a writ of vacatur for the following qualifying offense(s)

After

[] conducting a hearing on the petition relating to the following offenses(s)

AND/OR

[] waiving a hearing on the petition upon receipt of written notice from the attorney for the Commonwealth that he does not object to the petition and stipulates that the petitioner committed the qualifying offense(s) as a direct result of being a victim of sex trafficking.

AND/OR

[] waiving a hearing because this Court has previously dismissed a Petition for Vacatur from the same petitioner for the same offense(s).

[] The court FINDS that

[] the petitioner has, by a preponderance of the evidence, proven the elements in subsection A of Va. Code § 19.2-327.17 and the Writ of Vacatur is GRANTED as to the following qualifying offense(s):

.....
.....
.....

[] The clerk of this court shall provide a copy of this Writ to the petitioner and refund petitioner’s costs pursuant to Va. Code § 19.2-327.19(D)

[] The clerk of the court where the conviction was entered shall refund all fines, costs, forfeitures and penalties paid by the petitioner in relation to the qualifying offense(s) vacated. If the clerk of the court where the conviction was entered is no longer in possession of any records detailing any fines, costs, forfeitures and penalties paid by the petitioner, the clerk shall provide a refund only upon a showing by the petitioner of the amount of fines, costs, forfeitures and penalties paid.

[] The court FINDS that the statutory requirements for a writ of vacatur have not been satisfied for the following offense(s) and therefore, the court ORDERS that the petition for writ of vacatur be denied as to the following offense(s).

.....
LIST OF CHARGES

.....
DATE

.....
JUDGE

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Title 19.2 a chapter numbered 19.4, consisting of*
 3 *sections numbered 19.2-327.15 through 19.2-327.20, relating to issuance of writ of vacatur for*
 4 *victims of commercial sex trafficking.*

[H 2133]

Approved

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

8 **1. That the Code of Virginia is amended by adding in Title 19.2 a chapter numbered 19.4,**
 9 **consisting of sections numbered 19.2-327.15 through 19.2-327.20, as follows:**

CHAPTER 19.4.

ISSUANCE OF WRIT OF VACATUR FOR VICTIMS OF COMMERCIAL SEX TRAFFICKING.

§ 19.2-327.15. *Definitions.*

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

14 *"Qualifying offense" means a conviction or adjudication of delinquency for any violation of*
 15 *§ 18.2-346 or 18.2-347.*

16 *"Victim of sex trafficking" means any person convicted or adjudicated delinquent of a qualifying*
 17 *offense in the Commonwealth who committed such offense as a direct result of being solicited, invited,*
 18 *recruited, encouraged, or induced by another to engage in acts of prostitution or unlawful sexual*
 19 *intercourse, as described in subsection A of § 18.2-346, by means of force, fraud, deceit, intimidation, or*
 20 *coercion, or in which the person induced to perform such an act is younger than 18 years of age, for*
 21 *money or its equivalent regardless of whether any other person has been charged or convicted of an*
 22 *offense related to the sex trafficking of such person.*

§ 19.2-327.16. *Issuance of writ of vacatur for victims of commercial sex trafficking.*

24 *A. Notwithstanding any other provision of law or rule of court, upon a petition of a person who was*
 25 *convicted or adjudicated delinquent of a qualifying offense, the circuit court of the county or city in*
 26 *which the conviction or adjudication of delinquency was entered shall have the authority to issue writs*
 27 *of vacatur under this chapter.*

28 *B. The Rules of Supreme Court of Virginia governing practice and procedures in civil actions shall*
 29 *be applicable to proceedings under this chapter.*

30 *C. The circuit court shall have the authority to conduct hearings on petitions for vacatur.*

31 *D. Any party aggrieved by the decision of the circuit court may appeal the decision to the Supreme*
 32 *Court of Virginia.*

§ 19.2-327.17. *Contents and form of the petition for vacatur.*

34 *A. Any victim of sex trafficking may file a petition for vacatur setting forth the relevant facts and*
 35 *requesting that the judgment of a conviction or adjudication of delinquency be vacated. Such petition*
 36 *shall allege categorically and with specificity, under oath, all of the following:*

37 *1. The petitioner was convicted or adjudicated delinquent of a qualifying offense, including the date*
 38 *on which the qualifying offense occurred, the date of final disposition on which the conviction or*
 39 *adjudication of delinquency was entered, the petitioner's date of birth, and the full name used by the*
 40 *petitioner at the time of the offense;*

41 *2. The petitioner committed the qualifying offense as a direct result of being a victim of sex*
 42 *trafficking; and*

43 *3. Whether the petitioner has previously filed any other petition in accordance with this chapter in*
 44 *any circuit court and, if so, the disposition of such petition.*

45 *B. Such petition shall contain all relevant allegations of facts that are known to the petitioner at the*
 46 *time of filing. The petition shall be filed on a form provided by the Supreme Court. If the petitioner fails*
 47 *to submit a completed form, the circuit court may allow the petitioner to amend the petition to correct*
 48 *any deficiency. If the petitioner fails to submit a completed form containing the allegations set forth in*
 49 *subsection A, or if the circuit court has previously dismissed a petition for vacatur from the same*
 50 *petitioner for the same qualifying offense following a hearing conducted pursuant to § 19.2-327.18, the*
 51 *court may dismiss the petition. Any false statement in the petition, if such statement is knowingly or*
 52 *willfully made, shall be a ground for prosecution of perjury as provided for in § 18.2-434.*

53 *C. The petitioner shall obtain from a law-enforcement agency one complete set of the petitioner's*
 54 *fingerprints and shall file those fingerprints with the circuit court with the petition.*

55 *D. The Commonwealth shall be made party defendant to the proceeding. The petitioner shall provide*
 56 *a copy of the petition by delivery or by first-class mail, postage prepaid, to the attorney for the*

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57 Commonwealth of the city or county in which the petition is filed. The attorney for the Commonwealth
58 may file an objection or answer to the petition or may give written notice to the court that he does not
59 object to the petition within 30 days after receipt of the petition. Upon the motion of the attorney for the
60 Commonwealth and for good cause shown, the court may allow the attorney for the Commonwealth up
61 to an additional 30 days to respond to the petition.

