

SENATE BILL NO. 1122

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary

on \_\_\_\_\_)

(Patron Prior to Substitute--Senator Stanley)

A BILL 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 currently effective and as it shall become effective, 46.2-301, 46.2-301.1, 46.2-411, and 53.1-21 of the Code of Virginia and to repeal Article 9 (§§ 46.2-355.1 through 46.2-363) of Chapter 3 of Title 46.2 of the Code of Virginia, relating to habitual offenders; repeal.

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

**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 it shall become effective, 46.2-301, 46.2-301.1, 46.2-411, and 53.1-21 of the Code of Virginia are amended and reenacted as follows:**

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

A. A suit wherein a person under a disability is a party defendant shall not be stayed because of such disability, but the court in which the suit is pending, or the clerk thereof, shall appoint a discreet and competent attorney-at-law as guardian ad litem to such defendant, whether the defendant has been served with process or not. If no such attorney is found willing to act, the court shall appoint some other discreet and proper person as guardian ad litem. Any guardian ad litem so appointed shall not be liable for costs. Every guardian ad litem shall faithfully represent the estate or other interest of the person under a disability for whom he is appointed, and it shall be the duty of the court to see that the interest of the defendant is so represented and protected. Whenever the court is of the opinion that the interest of the defendant so requires, it shall remove any guardian ad litem and appoint another in his stead. When, in any case, the court is satisfied that the guardian ad litem has rendered substantial service in representing the interest of the person under a disability, it may allow the guardian reasonable compensation therefor, and his actual

27 expenses, if any, to be paid out of the estate of the defendant. However, if the defendant's estate is  
28 inadequate for the purpose of paying compensation and expenses, all, or any part thereof, may be taxed as  
29 costs in the proceeding ~~or, in the case of proceedings to adjudicate a person under a disability as an habitual~~  
30 ~~offender pursuant to former § 46.2-351.2 or former § 46.2-352, shall be paid by the Commonwealth out~~  
31 ~~of the state treasury from the appropriation for criminal charges.~~ In a civil action against an incarcerated  
32 felon for damages arising out of a criminal act, the compensation and expenses of the guardian ad litem  
33 shall be paid by the Commonwealth out of the state treasury from the appropriation for criminal charges.  
34 If judgment is against the incarcerated felon, the amount allowed by the court to the guardian ad litem  
35 shall be taxed against the incarcerated felon as part of the costs of the proceeding, and if collected, the  
36 same shall be paid to the Commonwealth. By order of the court, in a civil action for divorce from an  
37 incarcerated felon, the compensation and expenses of the guardian ad litem shall be paid by the  
38 Commonwealth out of the state treasury from the appropriation for criminal charges if the crime (i) for  
39 which the felon is incarcerated occurred after the date of the marriage for which the divorce is sought, (ii)  
40 for which the felon is incarcerated was committed against the felon's spouse, child, or stepchild and  
41 involved physical injury, sexual assault, or sexual abuse, and (iii) resulted in incarceration subsequent to  
42 conviction and the felon was sentenced to confinement for more than one year. The amount allowed by  
43 the court to the guardian ad litem shall be taxed against the incarcerated felon as part of the costs of the  
44 proceeding, and if collected, the same shall be paid to the Commonwealth.

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

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

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

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

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

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

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

73 Except as otherwise provided in this subsection, if attendance is desired in a civil proceeding  
74 pending in a court or at a deposition in connection with such proceeding, including medical malpractice  
75 review panels, and a claim before the Workers' Compensation Commission, a summons may be issued by  
76 an attorney-at-law who is an active member of the Virginia State Bar at the time of issuance, as an officer  
77 of the court. An attorney-issued summons shall be on a form approved by the Supreme Court, signed by  
78 the attorney and shall include the attorney's address. The summons and any transmittal sheet shall be  
79 deemed to be a pleading to which the provisions of § 8.01-271.1 shall apply. A copy of the summons and,

