

SUBCOMMITTEE: SUBCOMMITTEE #1

SENATE BILL NO. 1602

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on _____)

(Patron Prior to Substitute--Senator Obenshain)

A BILL to amend and reenact §§ 9.1-101, 9.1-176.1, 18.2-57.3, 18.2-251, 19.2-74, 19.2-232, 19.2-303, 19.2-303.2, 19.2-305.1, 19.2-388, 19.2-390, 19.2-392, 53.1-23, 53.1-145, and 53.1-165 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 19.2-303.02 and 19.2-390.03, relating to reports to Central Criminal Records Exchange; duties and authority of the Central Criminal Records Exchange; unapplied criminal history record information.

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-101, 9.1-176.1, 18.2-57.3, 18.2-251, 19.2-74, 19.2-232, 19.2-303, 19.2-303.2, 19.2-305.1, 19.2-388, 19.2-390, 19.2-392, 53.1-23, 53.1-145, and 53.1-165 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 19.2-303.02 and 19.2-390.03 as follows:

§ 9.1-101. Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

26 "Correctional status information" means records and data concerning each condition of a convicted
27 person's custodial status, including probation, confinement, work release, study release, escape, or
28 termination of custody through expiration of sentence, parole, pardon, or court decision.

29 "Criminal history record information" means records and data collected by criminal justice
30 agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,
31 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall
32 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title
33 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional
34 status information.

35 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof
36 which as its principal function performs the administration of criminal justice and any other agency or
37 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the
38 purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within
39 the context of its criminal justice activities, employs special conservators of the peace appointed under
40 Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires
41 its officers or special conservators to meet compulsory training standards established by the Criminal
42 Justice Services Board and submits reports of compliance with the training standards and (b) the private
43 corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent
44 that the private corporation or agency so designated as a criminal justice agency performs criminal justice
45 activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted
46 under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually
47 Violent Predators Act (§ 37.2-900 et seq.).

48 "Criminal justice agency" includes any program certified by the Commission on VASAP pursuant
49 to § 18.2-271.2.

50 "Criminal justice agency" includes the Department of Criminal Justice Services.

51 "Criminal justice agency" includes the Virginia State Crime Commission.

52 "Criminal justice information system" means a system including the equipment, facilities,
53 procedures, agreements, and organizations thereof, for the collection, processing, preservation, or
54 dissemination of criminal history record information. The operations of the system may be performed
55 manually or by using electronic computers or other automated data processing equipment.

56 "Department" means the Department of Criminal Justice Services.

57 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic
58 means. The term shall not include access to the information by officers or employees of a criminal justice
59 agency maintaining the information who have both a need and right to know the information.

60 "Law-enforcement officer" means any full-time or part-time employee of a police department or
61 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
62 thereof, or any full-time or part-time employee of a private police department, and who is responsible for
63 the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
64 Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
65 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine
66 Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of
67 the Department of Game and Inland Fisheries; (v) investigator who is a full-time sworn member of the
68 security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and
69 Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement
70 division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection
71 police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under
72 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated
73 by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior
74 affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority
75 designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department
76 of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a
77 private police department. Part-time employees are those compensated officers who are not full-time
78 employees as defined by the employing police department, sheriff's office, or private police department.

79 "Private police department" means any police department, other than a department that employs
80 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
81 authorized by statute or an act of assembly to establish a private police department or such entity's
82 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
83 to operate a private police department or represent that it is a private police department unless such entity
84 has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity
85 that has been authorized pursuant to this section, provided it complies with the requirements set forth
86 herein. The authority of a private police department shall be limited to real property owned, leased, or
87 controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property;
88 such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police
89 department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or
90 sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding
91 with the private police department that addresses the duties and responsibilities of the private police
92 department and the chief law-enforcement officer in the conduct of criminal investigations. Private police
93 departments and private police officers shall be subject to and comply with the Constitution of the United
94 States; the Constitution of Virginia; the laws governing municipal police departments, including the
95 provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, and 15.2-1722; and any
96 regulations adopted by the Board that the Department designates as applicable to private police
97 departments. Any person employed as a private police officer pursuant to this section shall meet all
98 requirements, including the minimum compulsory training requirements, for law-enforcement officers
99 pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§
100 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or
101 "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers
102 Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any
103 locality. An authorized private police department may use the word "police" to describe its sworn officers
104 and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of
105 Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not

106 otherwise established by statute or an act of assembly and whose status as a private police department was
107 recognized by the Department at that time is hereby validated and may continue to operate as a private
108 police department as may such entity's successor in interest, provided it complies with the requirements
109 set forth herein.

110 "School resource officer" means a certified law-enforcement officer hired by the local law-
111 enforcement agency to provide law-enforcement and security services to Virginia public elementary and
112 secondary schools.

113 "School security officer" means an individual who is employed by the local school board for the
114 singular purpose of maintaining order and discipline, preventing crime, investigating violations of school
115 board policies, and detaining students violating the law or school board policies on school property or at
116 school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all
117 students, faculty, staff, and visitors in the assigned school.

118 "Unapplied criminal history record information" means information pertaining to criminal
119 offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history
120 record of an arrested or convicted person (i) because such information is not supported by fingerprints or
121 other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within
122 the content of the submitted information.

123 **§ 9.1-176.1. Duties and responsibilities of local community-based probation officers.**

124 A. Each local community-based probation officer, for the localities served, shall:

125 1. Supervise and assist all local-responsible adult offenders, residing within the localities served
126 and placed on local community-based probation by any judge of any court within the localities served;

127 2. Ensure offender compliance with all orders of the court, including the requirement to perform
128 community service;

129 3. Conduct, when ordered by a court, substance abuse screenings, or conduct or facilitate the
130 preparation of assessments pursuant to state approved protocols;

131 4. Conduct, at his discretion, random drug and alcohol tests on any offender whom the officer has
132 reason to believe is engaged in the illegal use of controlled substances or marijuana or the abuse of alcohol
133 or prescribed medication;

134 5. Facilitate placement of offenders in substance abuse education or treatment programs and
135 services or other education or treatment programs and services based on the needs of the offender;

136 6. Seek a capias from any judicial officer in the event of failure to comply with conditions of local
137 community-based probation or supervision on the part of any offender provided that noncompliance
138 resulting from intractable behavior presents a risk of flight, or a risk to public safety or to the offender;

139 7. Seek a motion to show cause for offenders requiring a subsequent hearing before the court;

140 8. Provide information to assist any law-enforcement officer with the return to custody of
141 defendants placed on supervision for which a capias has been sought;

142 9. Keep such records and make such reports as required by the Department of Criminal Justice
143 Services;

144 10. Determine by reviewing the Local Inmate Data System upon intake and again prior to discharge
145 whether a blood, saliva, or tissue sample has been taken for DNA analysis for each offender required to
146 submit a sample pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 and, if no sample
147 has been taken, require an offender to submit a sample for DNA analysis; ~~and~~

148 11. Monitor the collection and payment of restitution to the victims of crime for offenders placed
149 on local supervised probation; and

150 12. Determine by reviewing the offender's criminal history record at least 60 days prior to
151 discharge whether all offenses for which the offender is being supervised appear on such record and, if
152 any such offense that is required to be reported to the Central Criminal Records Exchange pursuant to §
153 19.2-390 does not appear, (i) order the offender to report to the law-enforcement agency that made the
154 arrest for such offense or to the Department of State Police and submit to having his fingerprints and
155 photograph taken for each such offense, (ii) provide written or electronic notification to the Central
156 Criminal Records Exchange within the Department of State Police that the offense does not appear on the
157 offender's criminal history record, and (iii) verify that such fingerprints and photograph have been taken.