62 E. A person convicted or adjudicated delinquent of multiple qualifying offenses shall include all
63 qualifying offenses in one petition, if such convictions or adjudications were all entered in the same city
64 or county. A person convicted or adjudicated delinquent of qualifying offenses in different cities or
65 counties shall file petitions in the circuit courts of the cities or counties in which the convictions or
66 adjudications of delinquency were entered.

67 **§ 19.2-327.18. Hearing on petition for vacatur.**

68 A. If the attorney for the Commonwealth of the county or city in which the petition is filed (i) gives
69 written notice to the court that he does not object to the petition and (ii) stipulates in such written
70 notice that the petitioner was convicted or adjudicated delinquent of a qualifying offense and that the
71 petitioner committed the qualifying offense as a direct result of being a victim of sex trafficking, the
72 circuit court may grant the writ and vacate the qualifying offense without conducting a hearing.

73 B. If the attorney for the Commonwealth of the county or city in which the petition is filed objects to
74 the petition or does not file an answer, the court shall conduct a hearing on the petition after
75 reasonable notice has been provided to both the petitioner and the attorney for the Commonwealth. The
76 attorney for the Commonwealth shall make reasonable efforts to notify any victim, as defined in
77 § 19.2-11.01, of any qualifying offense of such hearing. The circuit court shall not be required to
78 conduct a hearing if it has previously dismissed a petition for vacatur from the same petitioner for the
79 same qualifying offense.

80 C. Upon finding that the petitioner has by a preponderance of the evidence proven the elements
81 contained in subsection A of § 19.2-327.17, the circuit court shall grant the writ and vacate the
82 qualifying offense. If the petitioner fails to prove any of these elements, the court shall dismiss the
83 petition.

84 D. The court may grant the writ and vacate the qualifying offense regardless of whether any person
85 other than the petitioner has been charged or convicted of an offense related to the petitioner being a
86 victim of sex trafficking.

87 **§ 19.2-327.19. Relief under writ of vacatur.**

88 A. Upon granting a writ of vacatur pursuant to subsection C of § 19.2-327.18, the circuit court shall
89 provide the petitioner with a copy of the writ, and such copy shall be sufficient proof that the person
90 named in the writ is no longer under any disability, disqualification, or other adverse consequence
91 resulting from the vacated conviction or adjudication of delinquency.

92 B. If a writ of vacatur is granted, and no appeal is made to the Supreme Court, or the Supreme
93 Court refuses or denies the Commonwealth's petition for appeal or upholds the decision of the circuit
94 court, an order of expungement for the qualifying offense shall be entered by the circuit court. Upon
95 entry of the order of expungement, the clerk of court shall cause a copy of the writ of vacatur, the order
96 of expungement, and the complete set of petitioner's fingerprints to be forwarded to the Department of
97 State Police, which shall expunge the qualifying offense.

98 C. The writ to vacate the qualifying offense shall not be expunged pursuant to subsection B and shall
99 be maintained by the circuit court. Access to the writ may be provided only upon court order. Any
100 person seeking access to the writ may file a written motion setting forth why such access is needed. The
101 court shall issue an order to disclose the writ upon the written motion of the petitioner named in the
102 writ. The court may issue an order to disclose the writ if it finds that such disclosure best serves the
103 interests of justice.

104 D. Costs shall be as provided in § 17.1-275 but shall not be recoverable against the Commonwealth.
105 If the circuit court enters a writ of vacatur, the clerk of the court shall refund to the petitioner such
106 costs paid by the petitioner.

107 E. If the court enters a writ of vacatur, the petitioner shall be entitled to a refund of all fines, costs,
108 forfeitures, and penalties paid in relation to the qualifying offense that was vacated. If the clerk of the
109 court where the conviction was entered is in possession of any records detailing any fines, costs,
110 forfeitures, and penalties paid by the petitioner for a qualifying offense that was vacated, the petitioner
111 shall be entitled to a refund of such amount. If the clerk of the court where the conviction was entered
112 is no longer in possession of any records detailing any fines, costs, forfeitures, and penalties paid by the
113 petitioner for a qualifying offense that was vacated, a refund shall be provided only upon a showing by
114 the petitioner of the amount of fines, costs, forfeitures, and penalties paid.

115 **§ 19.2-327.20. Claims of relief.**

116 Except for appeals to the Supreme Court of Virginia as authorized by subsection D of § 19.2-327.16,
117 an action under this chapter or the performance of any attorney representing the petitioner under this

- 118 *chapter shall not form the basis for relief in any habeas corpus or appellate proceeding. Nothing in this*
- 119 *chapter shall create any cause of action for damages against the Commonwealth or any of its political*
- 120 *subdivisions or any officers, employees, or agents of the Commonwealth or its political subdivisions.*

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Circuit Court Form	CC-1486(A) GARNISHMENT STATUTE
Abstract	House Bill 1814 amends the statute regarding calculation of the amount of a person’s disposable earnings that are protected from garnishment. Form CC-1486(A), which is a copy of Va. Code § 34-29 has been amended accordingly. Va. Code § 8.01-512.3 requires that courts make a copy of this statute available in the clerk’s office.
Source	House Bill 1814 (Chapter 8, effective July 1, 2021)
Revision	Legislative
Form Type	Intranet master

GARNISHMENT STATUTE

§34-29. Maximum portion of disposable earnings subject to garnishment.