80 if served by a sheriff, all service of process fees, shall be mailed or delivered to the clerk's office of the  
81 court in which the case is pending or the Workers' Compensation Commission, as applicable, on the day  
82 of issuance by the attorney. The law governing summonses issued by a clerk shall apply mutatis mutandis.  
83 When an attorney-at-law who is an active member of the Virginia State Bar transmits one or more  
84 attorney-issued subpoenas to a sheriff to be served in his jurisdiction, such subpoenas shall be  
85 accompanied by a transmittal sheet. The transmittal sheet, which may be in the form of a letter, shall  
86 contain for each subpoena (i) the person to be served, (ii) the name of the city or county in which the  
87 subpoena is to be served, in parentheses, (iii) the style of the case in which the subpoena was issued, (iv)  
88 the court in which the case is pending, and (v) the amount of fees tendered or paid to each clerk in whose  
89 court the case is pending together with a photocopy of either (a) the payment instrument and a photocopy  
90 of the letter sent to the clerk's office that accompanied such payment instrument or (b) the clerk's receipt.  
91 If copies of the same transmittal sheet are used to send subpoenas to more than one sheriff for service of  
92 process, then subpoenas shall be grouped by the jurisdiction in which they are to be served. For each  
93 person to be served, an original subpoena and copy thereof shall be included. If the attorney desires a  
94 return copy of the transmittal sheet as proof of receipt, he shall also enclose an additional copy of the  
95 transmittal sheet together with an envelope addressed to the attorney with sufficient first class postage  
96 affixed. Upon receipt of such transmittal, the transmittal sheet shall be date-stamped and, if the extra copy  
97 and above-described envelope are provided, the copy shall also be date-stamped and returned to the  
98 attorney-at-law in the above-described envelope.

99           However, when such transmittal does not comply with the provisions of this section, the sheriff  
100 may promptly return such transmittal if accompanied by a short description of such noncompliance. An  
101 attorney may not issue a summons in any of the following civil proceedings: (a) habeas corpus under  
102 Article 3 (§ 8.01-654 et seq.) of Chapter 25 of this title, (b) delinquency or abuse and neglect proceedings  
103 under Article 3 (§ 16.1-241 et seq.) of Chapter 11 of Title 16.1, (c) civil forfeiture proceedings, (d) ~~habitual~~  
104 ~~offender proceedings under Article 9 (§ 46.2-351 et seq.) of Chapter 3 of Title 46.2,~~ (e) administrative  
105 license suspension pursuant to § 46.2-391.2, and ~~(f)~~ (e) petition for writs of mandamus or prohibition in

106 connection with criminal proceedings. A sheriff shall not be required to serve an attorney-issued subpoena  
107 that is not issued at least five business days prior to the date that 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  
111 to attend. Failure to respond to any such summons shall be punishable by the court in which the proceeding  
112 is pending as for contempt. When any subpoena is served less than five calendar days before appearance  
113 is required, the court may, after considering all of the circumstances, refuse to enforce the subpoena for  
114 lack of adequate notice. If any subpoena is served less than five calendar days before appearance is  
115 required upon any judicial officer generally incompetent to testify pursuant to § 19.2-271, such subpoena  
116 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  
118 the 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 of  
127 such claim does not exceed \$4,500 exclusive of interest and any attorney fees, and concurrent jurisdiction  
128 with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof  
129 exceeds \$4,500 but does not exceed \$25,000, exclusive of interest and any attorney fees. However, this  
130 \$25,000 limit shall not apply with respect to distress warrants under the provisions of § 8.01-130.4, cases  
131 involving liquidated damages for violations of vehicle weight limits pursuant to § 46.2-1135, nor cases  
132 involving forfeiture of a bond pursuant to § 19.2-143. While a matter is pending in a general district court,

133 upon motion of the plaintiff seeking to increase the amount of the claim, the court shall order transfer of  
134 the matter to the circuit court that has jurisdiction over the amended amount of the claim without requiring  
135 that the case first be dismissed or that the plaintiff suffer a nonsuit, and the tolling of the applicable statutes  
136 of limitations governing the pending matter shall be unaffected by the transfer. Except for good cause  
137 shown, no such order of transfer shall issue unless the motion to amend and transfer is made at least 10  
138 days before trial. The plaintiff shall pay filing and other fees as otherwise provided by law to the clerk of  
139 the court to which the case is transferred, and such clerk shall process the claim as if it were a new civil  
140 action. The plaintiff shall prepare and present the order of transfer to the transferring court for entry, after  
141 which time the case shall be removed from the pending docket of the transferring court and the order of  
142 transfer placed among its records. The plaintiff shall provide a certified copy of the transfer order to the  
143 receiving court.