158 B. Each local probation officer may provide the following optional services, as appropriate and
159 when available resources permit:

160 1. Supervise local-responsible adult offenders placed on home incarceration with or without home
161 electronic monitoring as a condition of local community-based probation;

162 2. Investigate and report on any local-responsible adult offender and prepare or facilitate the
163 preparation of any other screening, assessment, evaluation, testing or treatment required as a condition of
164 probation;

165 3. Monitor placements of local-responsible adults who are required to perform court-ordered
166 community service at approved work sites;

167 4. Assist the courts, when requested, by monitoring the collection of court costs and fines for
168 offenders placed on local probation; and

169 5. Collect supervision and intervention fees pursuant to § 9.1-182 subject to local approval and the
170 approval of the Department of Criminal Justice Services.

171 **§ 18.2-57.3. Persons charged with first offense of assault and battery against a family or**
172 **household member may be placed on local community-based probation; conditions; education and**
173 **treatment programs; costs and fees; violations; discharge.**

174 A. When a person is charged with a simple assault in violation of subsection A of § 18.2-57 where
175 the victim was a family or household member of the person or a violation of § 18.2-57.2, the court may
176 defer the proceedings against such person, without a finding of guilt, and place him on probation under
177 the terms of this section.

178 B. For a person to be eligible for such deferral, the court shall find that (i) the person was an adult
179 at the time of the commission of the offense; (ii) the person has not previously been convicted of any
180 offense under this article or under any statute of the United States or of any state or any ordinance of any
181 local government relating to an assault or assault and battery against a family or household member; (iii)
182 (a) the person has not previously been convicted of an act of violence as defined in § 19.2-297.1 or (b) if
183 such person has been previously convicted of such an act of violence, the attorney for the Commonwealth
184 does not object to the deferral; (iv) the person has not previously had a proceeding against him for violation

185 of such an offense dismissed as provided in this section; (v) the person pleads guilty to, or enters a plea of
186 not guilty or nolo contendere and the court finds the evidence is sufficient to find the person guilty of,
187 simple assault in violation of subsection A of § 18.2-57 where the victim was a family or household
188 member of the person or a violation of § 18.2-57.2; and (vi) the person consents to such deferral and to a
189 waiver of his right to appeal a finding of facts sufficient to justify a finding of guilt under this section
190 entered pursuant to subsection F for a violation of a term or condition of his probation. If the court defers
191 further proceedings, at that time the court shall determine whether the clerk of court has been provided
192 with the fingerprint identification information or fingerprints of the person, taken by a law-enforcement
193 officer pursuant to § 19.2-390, and, if not, shall order that the fingerprints and photograph of the person
194 be taken by a law-enforcement officer. A person may file a motion to withdraw his consent to the deferral
195 and waiver of his right to appeal within 10 days of the entry of the order deferring proceedings on a form
196 prescribed by the Office of the Executive Secretary of the Supreme Court of Virginia. The court shall
197 schedule a hearing within 30 days of receipt of the motion and shall provide reasonable notice to the
198 attorney for the Commonwealth and to the person and his attorney, if any. If the person appears at the
199 hearing and requests to withdraw his consent, the court shall grant such request, enter a final order
200 adjudicating guilt, and sentence the person accordingly. If the person does not appear at the hearing, the
201 court shall deny his request to withdraw his consent.

202 C. The court shall (i) where a local community-based probation services agency established
203 pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1 is available, order that the eligible person
204 be placed with such agency and require, as a condition of local community-based probation, the person to
205 successfully complete all treatment, education programs, or services, or any combination thereof,
206 indicated by an assessment or evaluation obtained by the local community-based probation services
207 agency if such assessment, treatment, or education services are available; or (ii) require successful
208 completion of treatment, education programs, or services, or any combination thereof, such as, in the
209 opinion of the court, may be best suited to the needs of the person.

210 D. The court shall require the person entering such education or treatment program or services
211 under the provisions of this section to pay all or part of the costs of the program or services, including the

212 costs of any assessment, evaluation, testing, education, and treatment, based upon the person's ability to
213 pay. Such programs or services shall offer a sliding-scale fee structure or other mechanism to assist
214 participants who are unable to pay the full costs of the required programs or services.

215 The court shall order the person to be of good behavior for a total period of not less than two years
216 following the deferral of proceedings, including the period of supervised probation, if available.

217 ~~The court shall, unless done at arrest, order the person to report to the original arresting law-~~
218 ~~enforcement agency to submit to fingerprinting.~~

219 E. Upon fulfillment of the terms and conditions specified in the court order, and upon determining
220 that the clerk of court has been provided with the fingerprint identification information or fingerprints of
221 such person, the court shall discharge the person and dismiss the proceedings against him. Discharge and
222 dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes
223 of applying this section in subsequent proceedings. No charges dismissed pursuant to this section shall be
224 eligible for expungement under § 19.2-392.2.

225 F. Upon violation of a term or condition of supervised probation or of the period of good behavior,
226 the court may enter an adjudication of guilt and proceed as otherwise provided by law. Any person placed
227 on probation pursuant to this section who is subsequently adjudicated guilty upon a violation of a term or
228 condition of his probation shall have no right of appeal on such adjudication.

229 G. Notwithstanding any other provision of this section, whenever a court places a person on
230 probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction
231 for purposes of Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7.

232 **§ 18.2-251. Persons charged with first offense may be placed on probation; conditions;**
233 **substance abuse screening, assessment treatment and education programs or services; drug tests;**
234 **costs and fees; violations; discharge.**

235 Whenever any person who has not previously been convicted of any offense under this article or
236 under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant,
237 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of
238 such an offense dismissed as provided in this section, pleads guilty to or enters a plea of not guilty to

239 possession of a controlled substance under § 18.2-250 or to possession of marijuana under § 18.2-250.1,
240 the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering
241 a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on
242 probation upon terms and conditions. If the court defers further proceedings, at that time the court shall
243 determine whether the clerk of court has been provided with the fingerprint identification information or
244 fingerprints of the person, taken by a law-enforcement officer pursuant to § 19.2-390, and, if not, shall
245 order that the fingerprints and photograph of the person be taken by a law-enforcement officer.

246 As a term or condition, the court shall require the accused to undergo a substance abuse assessment
247 pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or
248 services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused
249 based upon consideration of the substance abuse assessment. The program or services may be located in
250 the judicial district in which the charge is brought or in any other judicial district as the court may provide.
251 The services shall be provided by (i) a program licensed by the Department of Behavioral Health and
252 Developmental Services, by a similar program which is made available through the Department of
253 Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or
254 (iii) an ASAP program certified by the Commission on VASAP.

255 The court shall require the person entering such program under the provisions of this section to
256 pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and
257 treatment, based upon the accused's ability to pay unless the person is determined by the court to be
258 indigent.