(a) Except as provided in subsections (b) and (b1), the maximum part of the aggregate disposable earnings of an individual for any workweek ~~which~~that is subjected to garnishment may not exceed the lesser of the following amounts:

(1) Twenty-five per centum of his disposable earnings for that week;⁵ or

(2) The amount by which his disposable earnings for that week exceed 40 times the federal minimum hourly wage prescribed by ~~§ 206 (a) (1) of Title 29 of the United States Code~~U.S.C. § 206(a)(1) or the Virginia minimum hourly wage prescribed by § 40.1-28.10, whichever is greater, in effect at the time earnings are payable.

In the case of earnings of any pay period other than a week, the State Commissioner of Labor and Industry shall by regulation prescribe a multiple of the federal or Virginia minimum hourly wage equivalent in effect to that set forth in this section.

(b) The restrictions of subsection (a) do not apply in the case of

(1) Any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure that is established by state law, ~~which~~ affords substantial due process, and ~~which~~ is subject to judicial review.

(2) Any order of any court of bankruptcy under Chapter XIII of the Bankruptcy Act.

(3) Any debt due for any state or federal tax.

(b1) the maximum part of the aggregate disposable earnings of an individual for any workweek ~~which~~that is subject to garnishment to enforce any order for the support of any person shall not exceed:

(1) Sixty ~~per centum~~percent of such individual's disposable earnings for that week; or

(2) If such individual is supporting a spouse or dependent child other than the spouse or child with respect to whose support such order was issued, ~~fifty~~50 per centum~~percent~~ of such individual's disposable earnings for that week.

The ~~50 per centum~~percent specified in clause ~~(b1)~~(2) shall be ~~55 per centum~~percent and the ~~sixty~~60 per centum~~percent~~ specified in ~~elause (b1)~~subsection (1) shall be ~~65 per centum~~percent if and to the extent that such earnings are subject to garnishment to enforce an order for support for a period ~~which~~that is more than ~~twelve~~12 weeks prior to the beginning of such workweek.

(c) No court of the ~~State~~Commonwealth and no state agency or officer may make, execute or enforce any order or process in violation of this section.

The exemptions allowed herein shall be granted to any person so entitled without any further proceedings.

(d) For the purposes of this section

(1) The term "*earnings*" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, payments to an independent contractor, or otherwise, whether paid directly to the individual or deposited with another entity or person on behalf of and traceable to the individual, and includes periodic payments pursuant to a pension or retirement program².

(2) The term "*disposable earnings*" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld, and

(3) The term "*garnishment*" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt.

(e) Every assignment, sale, transfer, pledge², or mortgage of the wages or salary of an individual ~~which~~that is exempted by this section, to the extent of the exemption provided by this section, shall be void and unenforceable by any process of law.

(f) No employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment for any one indebtedness.

(g) A depository wherein earnings have been deposited on behalf of and traceable to an individual shall not be required to determine the portion of such earnings that are subject to garnishment.

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 8

An Act to amend and reenact § 34-29 of the Code of Virginia, relating to garnishment of wages; protected portion of disposable earnings.

[H 1814]

Approved February 25, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 34-29 of the Code of Virginia is amended and reenacted as follows:

§ 34-29. Maximum portion of disposable earnings subject to garnishment.

(a) Except as provided in subsections (b) and (b1), the maximum part of the aggregate disposable earnings of an individual for any workweek ~~which~~ *that* is subjected to garnishment may not exceed the lesser of the following amounts:

(1) Twenty-five percent of his disposable earnings for that week; or
(2) The amount by which his disposable earnings for that week exceed 40 times the federal minimum hourly wage prescribed by ~~§ 206 (a) (1) of Title 29 of the United States Code U.S.C. § 206(a)(1)~~ *or the Virginia minimum hourly wage prescribed by § 40.1-28.10, whichever is greater*, in effect at the time earnings are payable.

In the case of earnings for any pay period other than a week, the State Commissioner of Labor and Industry shall by regulation prescribe a multiple of the federal *or Virginia* minimum hourly wage equivalent in effect to that set forth in this section.

(b) The restrictions of subsection (a) do not apply in the case of:

(1) Any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, ~~which~~ *that* is established by state law, ~~which~~ affords substantial due process, and ~~which~~ is subject to judicial review.

(2) Any order of any court of bankruptcy under Chapter XIII of the Bankruptcy Act.

(3) Any debt due for any state or federal tax.

(b1) The maximum part of the aggregate disposable earnings of an individual for any workweek ~~which~~ *that* is subject to garnishment to enforce any order for the support of any person shall not exceed:

(1) Sixty percent of such individual's disposable earnings for that week; or

(2) If such individual is supporting a spouse or dependent child other than the spouse or child with respect to whose support such order was issued, 50 percent of such individual's disposable earnings for that week.

The 50 percent specified in subdivision ~~(b1)~~ (2) shall be 55 percent and the 60 percent specified in subdivision ~~(b1)~~ (1) shall be 65 percent if and to the extent that such earnings are subject to garnishment to enforce an order for support for a period ~~which~~ *that* is more than 12 weeks prior to the beginning of such workweek.