144 (2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does  
145 not 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  
147 seq.) 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 cross-  
149 claim in an unlawful detainer action that includes a claim for damages sustained or rent against any person  
150 obligated on the lease or guarantee of such lease.

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

154 (5) Jurisdiction to try and decide suits in interpleader involving personal or real property where  
155 the 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 disposition  
158 of an earnest money deposit pursuant to a real estate purchase contract. The action shall be brought in  
159 accordance with the procedures for interpleader as set forth in § 8.01-364. However, the general district

160 court shall not have any power to issue injunctions. Actions in interpleader may be brought by either the  
161 stakeholder or any of the claimants. The initial pleading shall be either by motion for judgment, by warrant  
162 in debt, or by other uniform court form established by the Supreme Court of Virginia. The initial pleading  
163 shall briefly set forth the circumstances of the claim and shall name as defendant all parties in interest who  
164 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 Dissemination  
167 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 46.2.~~

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

173 ~~(9)~~(8) Concurrent jurisdiction with the circuit courts to submit matters to arbitration pursuant to  
174 Chapter 21 (§ 8.01-577 et seq.) of Title 8.01 where the amount in controversy is within the jurisdictional  
175 limits of the general district court. Any party that disagrees with an order by a general district court  
176 granting an application to compel arbitration may appeal such decision to the circuit court pursuant to §  
177 8.01-581.016.

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

180 **§ 16.1-305. Confidentiality of court records.**

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

- 186           1. The judge, probation officers and professional staff assigned to serve the juvenile and domestic  
187 relations district courts;
- 188           2. Representatives of a public or private agency or department providing supervision or having  
189 legal custody of the child or furnishing evaluation or treatment of the child ordered or requested by the  
190 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 local  
199 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 court  
205 order;
- 206           5. Any attorney for the Commonwealth and any local pretrial services or community-based  
207 probation officer or state adult probation or parole officer shall have direct access to the defendant's  
208 juvenile court delinquency records maintained in an electronic format by the court for the strictly limited  
209 purposes of 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  
217 for 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  
219 A 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 be  
223 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  
231 a 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 juvenile  
234 under § 16.1-258. This shall not authorize a bail bondsman to have access to or inspect any other portion  
235 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 the  
244 attorney for the juvenile, or waiver of attorney by the juvenile, shall be furnished to an attorney for the  
245 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  
249 to the Virginia Workers' Compensation Commission solely for purposes of determining whether to make  
250 an 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 victim  
255 or a parent of a minor victim, upon request. Additionally, if the victim or parent submits a written request,  
256 the Department of Juvenile Justice shall provide advance notice of such juvenile offender's anticipated  
257 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  
267 years 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  
275 settled and agreed, cases that are dismissed with or without prejudice, cases that are discontinued or  
276 dismissed 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  
278 were 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  
283 in 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  
293 conviction and all criminal case files involving a misdemeanor conviction under § 16.1-253.2, 18.2-57.2,  
294 or 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 shall  
297 be retained (a) 50 years from the sentencing date or (b) until the sentence term ends, whichever comes  
298 later.

299 D. Under the provisions of subsections B and C, the entire file of any case deemed by the local  
300 clerk of court to have historical value, as defined in § 42.1-77, or genealogical or sensational significance  
301 shall 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 estate  
303 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  
305 or 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 records,  
309 papers, or documents have been microfilmed or converted to an electronic format. Such microfilm and  
310 microphotographic processes and equipment shall meet state archival microfilm standards pursuant to §  
311 42.1-82, or such electronic format shall follow state electronic records guidelines, and such records,  
312 papers, or documents so converted shall be placed in conveniently accessible files and provisions made  
313 for examining and using same. The clerk shall further provide security negative copies of any such  
314 microfilmed materials for storage in The Library of Virginia.