259 As a condition of probation, the court shall require the accused (a) to successfully complete
260 treatment or education program or services, (b) to remain drug and alcohol free during the period of
261 probation and submit to such tests during that period as may be necessary and appropriate to determine if
262 the accused is drug and alcohol free, (c) to make reasonable efforts to secure and maintain employment,
263 and (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours
264 of community service for a misdemeanor. In addition to any community service required by the court
265 pursuant to clause (d), if the court does not suspend or revoke the accused's license as a term or condition

266 of probation for a violation of § 18.2-250.1, the court shall require the accused to comply with a plan of
267 50 hours of community service. Such testing shall be conducted by personnel of the supervising probation
268 agency or personnel of any program or agency approved by the supervising probation agency.

269 ~~The court shall, unless done at arrest, order the accused to report to the original arresting law-~~
270 ~~enforcement agency to submit to fingerprinting.~~

271 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
272 otherwise provided. Upon fulfillment of the terms and conditions, and upon determining that the clerk of
273 court has been provided with the fingerprint identification information or fingerprints of such person, the
274 court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under
275 this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this
276 section in subsequent proceedings.

277 Notwithstanding any other provision of this section, whenever a court places an individual on
278 probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction
279 for purposes of §§ 18.2-259.1, 22.1-315, and 46.2-390.1, and the driver's license forfeiture provisions of
280 those sections shall be imposed. However, if the court places an individual on probation upon terms and
281 conditions for a violation of § 18.2-250.1, such action shall not be treated as a conviction for purposes of
282 § 18.2-259.1 or 46.2-390.1, provided that a court (1) may suspend or revoke an individual's driver's license
283 as a term or condition of probation and (2) shall suspend or revoke an individual's driver's license as a
284 term or condition of probation for a period of six months if the violation of § 18.2-250.1 was committed
285 while such person was in operation of a motor vehicle. The provisions of this paragraph shall not be
286 applicable to any offense for which a juvenile has had his license suspended or denied pursuant to § 16.1-
287 278.9 for the same offense.

288 **§ 19.2-74. Issuance and service of summons in place of warrant in misdemeanor case;**
289 **issuance of summons by special conservators of the peace.**

290 A. 1. Whenever any person is detained by or is in the custody of an arresting officer for any
291 violation committed in such officer's presence which offense is a violation of any county, city or town
292 ordinance or of any provision of this Code punishable as a Class 1 or Class 2 misdemeanor or any other

293 misdemeanor for which he may receive a jail sentence, except as otherwise provided in Title 46.2, or for
294 offenses listed in subsection D of § 19.2-81, or an arrest on a warrant charging an offense for which a
295 summons may be issued, and when specifically authorized by the judicial officer issuing the warrant, the
296 arresting officer shall take the name and address of such person and issue a summons or otherwise notify
297 him in writing to appear at a time and place to be specified in such summons or notice. Upon the giving
298 by such person of his written promise to appear at such time and place, the officer shall forthwith release
299 him from custody. However, if any such person shall fail or refuse to discontinue the unlawful act, the
300 officer may proceed according to the provisions of § 19.2-82.

301 Anything in this section to the contrary notwithstanding, if any person is believed by the arresting
302 officer to be likely to disregard a summons issued under the provisions of this subsection, or if any person
303 is reasonably believed by the arresting officer to be likely to cause harm to himself or to any other person,
304 a magistrate or other issuing authority having jurisdiction shall proceed according to the provisions of §
305 19.2-82.

306 2. Whenever any person is detained by or is in the custody of an arresting officer for a violation of
307 any county, city, or town ordinance or of any provision of this Code, punishable as a Class 3 or Class 4
308 misdemeanor or any other misdemeanor for which he cannot receive a jail sentence, except as otherwise
309 provided in Title 46.2, or to the offense of public drunkenness as defined in § 18.2-388, the arresting
310 officer shall take the name and address of such person and issue a summons or otherwise notify him in
311 writing to appear at a time and place to be specified in such summons or notice. Upon the giving of such
312 person of his written promise to appear at such time and place, the officer shall forthwith release him from
313 custody. However, if any such person shall fail or refuse to discontinue the unlawful act, the officer may
314 proceed according to the provisions of § 19.2-82.

315 3. ~~Any~~ Unless otherwise authorized by law, any person so summoned shall not be held in custody
316 after the issuance of such summons for the purpose of complying with the requirements of Chapter 23 (§
317 19.2-387 et seq.) ~~of this title~~. Reports to the Central Criminal Records Exchange concerning such persons
318 shall be made ~~after a disposition of guilt is entered as provided for in § 19.2-390~~ pursuant to subdivision
319 A 2 of § 19.2-390 and subsection C of § 19.2-390.

320 Any person refusing to give such written promise to appear under the provisions of this section
321 shall be taken immediately by the arresting or other police officer before a magistrate or other issuing
322 authority having jurisdiction, who shall proceed according to provisions of § 19.2-82.

323 Any person who willfully violates his written promise to appear, given in accordance with this
324 section, shall be treated in accordance with the provisions of § 19.2-128, regardless of the disposition of,
325 and in addition to, the charge upon which he was originally arrested.

326 Any person charged with committing any violation of § 18.2-407 may be arrested and immediately
327 brought before a magistrate who shall proceed as provided in § 19.2-82.

328 B. Conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) may issue summonses
329 pursuant to this section, if such officers are in uniform or displaying a badge of office. On application, the
330 chief law-enforcement officer of the county or city shall supply each officer with a supply of summons
331 forms, for which such officer shall account pursuant to regulation of such chief law-enforcement officer.

332 C. The summons used by a law-enforcement officer pursuant to this section shall be in form the
333 same as the uniform summons for motor vehicle law violations as prescribed pursuant to § 46.2-388.

334 **§ 19.2-232. What process to be awarded against accused on indictment, etc.**

335 When an indictment or presentment is found or made, or information filed, the court, or the judge
336 thereof, shall award process against the accused to answer the same, if he be not in custody. Such process,
337 if the prosecution be for a felony, shall be a *capias*; if it be for a misdemeanor, for which imprisonment
338 may be imposed, it may be a *capias* or summons, in the discretion of the court or judge; in all other cases,
339 it shall be, in the first instance a summons, but if a summons be returned executed and the defendant does
340 not appear, or be returned not found, the court or judge may award a *capias*. The officer serving the
341 summons or *capias* shall also serve a copy of the indictment, presentment, or information therewith.

342 If the accused is in custody when an indictment or presentment is found or made, or information
343 is filed, and no process is awarded, the attorney for the Commonwealth shall so notify the court of such
344 at the time of first appearance for each indictment, presentment, or information for which a report is
345 required upon arrest pursuant to subsection A of § 19.2-390, and the court shall order that the fingerprints
346 and photograph of the accused be taken for each offense by a law-enforcement officer or by the agency

347 that has custody of the accused at the time of first appearance. The law-enforcement officer or agency
348 taking the fingerprints and photograph shall submit a report to the Central Criminal Records Exchange for
349 each offense pursuant to subsection A of § 19.2-390.