(c) No court of the Commonwealth and no state agency or officer may make, execute, or enforce any order or process in violation of this section.

The exemptions allowed herein shall be granted to any person so entitled without any further proceedings.

(d) For the purposes of this section:

(1) The term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, payments to an independent contractor, or otherwise, whether paid directly to the individual or deposited with another entity or person on behalf of and traceable to the individual, and includes periodic payments pursuant to a pension or retirement program,

(2) The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld, and

(3) The term "garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt.

(e) Every assignment, sale, transfer, pledge, or mortgage of the wages or salary of an individual ~~which~~ *that* is exempted by this section, to the extent of the exemption provided by this section, shall be void and unenforceable by any process of law.

(f) No employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment for any one indebtedness.

(g) A depository wherein earnings have been deposited on behalf of and traceable to an individual shall not be required to determine the portion of such earnings ~~which~~ *that* are subject to garnishment.

**CERTIFICATE OF EXTENSION OF
LIMITATION OF RIGHT TO
ENFORCE JUDGMENT LIEN**

Commonwealth of Virginia VA. CODE § 8.01-251

VIRGINIA: The Circuit Court of the [] City [] County of
is the location of the following record referenced by this certificate:

..... DATE JUDGMENT DOCKETED	..... JUDGMENT LIEN BOOK	..... BOOK PAGE	..... INSTRUMENT NO.
Name of Creditor(s)			
Address of Creditor(s)			
Phone number of Creditor(s) (if available)			
Name of Debtor(s)			

I/we, the judgment lien creditor(s), do hereby certify that the aforementioned judgment lien be extended 10 years from the date on my/our endorsement upon this certificate.

SIGNATURE OF JUDGMENT CREDITOR/ATTORNEY-IN-FACT/AGENT

[] City [] County of State/Commonwealth of

Subscribed, sworn to and acknowledged before me this day of, 20

by
NAME TITLE

.....
PRINTED NAME OF NOTARY PUBLIC

SIGNATURE OF NOTARY PUBLIC
(My commission expires)
Registration No.

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 8.01-251, 8.01-458, and 55.1-339 of the Code of Virginia, relating to*
 3 *limitations on enforcement of judgments; judgment liens; settlement agents.*

4 [H 2099]

5 Approved

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

7 **1. That §§ 8.01-251, 8.01-458, and 55.1-339 of the Code of Virginia are amended and reenacted as**
 8 **follows:**

9 **§ 8.01-251. Limitations on enforcement of judgments.**

10 A. *No execution shall be issued and no action brought on a judgment dated prior to July 1, 2021,*
 11 *including a judgment in favor of the Commonwealth and a judgment rendered in another state or*
 12 *country, after 20 years from the date of such judgment or domestication of such judgment, unless the*
 13 *period is extended as provided in this section. No execution shall be issued and no action brought on a*
 14 *judgment dated on or after July 1, 2021, including a judgment in favor of the Commonwealth and a*
 15 *judgment rendered in another state or country, after 20 10 years from the date of such judgment or*
 16 *domestication of such judgment, unless the period is extended as provided in this section, except that no*
 17 *execution shall be issued and no action brought on a judgment dated on or after July 1, 2021, that was*
 18 *created by nonpayment of child support after 20 years from the date of such judgment or domestication*
 19 *of such judgment.*

20 B. The limitation prescribed in subsection A may be extended on motion of the judgment creditor or
 21 his assignee with notice to the judgment debtor, and an order of the circuit court of the jurisdiction in
 22 which the judgment was entered to show cause why the period for issuance of execution or bringing of
 23 an action should not be extended. Any such motion shall be filed within the 20-year period from the
 24 date of the original judgment or from the date of the latest extension thereof. If upon the hearing of the
 25 motion the court decides that there is no good cause shown for not extending the period of limitation,
 26 the order shall so state and the period of limitation mentioned in subsection A shall be extended for an
 27 additional 20 years from the date of filing of the motion to extend. Additional extensions may be
 28 granted upon the same procedure, subject in each case to the recording provisions prescribed in
 29 ~~§ 8.01-458~~ by the recordation of a certificate in the form provided in subsection G prior to the
 30 expiration of the limitation period prescribed herein in the clerk's office in which such judgment lien is
 31 recorded and executed by either the judgment lien creditor or by his duly authorized attorney-in-fact or
 32 agent. Recordation of the certificate shall extend the limitations of the right to enforce such judgment
 33 lien for 10 years from the date of the recordation of the certificate. A judgment creditor may record one
 34 additional extension by recording another certificate in the form provided in subsection G prior to the
 35 expiration of the original 10-year extension of the limitation period, which shall extend the limitations of
 36 the right to enforce such judgment lien for 10 years from the date of recordation of the second
 37 certificate. The clerk of the court shall index the certificate in both names in the index of the judgment
 38 lien book and give reference to the book and page in which the original lien is recorded. This extension
 39 procedure is subject to the exception that if the action is against a personal representative of a decedent,
 40 the motion shall be within two years from the date of his qualification, the extension may be for only
 41 two years from the time of the filing of the motion recordation of the certificate, and there may be only
 42 one such extension.