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

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

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

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

337 3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to  
338 provide 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  
346 executive 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.)  
357 of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered  
358 a 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 adult  
363 members of that individual's household, with whom the agency is considering placing a child or from  
364 whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary,  
365 or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall  
366 not be further disseminated to any party other than a federal or state authority or court as may be required  
367 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 § 9.1-  
375 101 at his cost, except that criminal history record information shall be supplied at no charge to a person  
376 who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii)  
377 a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent  
378 Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual  
379 who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line  
380 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 may  
389 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, and  
395 the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in  
396 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  
398 investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-

399 126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-  
400 162.9:1, subject to 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 licensed  
403 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  
405 forth in § 4.1-103.1;

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

409 19. The Commissioner of Behavioral Health and Developmental Services for those individuals  
410 who 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,  
416 the Department of Education, or the Department of Behavioral Health and Developmental Services for  
417 the 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  
420 the 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  
423 secondary schools which are accredited pursuant to § 22.1-19 or a private organization coordinating such  
424 records information on behalf of such governing boards or administrators pursuant to a written agreement  
425 with the Department of State Police;



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

428 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-  
429 79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution  
430 of higher education, for the purpose of assessing or intervening with an individual whose behavior may  
431 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal  
432 history record information obtained pursuant to this section or otherwise use any record of an individual  
433 beyond the purpose that such disclosure was made to the threat assessment team;

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

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

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

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

452 30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating  
453 applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20  
454 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

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

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

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

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

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

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

476 37. The Department of Medical Assistance Services, or its designee, for the purpose of screening  
477 individuals who, through contracts, subcontracts, or direct employment, volunteer, apply for, are offered,  
478 or have accepted a position related to the provision of transportation services to enrollees in the Medicaid

479 Program or the Family Access to Medical Insurance Security (FAMIS) Program, or any other program  
480 administered by the Department of Medical Assistance Services;

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

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

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

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

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

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

500 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members  
501 of a juvenile's household when completing a predispositional or postdispositional report required by §  
502 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

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

505 46. Other entities as otherwise provided by law.

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

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

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

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

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

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

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

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

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

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

552 **§ 19.2-389. (Effective July 1, 2021) Dissemination of criminal history record information.**

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

- 555 1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for  
556 purposes of the administration of criminal justice and the screening of an employment application or  
557 review of employment by a criminal justice agency with respect to its own employees or applicants, and  
558 dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-

559 responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 4, and  
560 6 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of  
561 this subdivision, criminal history record information includes information sent to the Central Criminal  
562 Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-  
563 time employee of the State Police, a police department or sheriff's office that is a part of or administered  
564 by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and  
565 detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for  
566 the purposes of the administration of criminal justice;

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

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

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

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

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

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

592           7a. Commissions created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.)  
593 of Title 33.2 and their contractors, for the conduct of investigations of individuals who have been offered  
594 a position of employment whenever, in the interest of public welfare or safety and as authorized in the  
595 Transportation District Act of 1964, it is necessary to determine if the past criminal conduct of a person  
596 with a conviction record would be compatible with the nature of the employment under consideration;

597           8. Public or private agencies when authorized or required by federal or state law or interstate  
598 compact to investigate (i) applicants for foster or adoptive parenthood or (ii) any individual, and the adult  
599 members of that individual's household, with whom the agency is considering placing a child or from  
600 whom the agency is considering removing a child due to abuse or neglect, on an emergency, temporary,  
601 or permanent basis pursuant to §§ 63.2-901.1 and 63.2-1505, subject to the restriction that the data shall  
602 not be further disseminated to any party other than a federal or state authority or court as may be required  
603 to comply with an express requirement of law;

604           9. To the extent permitted by federal law or regulation, public service companies as defined in §  
605 56-1, for the conduct of investigations of applicants for employment when such employment involves  
606 personal contact with the public or when past criminal conduct of an applicant would be incompatible  
607 with the nature of the employment under consideration;

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

610           11. A person requesting a copy of his own criminal history record information as defined in § 9.1-  
611 101 at his cost, except that criminal history record information shall be supplied at no charge to a person

612 who has applied to be a volunteer with (i) a Virginia affiliate of Big Brothers/Big Sisters of America; (ii)  
613 a volunteer fire company; (iii) the Volunteer Emergency Families for Children; (iv) any affiliate of Prevent  
614 Child Abuse, Virginia; (v) any Virginia affiliate of Compeer; or (vi) any board member or any individual  
615 who has been offered membership on the board of a Crime Stoppers, Crime Solvers or Crime Line  
616 program as defined in § 15.2-1713.1;