350 **§ 19.2-303. Suspension or modification of sentence; probation; taking of fingerprints and**
351 **blood, saliva, or tissue sample as condition of probation.**

352 After conviction, whether with or without jury, the court may suspend imposition of sentence or
353 suspend the sentence in whole or part and in addition may place the defendant on probation under such
354 conditions as the court shall determine, including monitoring by a GPS (Global Positioning System)
355 tracking device, or other similar device, or may, as a condition of a suspended sentence, require the
356 defendant to make at least partial restitution to the aggrieved party or parties for damages or loss caused
357 by the offense for which convicted, or to perform community service, or both, under terms and conditions
358 which shall be entered in writing by the court. The defendant may be ordered by the court to pay the cost
359 of the GPS tracking device or other similar device. If, however, the court suspends or modifies any
360 sentence fixed by a jury pursuant to § 19.2-295, the court shall file a statement of the reasons for the
361 suspension or modification in the same manner as the statement required pursuant to subsection B of §
362 19.2-298.01. The judge, after convicting the defendant of ~~a felony~~ any offense for which a report to the
363 Central Criminal Records Exchange is required in accordance with subsection A of § 19.2-390, shall
364 determine whether a copy of the defendant's fingerprints ~~are on file at the Central Criminal Records~~
365 ~~Exchange or fingerprint identification information has been provided by a law-enforcement officer to the~~
366 clerk of court for each such offense. In any case where fingerprints ~~are not on file~~ or fingerprint
367 identification information has not been provided by a law-enforcement officer to the clerk of court, the
368 judge shall require that fingerprints and a photograph be taken by a law-enforcement officer as a condition
369 of probation or of the suspension of the imposition or execution of any sentence for such offense. Such
370 fingerprints shall be submitted to the Central Criminal Records Exchange under the provisions of
371 subsection D of § 19.2-390.

372 In those courts having electronic access to the Local Inmate Data System (LIDS) within the
373 courtroom, prior to or upon sentencing, the clerk of court shall also determine by reviewing LIDS whether

374 a blood, saliva, or tissue sample has been taken for DNA analysis and submitted to the DNA data bank
375 maintained by the Department of Forensic Science pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter
376 18 of this title. In any case in which the clerk has determined that a DNA sample or analysis is not stored
377 in the DNA data bank, or in any case in which electronic access to LIDS is not available in the courtroom,
378 the court shall order that the defendant appear within 30 days before the sheriff or probation officer and
379 allow the sheriff or probation officer to take the required sample. The order shall also require that, if the
380 defendant has not appeared and allowed the sheriff or probation officer to take the required sample by the
381 date stated in the order, then the sheriff or probation officer shall report to the court the defendant's failure
382 to appear and provide the required sample.

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

389 In any case where a defendant is convicted of a violation of § 18.2-48, 18.2-61, 18.2-63, 18.2-67.1,
390 18.2-67.2, 18.2-67.3, 18.2-370, or 18.2-370.1, committed on or after July 1, 2006, and some portion of
391 the sentence is suspended, the judge shall order that the period of suspension shall be for a length of time
392 at least equal to the statutory maximum period for which the defendant might originally have been
393 sentenced to be imprisoned, and the defendant shall be placed on probation for that period of suspension
394 subject to revocation by the court. The conditions of probation may include such conditions as the court
395 shall determine, including active supervision. Where the conviction is for a violation of clause (iii) of
396 subsection A of § 18.2-61, subdivision A 1 of § 18.2-67.1, or subdivision A 1 of § 18.2-67.2, the court
397 shall order that at least three years of the probation include active supervision of the defendant under a
398 postrelease supervision program operated by the Department of Corrections, and for at least three years
399 of such active supervision, the defendant shall be subject to electronic monitoring by means of a GPS
400 (Global Positioning System) tracking device, or other similar device.

401 If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any
402 time before the sentence has been completely served, suspend the unserved portion of any such sentence,
403 place the person on probation for such time as the court shall determine, or otherwise modify the sentence
404 imposed.

405 If a person has been sentenced for a felony to the Department of Corrections but has not actually
406 been transferred to a receiving unit of the Department, the court which heard the case, if it appears
407 compatible with the public interest and there are circumstances in mitigation of the offense, may, at any
408 time before the person is transferred to the Department, suspend or otherwise modify the unserved portion
409 of such a sentence. The court may place the person on probation for such time as the court shall determine.

410 **§ 19.2-303.02. Modification of conditions of suspended sentence or probation to require**
411 **fingerprinting.**

412 In any case where the court has suspended the imposition or execution of a sentence or placed the
413 defendant on probation, the court may modify the sentence or conditions of probation at any time within
414 the period of suspension or supervision to require that the fingerprints and photograph of the defendant be
415 taken by a law-enforcement officer as a condition of that suspended sentence or probation, but only upon
416 a hearing after reasonable notice to both the defendant and the attorney for the Commonwealth.

417 **§ 19.2-303.2. Persons charged with first offense may be placed on probation.**

418 Whenever any person who has not previously been convicted of any felony pleads guilty to or
419 enters a plea of not guilty to any crime against property constituting a misdemeanor, under Articles 5, 6,
420 7 and 8 of Chapter 5 (§ 18.2-119 et seq.) of Title 18.2, the court, upon such plea if the facts found by the
421 court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the
422 accused, may defer further proceedings and place him on probation subject to terms and conditions, which
423 may include restitution for losses caused, set by the court. If the court defers further proceedings for an
424 offense that is required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390,
425 at that time the court shall determine whether the clerk of court has been provided with the fingerprint
426 identification information or fingerprints of the accused, taken by a law-enforcement officer pursuant to
427 § 19.2-390, and, if not, shall order that the fingerprints and photograph of the accused be taken by a law-

428 enforcement officer. Upon violation of a term or condition, the court may enter an adjudication of guilt
429 and proceed as otherwise provided. Upon fulfillment of the terms and conditions, and upon determining
430 that the clerk of court has been provided with the fingerprint identification information or fingerprints of
431 such person for an offense that is required to be reported to the Central Criminal Records Exchange
432 pursuant to § 19.2-390, the court shall discharge the person and dismiss the proceedings against him.
433 Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only
434 for the purpose of applying this section in subsequent proceedings.

435 **§ 19.2-305.1. Restitution for property damage or loss; community service.**

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

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

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

453 B2. Notwithstanding any other provision of law, any person who, on or after July 1, 2015, commits
454 and is convicted of a violation of § 18.2-138 for damage to the Capitol or any building, monument,

455 statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol
456 Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages. Any
457 person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-405, 18.2-407, or
458 18.2-408 in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay
459 restitution to the Commonwealth for the full amount of damages to the Capitol or any building, monument,
460 statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol
461 Police, to which damage is caused during such riot or unlawful assembly. In any prosecution under § 18.2-
462 138, 18.2-405, 18.2-407, or 18.2-408, testimony of the Division of Engineering and Buildings of the
463 Department of General Services or the Division of Risk Management shall be admissible as evidence of
464 value or extent of damages or cost of repairs to the Capitol or any building, monument, statuary, artwork,
465 or other state property in Capitol Square, or at any other property assigned to the Capitol Police. For the
466 purposes of this subsection, "Capitol Square" means the grounds and the interior and exterior of all
467 buildings in that area in the City of Richmond bounded by Bank, Governor, Broad, and Ninth Streets.
468 "Capitol Square" includes the exterior of all state buildings that are at least 50 years old and bordering the
469 boundary streets.