43 C. No suit shall be brought to enforce the lien of any judgment, including judgments in favor of the
 44 Commonwealth, upon which the right to issue an execution or bring an action is barred by other
 45 subsections of this section, nor shall any suit be brought to enforce the lien of any judgment against the
 46 lands which have been conveyed by the judgment debtor to a grantee for value, unless the same be
 47 brought within 10 five years from the due recordation of the deed from such judgment debtor to such
 48 grantee and unless a notice of lis pendens shall have been recorded in the manner provided by
 49 § 8.01-268 before the expiration of such 10-year five-year period.

50 D. In computing the time, any time during which the right to sue out execution on the judgment is
 51 suspended by the terms thereof, or by legal process, shall be omitted. Sections 8.01-230 et seq.,
 52 8.01-247 and 8.01-256 shall apply to the right to bring such action in like manner as to any right.

53 E. The provisions of this section apply to judgments obtained after June 29, 1948, and to judgments
 54 obtained prior to such date which are not then barred by the statute of limitations, but nothing herein
 55 shall have the effect of reducing the time for enforcement of any judgment the limitation upon which
 56 has been extended prior to such date by compliance with the provisions of law theretofore in effect.

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57 F. This section shall not be construed to impair the right of subrogation to which any person may
 58 become entitled while the lien is in force, provided *that* he institutes proceedings to enforce such right
 59 within five years after the same accrued, nor shall the lien of a judgment be impaired by the recovery of
 60 another judgment thereon, or by a forthcoming bond taken on an execution thereon, such bond having
 61 the force of a judgment.

62 G. F. Limitations on enforcement of judgments entered in the general district courts shall be
 63 governed by § 16.1-94.1, unless an abstract of such judgment is docketed in the judgment book of a
 64 circuit court. Upon the docketing of such judgment, the limitation for the enforcement of a district court
 65 judgment is the same as for a judgment of the circuit court.

66 G. Any extension of the limitations of the right to enforce a judgment shall conform substantially
 67 with the following form:

68 **CERTIFICATE OF EXTENSION OF**
 69 **LIMITATION OF RIGHT TO ENFORCE JUDGMENT LIEN**

70 Place of Record _____

71 Date Judgment Docketed _____

72 Judgment Lien Book _____ Book Page _____

73 Name of Creditor(s) _____

74 Address of Creditor(s) _____

75 Phone number of Creditors(s) (if available) _____

76 Name of Debtor(s) _____

77 I/we, the judgment lien creditor(s), do hereby certify that the aforementioned judgment lien be
 78 extended 10 years from the date of my/our endorsement upon this certificate.

79 Judgment Creditor/Attorney-in-Fact/Agent: _____

80 Commonwealth of Virginia

81 County/City of _____

82 Subscribed, sworn to and acknowledged before me by

83 _____ this _____ day of _____, 20 _____

84 My Commission expires: _____

85 Notary Public: _____

86 **§ 8.01-458. From what time judgment to be a lien on real estate; docketing revived judgment.**

87 Every judgment for money rendered in this Commonwealth by any state or federal court or by
 88 confession of judgment, as provided by law, shall be a lien on all the real estate of or to which the
 89 defendant in the judgment is or becomes possessed or entitled, from the time such judgment is recorded
 90 on the judgment lien docket of the clerk's office of the county or city where such land is situated;
 91 provided, however, when a judgment is revived under the provisions of § 8.01-251, that such revived
 92 judgment shall not be a lien as prescribed in this section unless and until such judgment is again
 93 docketed as provided herein. In such event the lien shall be effective from the date of the original
 94 docketing. Any judgment or decree properly docketed under the provisions of this section shall, if the
 95 real estate subject to the lien of such judgment has been annexed to or merged with an adjoining city
 96 subsequent to such docketing, be deemed to have been docketed in the proper clerk's office of such city.

97 **§ 55.1-339. Release of deed of trust or other lien.**

98 A. As used in this section:

99 "Deed of trust" means any mortgage, deed of trust, or vendor's lien.

100 "Judgment lien" includes a judgment lien prescribed by § 8.01-458 but does not include any lien in
 101 favor of the federal, state, or local government, or any political subdivision thereof.

102 "Lien creditor" and "creditor" shall be construed as synonymous and mean the holder, payee, or
 103 obligee of a note, bond, or other evidence of debt and shall embrace the lien creditor or his successor in
 104 interest as evidenced by proper endorsement or assignment, general or restrictive, upon the note, bond,
 105 or other evidence of debt.

106 "Payoff letter" means a written communication from the lien creditor or servicer stating, at a
 107 minimum, the amount outstanding and required to be paid to satisfy the obligation.

108 "RESA" means Chapter 10 (§ 55.1-1000 et seq.), Real Estate Settlement Agents.

109 "Satisfactory evidence of the payment of the obligation secured by the deed of trust or judgment
 110 lien" means (i) any one of (a) the original canceled check or a copy of the canceled check, showing all
 111 endorsements, payable to the lien creditor or servicer, as applicable, (b) confirmation in written or
 112 electronic form of a wire transfer to the bank account of the lien creditor or servicer, as applicable, or
 113 (c) a bank statement in written or electronic form reflecting completion of the wire transfer or
 114 negotiation of the check, as applicable, and (ii) a payoff letter or other reasonable documentary evidence
 115 that the payment was to effect satisfaction of the obligation secured or evidenced by the deed of trust or
 116 judgment lien.

117 "Satisfied by payment" includes obtaining written confirmation from the lien creditor that the

118 underlying obligation has a zero balance.

119 "Servicer" means a person or entity that collects loan payments on behalf of a lien creditor.

120 "Settlement agent" has the same meaning ascribed to it in § 55.1-1000, provided that a person shall
121 not be a settlement agent unless he is registered pursuant to § 55.1-1014 and otherwise fully in
122 compliance with the applicable provisions of RESA.