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

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

628 14. The Virginia Lottery for the conduct of investigations as set forth in the Virginia Lottery Law  
629 (§ 58.1-4000 et seq.) and casino gaming as set forth in Chapter 41 (§ 58.1-4100 et seq.) of Title 58.1, and  
630 the Department of Agriculture and Consumer Services for the conduct of investigations as set forth in  
631 Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2;

632 15. Licensed nursing homes, hospitals and home care organizations for the conduct of  
633 investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-  
634 126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-  
635 162.9:1, subject to the limitations set out in subsection E;

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



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

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

644 19. The Commissioner of Behavioral Health and Developmental Services for those individuals  
645 who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-182.2,  
646 19.2-182.3, 19.2-182.8, and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

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

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

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

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

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

663 25. Members of a threat assessment team established by a local school board pursuant to § 22.1-  
664 79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution  
665 of higher education, for the purpose of assessing or intervening with an individual whose behavior may

666 present a threat to safety; however, no member of a threat assessment team shall redisclose any criminal  
667 history record information obtained pursuant to this section or otherwise use any record of an individual  
668 beyond the purpose that such disclosure was made to the threat assessment team;

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

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

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

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

687           30. The Commissioner of the Department of Motor Vehicles, for the purpose of evaluating  
688 applicants for and holders of a motor carrier certificate or license subject to the provisions of Chapters 20  
689 (§ 46.2-2000 et seq.) and 21 (§ 46.2-2100 et seq.) of Title 46.2;

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

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

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

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

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

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

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

716 38. The State Corporation Commission for the purpose of investigating individuals who are current  
717 or proposed members, senior officers, directors, and principals of an applicant or person licensed under  
718 Chapter 16 (§ 6.2-1600 et seq.), Chapter 19 (§ 6.2-1900 et seq.), or Chapter 26 (§ 6.2-2600 et seq.) of Title  
719 6.2. Notwithstanding any other provision of law, if an application is denied based in whole or in part on

720 information obtained from the Central Criminal Records Exchange pursuant to Chapter 16, 19, or 26 of  
721 Title 6.2, the Commissioner of Financial Institutions or his designee may disclose such information to the  
722 applicant or its designee;

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

725 40. The Department for Aging and Rehabilitative Services and the Department for the Blind and  
726 Vision Impaired for the purpose of evaluating an individual's fitness for various types of employment and  
727 for the purpose of delivering comprehensive vocational rehabilitation services pursuant to Article 11 (§  
728 51.5-170 et seq.) of Chapter 14 of Title 51.5 that will assist the individual in obtaining employment;

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

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

732 43. The Department of Education or its agents or designees for the purpose of screening individuals  
733 seeking to enter into a contract with the Department of Education or its agents or designees for the  
734 provision of child care services for which child care subsidy payments may be provided;

735 44. The Department of Juvenile Justice to investigate any parent, guardian, or other adult members  
736 of a juvenile's household when completing a predispositional or postdispositional report required by §  
737 16.1-273 or a Board of Juvenile Justice regulation promulgated pursuant to § 16.1-233;

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

740 46. Administrators and board presidents of and applicants for licensure or registration as a child  
741 day program or family day system, as such terms are defined in § 22.1-289.02, for dissemination to the  
742 Superintendent of Public Instruction's representative pursuant to § 22.1-289.013 for the conduct of  
743 investigations with respect to employees of and volunteers at such facilities pursuant to §§ 22.1-289.034  
744 through 22.1-289.037, subject to the restriction that the data shall not be further disseminated by the  
745 facility or agency to any party other than the data subject, the Superintendent of Public Instruction's

746 representative, or a federal or state authority or court as may be required to comply with an express  
747 requirement of law for such further dissemination; and

748 47. Other entities as otherwise provided by law.