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

479 D. At the time of sentencing, the court shall determine the amount to be repaid by the defendant
480 and the terms and conditions thereof. If community service work is ordered, the court shall determine the
481 terms and conditions upon which such work shall be performed. The court shall include such findings in

482 the judgment order. The order shall specify that sums paid under such order shall be paid to the clerk, who
483 shall disburse such sums as the court may, by order, direct. The clerk shall record receipt of restitution
484 payments in an automated financial management system operated and maintained by the Executive
485 Secretary of the Supreme Court or such other system established and maintained by a circuit court clerk
486 pursuant to § 17.1-502. Any court desiring to participate in the Setoff Debt Collection Act (§§ 58.1-520
487 through 58.1-535) for the purpose of collecting fines or costs or providing restitution shall, at the time of
488 sentencing, obtain the social security number of each defendant.

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

503 F. 1. In any case in which the court orders the defendant to pay restitution and places the defendant
504 on probation that includes a period of active supervision, the probation agency supervising the defendant
505 shall notify the court and the attorney for the Commonwealth of the amount of any restitution that remains
506 unsatisfied and the last known address for the defendant (i) 60 days prior to the defendant's release from
507 supervision pursuant to the terms of the sentencing order or (ii) if the agency requests that the defendant
508 be released from supervision, at the time the agency submits its request to the court. Such notice shall be

509 in writing and the attorney for the Commonwealth shall, if practicable, provide a copy of the notice to the
510 victim. If any amount of restitution remains unsatisfied, the court shall conduct a hearing prior to the
511 defendant's release from supervision after providing notice of the hearing to the defendant and the attorney
512 for the Commonwealth. If the court finds that the defendant is not in compliance with the restitution order,
513 the court may (a) release the defendant from supervision, (b) modify the period or terms of supervision
514 pursuant to § 19.2-304, (c) revoke some or all of the suspended sentence or probation pursuant to § 19.2-
515 306, or (d) proceed in accordance with subsection E of § 19.2-358. The court shall also docket the
516 restitution order as a civil judgment pursuant to subsection B of § 19.2-305.2 unless such order has
517 previously been docketed. Any defendant who is released from supervision shall be subject to the
518 provisions of subdivision 3.

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

532 3. If any amount of restitution remains unsatisfied at the time of a hearing conducted pursuant to
533 subdivision 1 or 2, the court shall continue to schedule hearings to review the defendant's compliance with
534 the restitution order until the amount of restitution has been satisfied and provide notice of such hearings
535 to the defendant. The court may, on its own motion, cancel any such hearing if the amount of restitution

536 has been satisfied or if the defendant is in compliance with the restitution order. If at any hearing conducted
537 pursuant to this subdivision the court finds that the defendant is not in compliance with the restitution
538 order, the court may (i) modify the period or terms of probation pursuant to § 19.2-304, (ii) revoke some
539 or all of the suspended sentence or probation pursuant to § 19.2-306, or (iii) proceed in accordance with
540 the provisions of subsection E of § 19.2-358. The court shall follow the procedures set forth in this
541 subdivision for the purpose of reviewing compliance with a restitution order by a defendant (a) until the
542 amount of restitution has been satisfied or (b) if any amount of restitution remains unsatisfied, for the
543 longer of 10 years from the date of the hearing held pursuant to subdivision 1 or 2 or the period of probation
544 ordered by the court.

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

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

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

557 7. At every hearing conducted pursuant to subdivision 1 where the defendant was convicted of an
558 offense for which a report to the Central Criminal Records Exchange is required under subsection A of §
559 19.2-390, if the court has not previously verified that the conviction for such offense appears on the
560 criminal history record of the defendant, the court shall review the criminal history record of the defendant
561 and determine whether the present conviction appears on that record. The probation officer for the
562 defendant shall provide the criminal history record to the court at such hearing. If the present conviction

563 does not appear on the criminal history record, the court shall order that the fingerprints and photograph
564 of the defendant be taken by a law-enforcement officer and submitted to the Central Criminal Records
565 Exchange. If fingerprints and a photograph have previously been taken for such conviction, the probation
566 officer shall provide written or electronic notification to the Central Criminal Records Exchange within
567 the Department of State Police that the conviction does not appear on the offender's criminal history record
568 prior to his release from supervision.

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

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

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

590 The Commonwealth shall make reasonable efforts to notify victims of offenses under § 18.2-374.1,
591 18.2-374.1:1, or 18.2-374.3.

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

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

611 K. Whenever a defendant is ordered to pay restitution, any sums collected shall be used first to
612 satisfy such restitution order and any collection costs associated with restitution prior to being used to
613 satisfy any fine, forfeiture, penalty, or cost assessed against the defendant.

614 **§ 19.2-388. Duties and authority of Exchange.**

615 A. It shall be the duty of the Central Criminal Records Exchange to receive, classify, and file
616 criminal history record information as defined in § 9.1-101 and other records required to be reported to it

617 by §§ 16.1-299 and 19.2-390. The Exchange is authorized to prepare and furnish to all state and local law-
618 enforcement officials and agencies; to clerks of circuit courts, general district courts, and juvenile and
619 domestic relations district courts; and to corrections and penal officials, forms ~~which~~ that shall be used for
620 the making of such reports.

621 B. Juvenile records received pursuant to § 16.1-299 shall be maintained separately from adult
622 records.

623 C. The Exchange shall submit periodic reports to the Office of the Executive Secretary of the
624 Supreme Court of Virginia, the clerk of each circuit court and district court, attorneys for the
625 Commonwealth, and law-enforcement agencies containing a list of offenses with unapplied criminal
626 history record information. Reports to the Office of the Executive Secretary of the Supreme Court of
627 Virginia shall be quarterly and shall include all such offenses within the Commonwealth identified by
628 jurisdiction and by court. Reports to the clerk of each circuit court and district court shall be quarterly and
629 shall include only such offenses that were submitted by the respective clerk of court. Reports to attorneys
630 for the Commonwealth shall be quarterly and shall include only such offenses that were submitted by law-
631 enforcement agencies and courts in the county or city served by the respective attorney for the
632 Commonwealth. Reports to law-enforcement agencies shall be monthly and shall include only such
633 offenses for which the respective law-enforcement agency executed the arrest or issued the summons. For
634 each offense, the report shall include, if known, the name and any other identifying information of the
635 defendant, any identifying court case information, the date of submission to the Exchange, and the reason
636 the offense could not be applied to the criminal history record.

637 D. The Exchange shall review offenses containing unapplied criminal history record information
638 and shall make reasonable efforts to ensure that such information, including any offense of which the
639 Exchange is notified pursuant to subdivision A 12 of § 9.1-176.1, subdivision F 7 or 8 of § 19.2-305.1,
640 subsection B of § 53.1-23, or subdivision 13 or 14 of § 53.1-145, is applied to criminal history records.
641 The Exchange may request and shall receive from the clerk of each circuit court and district court,
642 attorneys for the Commonwealth, law-enforcement agencies, the Department of Corrections, the
643 Department of Forensic Science, and local probation and community corrections agencies cooperation

644 and assistance to obtain positive identification or to reconcile any inconsistencies, errors, or omissions
645 within such unapplied criminal history record information.