123 "Title insurance company" has the same meaning ascribed to it in § 38.2-4601, provided that the title
124 insurance company seeking to release a lien by the process described in subsection E issued a policy of
125 title insurance, through a title insurance agency or agent as defined in § 38.2-4601.1, for a real estate
126 transaction wherein the loan secured by the lien was satisfied by payment made by the title insurance
127 agency or agent also acting as the settlement agent.

128 B. 1. Except as provided in Article 3 (§ 55.1-346 et seq.), after full or partial payment or satisfaction
129 has been made of a debt secured by a deed of trust, vendor's lien, or other lien, or any one or more
130 obligations representing at least 25 percent of the total amount secured by such lien, but less than the
131 total number of the obligations so secured, or the debt secured is evidenced by two or more separate
132 written obligations sufficiently described in the instrument creating the lien, has been fully paid, the lien
133 creditor shall issue a certificate of satisfaction or certificate of partial satisfaction in a form sufficient for
134 recordation reflecting such payment and release of lien. This requirement shall apply to a credit line
135 deed of trust prepared pursuant to § 55.1-318 only when the obligor or the settlement agent has paid the
136 debt in full and requested that the instrument be released.

137 If the lien creditor receives notice from a settlement agent at the address identified in its payoff
138 statement requesting that the certificate be sent to such settlement agent, the lien creditor shall provide
139 the certificate within 90 days after receipt of such notice to the settlement agent at the address specified
140 in the notice received from the settlement agent.

141 If the notice is not received from a settlement agent, the lien creditor shall deliver, within 90 days
142 after such payment, the certificate to the appropriate clerk's office with the necessary fee for recording
143 by certified mail, return receipt requested, or when there is written proof of receipt from the clerk's
144 office, by hand delivery, electronic delivery via the clerk's electronic filing system, or delivery by a
145 commercial overnight delivery service or the United States Postal Service, and a receipt obtained.

146 If the lien creditor has already delivered the certificate to the clerk's office by the time it receives
147 notice from the settlement agent, the lien creditor shall deliver a copy of the certificate to the settlement
148 agent within 90 days of the receipt of the notice at the address for notification set forth in the payoff
149 statement.

150 ¶ *Except as provided for judgment lien creditors in § 8.01-454*, if the lien creditor has not, within 90
151 days after payment, either provided the certificate of satisfaction to the settlement agent or delivered it
152 to the clerk's office with the necessary fee for filing, the lien creditor shall forfeit \$500 to the lien
153 obligor. No settlement agent or attorney may take an assignment of the right to the \$500 penalty or
154 facilitate such an assignment to any third party designated by the settlement agent or attorney. Following
155 the 90-day period, if the amount forfeited is not paid within 10 business days after written demand for
156 payment is sent to the lien creditor by certified mail at the address for notification set forth in the payoff
157 statement, the lien creditor shall pay any court costs and reasonable attorney fees incurred by the obligor
158 in collecting the forfeiture.

159 2. If the note, bond, or other evidence of debt secured by such deed of trust, vendor's lien, or other
160 lien referred to in subdivision 1 or any interest therein has been assigned or transferred to a party other
161 than the original lien creditor, the subsequent holder shall be subject to the same requirements as a lien
162 creditor for failure to comply with this subsection, as set forth in subdivision 1.

163 C. The certificate of satisfaction shall be signed by the creditor or his duly authorized agent,
164 attorney, or attorney-in-fact or any person to whom the instrument evidencing the indebtedness has been
165 endorsed or assigned for the purpose of effecting such release. An affidavit shall be filed or recorded
166 with the certificate of satisfaction by the creditor, or his duly authorized agent, attorney, or
167 attorney-in-fact, with such clerk, stating that the debt therein secured and intended to be released or
168 discharged has been paid to such creditor or his agent, attorney, or attorney-in-fact, who was entitled
169 and authorized to receive such debt when the debt was satisfied.

170 D. When the certificate of satisfaction has been signed and the affidavit required by subsection C has
171 been duly filed or recorded with the certificate of satisfaction with such clerk, the certificate of
172 satisfaction shall operate as a release of the encumbrance as to which such payment or satisfaction is
173 entered and, if the encumbrance is by deed of trust, as a reconveyance of the legal title as fully and
174 effectually as if such certificate of satisfaction were a formal deed of release duly executed and
175 recorded.

176 E. Release of lien by settlement agent or title insurance company.

177 A settlement agent or title insurance company may release a deed of trust *or judgment lien* in
178 accordance with the provisions of this subsection (i) if the obligation secured by the deed of trust *or*

179 *judgment lien* has been satisfied by payment made by the settlement agent and (ii) whether or not the
 180 settlement agent or title insurance company is named as a trustee under the deed of trust or otherwise
 181 has received the authority to release the lien.

182 1. Notice to lienholder.

183 a. After or accompanying payment in full of the obligation secured by a deed of trust *or judgment*
 184 *lien*, a settlement agent or title insurance company intending to release a deed of trust *or judgment lien*
 185 pursuant to this subsection shall deliver to the lien creditor by certified mail or commercial overnight
 186 delivery service or the United States Postal Service, and a receipt obtained, a notice of intent to release
 187 the deed of trust *or judgment lien* with a copy of the payoff letter and a copy of the release to be
 188 recorded as provided in this subsection.