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

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

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

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

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

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

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

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

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

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

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

795 **§ 46.2-301. Driving while license, permit, or privilege to drive suspended or revoked.**

796 A. In addition to any other penalty provided by this section, any motor vehicle administratively  
797 impounded or immobilized under the provisions of § 46.2-301.1 may, in the discretion of the court, be  
798 impounded or immobilized for an additional period of up to 90 days upon conviction of an offender for  
799 driving while his driver's license, learner's permit, or privilege to drive a motor vehicle has been (i)

800 suspended or revoked for ~~(i)~~ a violation of § 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-272, or 46.2-341.24 or  
801 a substantially similar ordinance or law in any other jurisdiction or ~~(ii) driving after adjudication as an~~  
802 ~~habitual offender, where such adjudication was based in whole or in part on an alcohol-related offense, or~~  
803 ~~where such person's license has been~~ administratively suspended under the provisions of § 46.2-391.2.  
804 However, if, at the time of the violation, the offender was driving a motor vehicle owned by another  
805 person, the court shall have no jurisdiction over such motor vehicle but may order the impoundment or  
806 immobilization of a motor vehicle owned solely by the offender at the time of arrest. All costs of  
807 impoundment or immobilization, including removal or storage expenses, shall be paid by the offender  
808 prior to the release of his motor vehicle.

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

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

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

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

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

847 **§ 46.2-301.1. Administrative impoundment of motor vehicle for certain driving while license**  
848 **suspended or revoked offenses; judicial impoundment upon conviction; penalty for permitting**  
849 **violation with one's vehicle.**

850 A. The motor vehicle being driven by any person (i) whose driver's license, learner's permit or  
851 privilege to drive a motor vehicle has been suspended or revoked for a violation of § 18.2-51.4 or 18.2-  
852 272 or driving while under the influence in violation of § 18.2-266, 46.2-341.24 or a substantially similar



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

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

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

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

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

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

905 C. The owner or co-owner of any motor vehicle impounded or immobilized under subsection A  
906 who was not the driver at the time of the violation may petition the general district court in the jurisdiction

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

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

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

930 F. Notwithstanding the provisions of this section or § 46.2-301, nothing in this section shall impede  
931 or infringe upon a valid lienholder's rights to cure a default under an existing security agreement.  
932 Furthermore, such lienholder shall not be liable for any cost of impoundment or immobilization, including  
933 removal or storage expenses which may accrue pursuant to the provisions of this section or § 46.2-301. In

934 the event a lienholder repossesses or removes a vehicle from storage pursuant to an existing security  
935 agreement, the Commonwealth shall pay all reasonable costs of impoundment or immobilization,  
936 including removal and storage expenses, to any person or entity providing such services to the  
937 Commonwealth, except to the extent such costs or expenses have already been paid by the offender to  
938 such person or entity. Such payment shall be made within seven calendar days after a request is made by  
939 such person or entity to the Commonwealth for payment. Nothing herein, however, shall relieve the  
940 offender from liability to the Commonwealth for reimbursement or payment of all such reasonable costs  
941 and expenses.

942 **§ 46.2-411. Reinstatement of suspended or revoked license or other privilege to operate or**  
943 **register a motor vehicle; proof of financial responsibility; reinstatement fee.**

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

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

953 C. Whenever the driver's license or registration cards, license plates and decals, or other privilege  
954 to drive or to register motor vehicles of any resident or nonresident person is suspended or revoked by the  
955 Commissioner or by a district court or circuit court pursuant to the provisions of Title 18.2 or this title, or  
956 any valid local ordinance, the order of suspension or revocation shall remain in effect and the driver's  
957 license, registration cards, license plates and decals, or other privilege to drive or register motor vehicles  
958 shall not be reinstated and no new driver's license, registration cards, license plates and decals, or other  
959 privilege to drive or register motor vehicles shall be issued or granted unless such person, in addition to  
960 complying with all other provisions of law, pays to the Commissioner a reinstatement fee of \$30. The