646 E. The Exchange shall submit a report to the Governor and General Assembly on or before
647 November 1 of each year on the status of unapplied criminal history record information and any updates
648 to fingerprinting policies and procedures. The report shall include the following, if known: (i) the total
649 number of offenses submitted to the Exchange, identified by the year of the offense and the year the charge
650 was filed for such offense, that contain unapplied criminal history record information and cannot be
651 applied to criminal history records; (ii) the number of such offenses submitted to the Exchange without
652 fingerprints or positive identification and the law-enforcement agencies that submitted those offenses; (iii)
653 the number of such offenses submitted to the Exchange with an inconsistency, error, or omission and, for
654 those offenses, the jurisdiction from which the offense was submitted; and (iv) efforts made by the
655 Exchange to ensure that unapplied criminal history record information is applied to criminal history
656 records, including any offenses of which the Exchange was notified pursuant to subdivision A 12 of § 9.1-
657 176.1, subdivision F 7 or 8 of § 19.2-305.1, subsection B of § 53.1-23, or subdivision 13 or 14 of § 53.1-
658 145.

659 **§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace,**
660 **clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material**
661 **submitted by other agencies.**

662 A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police
663 officials of cities and towns, and any other local law-enforcement officer or conservator of the peace
664 having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange, on
665 forms provided by it, of any arrest, including those arrests involving the taking into custody of, or service
666 of process upon, any person on charges resulting from an indictment, presentment or information, the
667 arrest on capias or warrant for failure to appear, and the service of a warrant for another jurisdiction, for
668 each charge when any person is arrested on any of the following charges:

- 669 a. Treason;
670 b. Any felony;

- 671 c. Any offense punishable as a misdemeanor under Title 54.1;~~or~~
672 d. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, or any similar
673 ordinance of any county, city or town, (ii) under § 20-61, or (iii) under § 16.1-253.2; or
674 e. Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612, 46.2-339, 46.2-341.21,
675 46.2-341.24, 46.2-341.26:3, 46.2-817, 58.1-3141, 58.1-4018.1, 60.2-632, 63.2-1509, or 63.2-1727.

676 The reports shall contain such information as is required by the Exchange and shall be
677 accompanied by fingerprints of the individual arrested for each charge. Effective January 1, 2006, the
678 corresponding photograph of the individual arrested shall accompany the report. Fingerprint cards
679 prepared by a law-enforcement agency for inclusion in a national criminal justice file shall be forwarded
680 to the Exchange for transmittal to the appropriate bureau. Nothing in this section shall preclude each local
681 law-enforcement agency from maintaining its own separate photographic database. Fingerprints and
682 photographs required to be taken pursuant to this subsection or subdivision A 3c of § 19.2-123 may be
683 taken at the facility where the magistrate is located, including a regional jail, even if the accused is not
684 committed to jail.

685 2. For persons arrested and released on summonses in accordance with § 19.2-74, such report shall
686 not be required until (i) a conviction is entered and no appeal is noted or if an appeal is noted, the
687 conviction is upheld upon appeal or the person convicted withdraws his appeal; (ii) the court defers or
688 dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (iii) an acquittal by reason
689 of insanity pursuant to § 19.2-182.2 is entered. Upon such conviction or acquittal, the court shall remand
690 the individual to the custody of the office of the chief law-enforcement officer of the county or city. It
691 shall be the duty of the chief law-enforcement officer, or his designee who may be the arresting officer,
692 to ensure that such report is completed for each charge after a determination of guilt or acquittal by reason
693 of insanity. The court shall require the officer to complete the report immediately following the person's
694 conviction or acquittal, and the individual shall be discharged from custody forthwith, unless the court has
695 imposed a jail sentence to be served by him or ordered him committed to the custody of the Commissioner
696 of Behavioral Health and Developmental Services.

697 3. For persons arrested on a capias for any allegation of a violation of the terms or conditions of a
698 suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, a
699 report shall be made to the Central Criminal Records Exchange pursuant to subdivision 1. Upon finding
700 such person in violation of the terms or conditions of a suspended sentence or probation for such felony
701 offense, the court shall order that the fingerprints and photograph of such person be taken by a law-
702 enforcement officer for each such offense and submitted to the Central Criminal Records Exchange.

703 4. For any person served with a show cause for any allegation of a violation of the terms or
704 conditions of a suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or
705 53.1-165, such report to the Central Criminal Records Exchange shall not be required until such person is
706 found to be in violation of the terms or conditions of a suspended sentence or probation for such felony
707 offense. Upon finding such person in violation of the terms or conditions of a suspended sentence or
708 probation for such felony offense, the court shall order that the fingerprints and photograph of such person
709 be taken by a law-enforcement officer for each such offense and submitted to the Central Criminal Records
710 Exchange.

711 5. If the accused is in custody when an indictment or presentment is found or made, or information
712 is filed, and no process is awarded, the attorney for the Commonwealth shall so notify the court of such
713 at the time of first appearance for each indictment, presentment, or information for which a report is
714 required upon arrest pursuant to subdivision 1, and the court shall order that the fingerprints and
715 photograph of the accused be taken for each offense by a law-enforcement officer or by the agency that
716 has custody of the accused at the time of first appearance. The law-enforcement officer or agency taking
717 the fingerprints and photograph shall submit a report to the Central Criminal Records Exchange for each
718 offense.

719 B. Within 72 hours following the receipt of (i) a warrant or capias for the arrest of any person on
720 a charge of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the law-
721 enforcement agency which received the warrant shall enter the person's name and other appropriate
722 information required by the Department of State Police into the "information systems" known as the
723 Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant

724 to Chapter 2 (§ 52-12 et seq.) of Title 52 and the National Crime Information Center (NCIC), maintained
725 by the Federal Bureau of Investigation. The report shall include the person's name, date of birth, social
726 security number and such other known information which the State Police or Federal Bureau of
727 Investigation may require. Where feasible and practical, the magistrate or court issuing the warrant or
728 capias may transfer information electronically into VCIN. When the information is electronically
729 transferred to VCIN, the court or magistrate shall forthwith forward the warrant or capias to the local
730 police department or sheriff's office. When criminal process has been ordered destroyed pursuant to §
731 19.2-76.1, the law-enforcement agency destroying such process shall ensure the removal of any
732 information relating to the destroyed criminal process from the VCIN and NCIC.

733 B1. Within 72 hours following the receipt of a written statement issued by a parole officer pursuant
734 to § 53.1-149 or 53.1-162 authorizing the arrest of a person who has violated the provisions of his post-
735 release supervision or probation, the law-enforcement agency that received the written statement shall
736 enter, or cause to be entered, the person's name and other appropriate information required by the
737 Department of State Police into the "information systems" known as the Virginia Criminal Information
738 Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.)
739 of Title 52.