189 b. The notice of intent to release shall contain (i) the name of the lien creditor, the name of the
 190 servicer if loan payments on the deed of trust *or judgment lien* are collected by a servicer, or both
 191 names; (ii) the name of the settlement agent; (iii) the name of the title insurance company if the title
 192 insurance company intends to release the lien; and (iv) the date of the notice. The notice of intent to
 193 release shall conform substantially to the following form:

194 NOTICE OF INTENT TO RELEASE

195 Notice is hereby given to you concerning the deed of trust *or judgment lien* described on the
 196 certificate of satisfaction, a copy of which is attached to this notice, as follows:

197 1. The settlement agent identified below has paid the obligation secured by the deed of trust *or*
 198 *judgment lien* described herein or obtained written confirmation from you that such obligation has a zero
 199 balance.

200 2. The undersigned will release the deed of trust *or judgment lien* described in this notice unless,
 201 within 90 days from the date this notice is mailed by certified mail or commercial overnight delivery
 202 service or the United States Postal Service, and a receipt obtained, the undersigned has received by
 203 certified mail or commercial overnight delivery service or the United States Postal Service, and a receipt
 204 obtained, a notice stating that a release of the deed of trust *or judgment lien* has been recorded in the
 205 clerk's office or that the obligation secured by the deed of trust *or judgment lien* described herein has
 206 not been paid, or the lien creditor or servicer otherwise objects to the release of the deed of trust *or*
 207 *judgment lien*. Notice shall be sent to the address stated on this form.

208 (Name of settlement agent)

209 (Signature of settlement agent or title insurance company)

210 (Address of settlement agent or title insurance company)

211 (Telephone number of settlement agent or title insurance company)

212 (Virginia RESA registration number of settlement agent at the time the obligation was paid or
 213 confirmed to have a zero balance)

214 2. Certificate of satisfaction and affidavit of settlement agent or title insurance company.

215 a. If, within 90 days following the day on which the settlement agent or title insurance company
 216 mailed or delivered the notice of intent to release in accordance with this subsection, the lien creditor or
 217 servicer does not send by certified mail or commercial overnight delivery service or the United States
 218 Postal Service, and a receipt obtained, to the settlement agent or title insurance company a notice stating
 219 that a release of the deed of trust *or judgment lien* has been recorded in the clerk's office or that the
 220 obligation secured by the deed of trust *or judgment lien* has not been paid in full or that the lien
 221 creditor or servicer otherwise objects to the release of the deed of trust *or judgment lien*, the settlement
 222 agent or title insurance company may execute, acknowledge, and file with the clerk of court of the
 223 jurisdiction in which the deed of trust *or judgment lien* is recorded a certificate of satisfaction, which
 224 shall include (i) the affidavit described in subdivision 2 b and (ii) a copy of the notice of intent to
 225 release that was sent to the ~~lender~~ *lien creditor*, the servicer, or both. The certificate of satisfaction shall
 226 include the settlement agent's RESA registration number, issued by the Virginia State Bar or the
 227 Virginia State Corporation Commission, that was in effect at the time the settlement agent paid the
 228 obligation secured by the deed of trust *or judgment lien* or obtained written confirmation from the lien
 229 creditor that such obligation has a zero balance. The certificate of satisfaction shall note that the
 230 individual executing the certificate of satisfaction is doing so pursuant to the authority granted by this
 231 subsection. After filing or recording the certificate of satisfaction, the settlement agent or title insurance
 232 company shall mail a copy of the certificate of satisfaction to the lien creditor or servicer. The validity
 233 of a certificate of satisfaction otherwise satisfying the requirements of this subsection shall not be
 234 affected by the inaccuracy of the RESA registration number placed thereon or the failure to mail a copy
 235 of the recorded certificate of satisfaction to the lien creditor or servicer and shall nevertheless release the
 236 deed of trust *or judgment lien* described therein as provided in this subsection.

237 b. The certificate of satisfaction used by the settlement agent or title insurance company shall include
 238 an affidavit certifying (i) that the settlement agent has satisfied the obligation secured by the deed of
 239 trust *or judgment lien* described in the certificate, (ii) that the settlement agent or title insurance

240 company possesses satisfactory evidence of payment of the obligation secured by the deed of trust *or*
 241 *judgment lien* described in the certificate or written confirmation from the lien creditor that such
 242 obligation has a zero balance, (iii) that the lien of the deed of trust *or judgment lien* may be released,
 243 (iv) that the person executing the certificate is the settlement agent or the title insurance company or is
 244 duly authorized to act on behalf of the settlement agent or title insurance company, and (v) that the
 245 notice of intent to release was delivered to the lien creditor or servicer and the settlement agent or title
 246 insurance company received evidence of receipt of such notice by the lien creditor or servicer. The
 247 affidavit shall be substantially in the following form:

248 **AFFIDAVIT OF SETTLEMENT AGENT OR TITLE INSURANCE COMPANY**

249 The undersigned hereby certifies that, in accordance with the provisions of § 55.1-339 of the Code of
 250 Virginia of 1950, as amended and in force on the date hereof (the Code), (a) the undersigned is a
 251 settlement agent or title insurance company as defined in subsection A of § 55.1-339 of the Code or a
 252 duly authorized officer, director, member, partner, or employee of such settlement agent or title
 253 insurance company; (b) the settlement agent has satisfied the obligation secured by the deed of trust *or*
 254 *judgment lien*; (c) the settlement agent or title insurance company possesses satisfactory evidence of the
 255 payment of the obligation secured by the deed of trust *or judgment lien* described in the certificate
 256 recorded herewith or written confirmation from the lien creditor that such obligation has a zero balance;
 257 (d) the settlement agent or title insurance company has delivered to the lien creditor or servicer in the
 258 manner specified in subdivision E 1 of § 55.1-339 of the Code the notice of intent to release and
 259 possesses evidence of receipt of such notice by the lien creditor or servicer; and (e) the lien of the deed
 260 of trust *or judgment lien* is hereby released.