961 reinstatement fee shall be increased by \$30 whenever such suspension or revocation results from  
962 conviction of involuntary manslaughter in violation of § 18.2-36.1; conviction of maiming resulting from  
963 driving while intoxicated in violation of § 18.2-51.4; conviction of driving while intoxicated in violation  
964 of § 18.2-266 or 46.2-341.24; conviction of driving after illegally consuming alcohol in violation of §  
965 18.2-266.1 or failure to comply with court imposed conditions pursuant to subsection D of § 18.2-271.1;  
966 unreasonable refusal to submit to drug or alcohol testing in violation of § 18.2-268.2; conviction of driving  
967 while a license, permit or privilege to drive was suspended or revoked in violation of § 46.2-301 or 46.2-  
968 341.21; disqualification pursuant to § 46.2-341.20; violation of driver's license probation pursuant to §  
969 46.2-499; failure to attend a driver improvement clinic pursuant to § 46.2-503 or ~~habitual offender~~  
970 interventions pursuant to former § 46.2-351.1; conviction of eluding police in violation of § 46.2-817;  
971 conviction of hit and run in violation of § 46.2-894; conviction of reckless driving in violation of Article  
972 7 (§ 46.2-852 et seq.) of Chapter 8 of Title 46.2 or a conviction, finding or adjudication under any similar  
973 local ordinance, federal law or law of any other state. Five dollars of the additional amount shall be  
974 retained by the Department as provided in this section and \$25 shall be transferred to the Commonwealth  
975 Neurotrauma Initiative Trust Fund established pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14  
976 of Title 51.5. When three years have elapsed from the termination date of the order of suspension or  
977 revocation and the person has complied with all other provisions of law, the Commissioner may relieve  
978 him of paying the reinstatement fee.

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

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

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

995 G. Whenever any person is required to pay a reinstatement fee pursuant to subsection C or pursuant  
996 to subsection E of § 18.2-271.1 and such person has more than one suspension or revocation on his record  
997 for which reinstatement is required, then such person shall be required to pay one reinstatement fee, the  
998 amount of which shall equal the full reinstatement fee attributable to the one of his revocations or  
999 suspensions that would trigger the highest reinstatement fee, plus an additional \$5 fee for administrative  
1000 costs associated with compliance for each additional suspension or revocation. Fees collected pursuant to  
1001 this subsection shall be set aside as a special fund to be used to meet the expenses of the Department.

1002 **§ 53.1-21. Transfer of prisoners into and between state and local correctional facilities.**

1003 A. Any person who ~~(1)~~ (i) is accused or convicted of an offense (a) in violation of any county, city,  
1004 or town ordinance within the Commonwealth, (b) against the laws of the Commonwealth, or (c) against  
1005 the laws of any other state or country; or ~~(2)~~ (ii) is a witness held in any case in which the Commonwealth  
1006 is a party and who is confined in a state or local correctional facility; may be transferred by the Director,  
1007 subject to the provisions of § 53.1-20, to any other state or local correctional facility which he may  
1008 designate.

1009 B. The following limitations shall apply to the transfer of persons into the custody of the  
1010 Department:

1011 1. No person convicted of violating § 20-61 shall be committed or transferred to the custody of the  
1012 Department.

1013 ~~2. No person who is convicted of any violation pursuant to Article 9 (§ 46.2-355.1 et seq.) of~~  
1014 ~~Chapter 3 of Title 46.2 shall be committed or transferred to the custody of the Department without the~~  
1015 ~~consent of the Director.~~

1016 ~~3. No person who is convicted of a misdemeanor or a felony and receives a jail sentence of twelve~~  
1017 ~~12 months or less shall be committed or transferred to the custody of the Department without the consent~~  
1018 ~~of the Director.~~

1019 ~~4.3. Beginning July 1, 1991, and subject to the provisions of § 53.1-20, no person, whether~~  
1020 ~~convicted of a felony or misdemeanor, shall be transferred to the custody of the Department when the~~  
1021 ~~combined length of all sentences to be served totals two years or less, without the consent of the Director.~~

1022 **2. That Article 9 (§§ 46.2-355.1 through 46.2-363) of Chapter 3 of Title 46.2 of the Code of Virginia**  
1023 **is repealed.**

1024 **3. That the Commissioner of the Department of Motor Vehicles shall reinstate a person's privilege**  
1025 **to drive a motor vehicle that was suspended or revoked solely on the basis that such person was**  
1026 **determined to be or adjudicated a habitual offender pursuant to the provisions of Article 9 (§ 46.2-**  
1027 **355.1 et seq.) of Chapter 3 of Title 46.2 of the Code of Virginia prior to the effective date of this act.**  
1028 **Nothing in this act shall require the Commissioner to reinstate a person's driving privileges if such**  
1029 **privileges have been otherwise lawfully suspended or revoked or if such person is otherwise**  
1030 **ineligible for a driver's license.**

1031 #