740 C. The For offenses not charged on a summons in accordance with § 19.2-74, the clerk of each
741 circuit court and district court shall make an electronic report to the Central Criminal Records Exchange
742 of (i) any dismissal, including a dismissal pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2, indefinite
743 postponement or continuance, charge still pending due to mental incompetency or incapacity, deferral,
744 nolle prosequi, acquittal, or conviction of, including any sentence imposed, or failure of a grand jury to
745 return a true bill as to, any person charged with an offense listed in subsection A, including any action
746 which that may have resulted from an indictment, presentment or information, or any finding that the
747 person is in violation of the terms or conditions of a suspended sentence or probation for a felony offense
748 and (ii) any adjudication of delinquency based upon an act ~~which that~~, if committed by an adult, would
749 require fingerprints to be filed pursuant to subsection A. For offenses listed in subsection A and charged
750 on a summons in accordance with § 19.2-74, such electronic report by the clerk of each circuit court and

751 district court to the Central Criminal Records Exchange may be submitted but shall not be required until
752 (a) a conviction is entered and no appeal is noted or, if an appeal is noted, the conviction is upheld upon
753 appeal or the person convicted withdraws his appeal; (b) the court defers or dismisses the proceeding
754 pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (c) an acquittal by reason of insanity pursuant to §
755 19.2-182.2 is entered. The clerk of each circuit court shall make an electronic report to the Central
756 Criminal Records Exchange of any finding that a person charged on a summons is in violation of the terms
757 or conditions of a suspended sentence or probation for a felony offense. In the case of offenses not required
758 to be reported to the Exchange by subsection A, the reports of any of the foregoing dispositions shall be
759 filed by the law-enforcement agency making the arrest with the arrest record required to be maintained by
760 § 15.2-1722. Upon conviction of any person, including juveniles tried and convicted in the circuit courts
761 pursuant to § 16.1-269.1, whether sentenced as adults or juveniles, for an offense for which registration is
762 required as defined in § 9.1-902, the clerk shall within seven days of sentencing submit a report to the Sex
763 Offender and Crimes Against Minors Registry. The report to the Registry shall include the name of the
764 person convicted and all aliases ~~which~~ that he is known to have used, the date and locality of the conviction
765 for which registration is required, his date of birth, social security number, and last known address, and
766 specific reference to the offense for which he was convicted. No report of conviction or adjudication in a
767 district court shall be filed unless the period allowed for an appeal has elapsed and no appeal has been
768 perfected. In the event that the records in the office of any clerk show that any conviction or adjudication
769 has been nullified in any manner, he shall also make a report of that fact to the Exchange and, if
770 appropriate, to the Registry. In addition, each clerk of a circuit court, upon receipt of certification thereof
771 from the Supreme Court, shall report to the Exchange or the Registry, or to the law-enforcement agency
772 making the arrest in the case of offenses not required to be reported to the Exchange, on forms provided
773 by the Exchange or Registry, as the case may be, any reversal or other amendment to a prior sentence or
774 disposition previously reported. When criminal process is ordered destroyed pursuant to § 19.2-76.1, the
775 clerk shall report such action to the law-enforcement agency that entered the warrant or capias into the
776 VCIN.

777 D. In addition to those offenses enumerated in subsection A ~~of this section~~, the Central Criminal
778 Records Exchange may receive, classify, and file any other fingerprints, photographs, and records of arrest
779 or confinement submitted to it by any law-enforcement agency or any correctional institution or the
780 Department of Corrections. Unless otherwise prohibited by law, any such fingerprints, photographs, and
781 records received by the Central Criminal Records Exchange from any correctional institution or the
782 Department of Corrections may be classified and filed as criminal history record information.

783 E. Corrections officials, sheriffs, and jail superintendents of regional jails, responsible for
784 maintaining correctional status information, as required by the regulations of the Department of Criminal
785 Justice Services, with respect to individuals about whom reports have been made under the provisions of
786 this chapter shall make reports of changes in correctional status information to the Central Criminal
787 Records Exchange. The reports to the Exchange shall include any commitment to or release or escape
788 from a state or local correctional facility, including commitment to or release from a parole or probation
789 agency.

790 F. Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported
791 to the Exchange by the office of the Secretary of the Commonwealth.

792 G. Officials responsible for reporting disposition of charges, and correctional changes of status of
793 individuals under this section, including those reports made to the Registry, shall adopt procedures
794 reasonably designed at a minimum (i) to ensure that such reports are accurately made as soon as feasible
795 by the most expeditious means and in no instance later than 30 days after occurrence of the disposition or
796 correctional change of status and (ii) to report promptly any correction, deletion, or revision of the
797 information.

798 H. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records
799 Exchange shall notify all criminal justice agencies known to have previously received the information.

800 I. As used in this section:

801 "Chief law-enforcement officer" means the chief of police of cities and towns and sheriffs of
802 counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by
803 appropriate resolution or ordinance, in which case the local designation shall be controlling.

804 "Electronic report" means a report transmitted to, or otherwise forwarded to, the Central Criminal
805 Records Exchange in an electronic format approved by the Exchange. The report shall contain the name
806 of the person convicted and all aliases which he is known to have used, the date and locality of the
807 conviction, his date of birth, social security number, last known address, and specific reference to the
808 offense including the Virginia Code section and any subsection, the Virginia crime code for the offense,
809 and the offense tracking number for the offense for which he was convicted.

810 **§ 19.2-390.03. Development and dissemination of model policy on fingerprinting and reports**
811 **to the Central Criminal Records Exchange.**

812 The Department of State Police shall develop a model policy on the collection of fingerprints and
813 reporting of criminal history record information to the Central Criminal Records Exchange as required by
814 § 19.2-390. The Department shall disseminate such policy to all law-enforcement agencies within the
815 Commonwealth.

816 **§ 19.2-392. Fingerprints and photographs by police authorities.**

817 A. All duly constituted police authorities having the power of arrest may take the fingerprints and
818 photographs of: (i) any person arrested by them and charged with a felony or a misdemeanor an arrest for
819 which is to be reported by them to the Central Criminal Records Exchange, ~~or~~ (ii) any person who pleads
820 guilty or is found guilty after being summoned in accordance with § 19.2-74, or (iii) any person charged
821 with an offense that has been deferred by the court pursuant to §§ 18.2-57.3, 18.2-251, or 19.2-303.2.

822 Such authorities shall make such records available to the Central Criminal Records Exchange. Such
823 authorities are authorized to provide, on the request of duly appointed law-enforcement officers, copies of
824 any fingerprint records they may have, and to furnish services and technical advice in connection with the
825 taking, classifying and preserving of fingerprints and fingerprint records.

826 B. Such police authorities may establish and collect a reasonable fee not to exceed \$10 for the first
827 card and \$5 for each successive card for the taking of fingerprints when voluntarily requested by any
828 person for purposes other than criminal violations.

829 **§ 53.1-23. Fingerprints, photographs and description.**

830 A. Photographs, fingerprints, and a description of each person received by the Department shall
831 be taken and filed for identification purposes. If the person is serving a sentence for an offense for which
832 a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390, such
833 photographs, fingerprints, and description of such person received by the Department shall be provided to
834 the Central Criminal Records Exchange and, unless otherwise prohibited by law, may be classified and
835 filed as part of the criminal history record information of that person. Subject to the provisions of §§ 19.2-
836 387 through 19.2-392, the Department shall cooperate with federal, state, county, and city law-
837 enforcement agencies, insofar as it may deem proper, in disclosing information concerning such persons
838 and in the taking of fingerprints and photographs of persons charged with the commission of ~~a felony~~ an
839 offense for which a report to the Central Criminal Records Exchange is required under subsection A of §
840 19.2-390.