261 _____ (Authorized signer)

262 **3. Effect of filing.**

263 When filed or recorded with the clerk's office, a certificate of satisfaction that is executed and
 264 notarized as provided in this subsection and accompanied by (i) the affidavit described in subdivision 2
 265 b and (ii) a copy of the notice of intent to release that was sent to the lender, lien creditor, or servicer
 266 shall operate as a release of the encumbrance described therein and, if the encumbrance is by deed of
 267 trust, as a reconveyance of the legal title as fully and effectively as if such certificate of satisfaction
 268 were a formal deed of release duly executed and recorded.

269 **4. Effect of wrongful or erroneous certificate; damages.**

270 a. The execution and filing or recording of a wrongful or erroneous certificate of satisfaction by a
 271 settlement agent or title insurance agent does not relieve the party obligated to repay the debt, or anyone
 272 succeeding to or assuming the responsibility of the obligated party as to the debt, from any liability for
 273 the debt or other obligations secured by the deed of trust *or judgment lien* that is the subject of the
 274 wrongful or erroneous certificate of satisfaction.

275 b. A settlement agent or title insurance agent that wrongfully or erroneously executes and files or
 276 records a certificate of satisfaction is liable to the lien creditor for actual damages sustained due to the
 277 recording of a wrongful or erroneous certificate of satisfaction.

278 c. The procedure authorized by this subsection for the release of a deed of trust *or judgment lien*
 279 shall constitute an optional method of accomplishing a release of a deed of trust *or judgment lien*
 280 secured by property in the Commonwealth. The nonuse of the procedure authorized by this subsection
 281 for the release of a deed of trust *or judgment lien* shall not give rise to any liability or any cause of
 282 action whatsoever against a settlement agent or any title insurance company by any obligated party or
 283 anyone succeeding to or assuming the interest of the obligated party.

284 **5. Applicability.**

285 a. The procedure authorized by this subsection for the release of a deed of trust may be used to
 286 effect the release of a deed of trust after July 1, 2002, regardless of when the deed of trust was created,
 287 assigned, or satisfied by payment made by the settlement agent. *The procedure authorized by this*
 288 *subsection for the release of a judgment lien may be used to effect the release of such judgment lien*
 289 *after July 1, 2021, regardless of when the judgment lien was created, assigned, or satisfied by payment*
 290 *made by the settlement agent.*

291 b. This subsection applies only to transactions involving the purchase of or lending on the security of
 292 real estate located in the Commonwealth that is either (i) unimproved real estate with a lien to be
 293 released of \$1 million or less or (ii) real estate containing at least one but not more than four residential
 294 dwelling units.

295 c. The procedure authorized by this subsection applies only to the full and complete release of a deed
 296 of trust *or judgment lien*. Nothing in this subsection shall be construed to authorize the partial release of
 297 property from a deed of trust *or judgment lien* or otherwise permit the execution or recordation of a
 298 certificate of partial satisfaction.

299 **2. That the provisions of this act, except for the provisions amending subsections B and G of**
 300 **§ 8.01-251 of the Code of Virginia, as amended by this act, shall become effective on January 1,**

301 2022.

302 3. That the provisions of this act amending subsections B and G of § 8.01-251 of the Code of
303 Virginia, as amended by this act, shall become effective in due course, and a judgment lien
304 creditor or his duly authorized attorney-in-fact or agent may record a Certificate of Extension of
305 Limitation of Right to Enforce Judgment Lien for judgment liens dated prior to July 1, 2021,
306 beginning on July 1, 2021.

Proposed 2021 Holiday Leave Schedule

Thanksgiving

Wednesday, November 24:	close at noon
Thursday, November 25:	all day
Friday, November 26:	all day

Christmas

Thursday, December 23:	all day
Friday, December 24:	all day

New Year's

Thursday, December 30:	all day (additional time for Judicial Branch)
Friday, December 31:	all day

*Same leave that was approved in 2010, the last time Christmas Day was on a Saturday.

Commonwealth of Virginia 2021 Pay and Holiday Calendar Revised October 2020

State Holidays

- January 1**
New Year's Day
- January 18**
Martin Luther King, Jr. Day
- February 15**
George Washington Day
- May 31**
Memorial Day
- June 18**
Juneteenth (Observed)
- July 5**
Independence Day (Observed)
- September 6**
Labor Day
- October 11**
Columbus Day & Yorktown Victory Day
- November 2**
Election Day
- November 11**
Veterans Day
- November 24**
4 hours additional holiday time
- November 25**
Thanksgiving
- November 26**
Day After Thanksgiving
- December 23**
8 hours additional holiday time
- December 24**
Christmas (Observed)
- December 31**
New Year's (Observed)

Please note: In some agencies, the holiday and payday schedule may vary from what is shown here. If you have questions, see your agency human resources officer.

Denotes Payday

Denotes Holiday

Denotes Additional Time Off 8 hrs 4 hrs

Denotes Payday on Holiday or Time Off

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Published by Commonwealth of Virginia October 2020



January

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
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31						

February

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28						

March

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April

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				1	2	3
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May

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June

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July

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August

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29	30	31				

September

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October

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31						

November

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28	29	30				

December

S	M	T	W	T	F	S
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