841 B. The Department shall review each person's criminal history record at least 60 days prior to his
842 scheduled release from a state correctional facility to determine whether all offenses for which that person
843 has been committed appear on such record and, if any such offense that is required to be reported to the
844 Central Criminal Records Exchange pursuant to § 19.2-390 does not appear, (i) take and provide
845 fingerprints and a photograph of the person to the Central Criminal Records Exchange to be classified and
846 filed as part of the criminal history record information pursuant to subsection D of § 19.2-390 and (ii)
847 provide written or electronic notification to the Central Criminal Records Exchange within the Department
848 of State Police that such offense does not appear on the offender's criminal history record.

849 **§ 53.1-145. Powers and duties of probation and parole officers.**

850 In addition to other powers and duties prescribed by this article, each probation and parole officer
851 shall:

852 1. Investigate and report on any case pending in any court or before any judge in his jurisdiction
853 referred to him by the court or judge;

854 2. Supervise and assist all persons within his territory placed on probation, secure, as appropriate
855 and when available resources permit, placement of such persons in a substance abuse treatment program
856 which may include utilization of acupuncture and other treatment modalities, and furnish every such

857 person with a written statement of the conditions of his probation and instruct him therein; if any such
858 person has been committed to the Department of Behavioral Health and Developmental Services under
859 the provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, the conditions of probation shall include the
860 requirement that the person comply with all conditions given him by the Department of Behavioral Health
861 and Developmental Services, and that he follow all of the terms of his treatment plan;

862 3. Supervise and assist all persons within his territory released on parole or postrelease supervision,
863 secure, as appropriate and when available resources permit, placement of such persons in a substance
864 abuse treatment program which may include utilization of acupuncture and other treatment modalities,
865 and, in his discretion, assist any person within his territory who has completed his parole, postrelease
866 supervision, or has been mandatorily released from any correctional facility in the Commonwealth and
867 requests assistance in finding a place to live, finding employment, or in otherwise becoming adjusted to
868 the community;

869 4. Arrest and recommit to the place of confinement from which he was released, or in which he
870 would have been confined but for the suspension of his sentence or of its imposition, for violation of the
871 terms of probation, post-release supervision pursuant to § 19.2-295.2 or parole, any probationer, person
872 subject to post-release supervision or parolee under his supervision, or as directed by the Chairman, Board
873 member or the court, pending a hearing by the Board or the court, as the case may be;

874 5. Keep such records, make such reports, and perform other duties as may be required of him by
875 the Director or by regulations prescribed by the Board of Corrections, and the court or judge by whom he
876 was authorized;

877 6. Order and conduct, in his discretion, drug and alcohol screening tests of any probationer, person
878 subject to post-release supervision pursuant to § 19.2-295.2 or parolee under his supervision who the
879 officer has reason to believe is engaged in the illegal use of controlled substances or marijuana, or the
880 abuse of alcohol. The cost of the test may be charged to the person under supervision. Regulations
881 governing the officer's exercise of this authority shall be promulgated by the Board;

882 7. Have the power to carry a concealed weapon in accordance with regulations promulgated by the
883 Board and upon the certification of appropriate training and specific authorization by a judge of a circuit
884 court;

885 8. Provide services in accordance with any contract entered into between the Department of
886 Corrections and the Department of Behavioral Health and Developmental Services pursuant to § 37.2-
887 912;

888 9. Pursuant to any contract entered into between the Department of Corrections and the Department
889 of Behavioral Health and Developmental Services, probation and parole officers shall have the power to
890 provide intensive supervision services to persons placed on conditional release, regardless of whether the
891 person has any time remaining to serve on any criminal sentence, pursuant to Chapter 9 (§ 37.2-900 et
892 seq.);

893 10. Determine by reviewing the Local Inmate Data System upon intake and again prior to release
894 whether a blood, saliva, or tissue sample has been taken for DNA analysis for each person placed on
895 probation or parole required to submit a sample pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter
896 18 of Title 19.2 and, if no sample has been taken, require a person placed on probation or parole to submit
897 a sample for DNA analysis;

898 11. For every offender accepted pursuant to the Interstate Compact for the Supervision of Adult
899 Offenders (§ 53.1-176.1 et seq.) who has been convicted of an offense that, if committed in Virginia,
900 would be considered a felony, take a sample or verify that a sample has been taken and accepted into the
901 data bank for DNA analysis in the Commonwealth;~~and~~

902 12. Monitor the collection and payment of restitution to the victims of crime for offenders placed
903 on supervised probation;

904 13. Prior to the release from supervision of any offender on probation as of July 1, 2019, review
905 the criminal history record of the offender at least 60 days prior to release from supervision, or
906 immediately if the offender is scheduled to be released from supervision within less than 60 days, to
907 determine whether all offenses for which the offender is being supervised appear on such record and, if
908 any such offense that is required to be reported to the Central Criminal Records Exchange pursuant to §

909 19.2-390 does not appear, (i) take and provide fingerprints and a photograph of the offender to the Central
910 Criminal Records Exchange to be classified and filed as part of the criminal history record information
911 pursuant to subsection D of § 19.2-390 and (ii) provide written or electronic notification to the Central
912 Criminal Records Exchange within the Department of State Police that such offense does not appear on
913 the offender's criminal history record; and

914 14. Upon intake of any offender on or after July 1, 2019, (i) take and provide fingerprints and a
915 photograph of the offender to the Central Criminal Records Exchange to be classified and filed as part of
916 the criminal history record information pursuant to subsection D of § 19.2-390, (ii) review the criminal
917 history record of the offender to determine whether all offenses for which the offender is being supervised
918 appear on such record, and (iii) if any such offense that is required to be reported to the Central Criminal
919 Records Exchange pursuant to § 19.2-390 does not appear, provide written or electronic notification to
920 the Central Criminal Records Exchange within the Department of State Police that such offense does not
921 appear on the offender's criminal history record.

922 Nothing in this article shall require probation and parole officers to investigate or supervise cases
923 before general district or juvenile and domestic relations district courts.

924 **§ 53.1-165. Revocation of parole or postrelease supervision; hearing; procedure for parolee**
925 **or felon serving period of postrelease supervision in another state; appointment of attorney.**

926 A. Whenever any parolee or felon serving a period of postrelease supervision is arrested and
927 recommitted as provided herein, a preliminary hearing to determine probable cause that such parolee has
928 violated one or more of the terms or conditions upon which he was released on parole or postrelease period
929 of supervision shall be held by any hearing officer who has been designated as such by the Director of the
930 Department to conduct such hearings. However, if a nolle prosequi is to be entered in a case where a
931 parole violation is alleged, no preliminary hearing shall be required.

932 Upon request of the hearing officer, the attorney for the Commonwealth of the jurisdiction within
933 which such hearings are to be held shall request the circuit court of such jurisdiction to appoint one or
934 more discreet attorneys-at-law to represent parolees in any proceedings held before him. Each attorney so
935 appointed shall be available to serve upon request of the hearing officer. The term of each attorney's

936 appointment shall continue until such time as a successor may be appointed. A hearing officer shall be
937 authorized to issue subpoenas requiring the attendance of witnesses and the production of records,
938 memoranda, papers and other documents before him and to administer oaths and to take testimony
939 thereunder.

940 Upon a finding of probable cause by the hearing officer, the Board or its authorized representative
941 shall conduct a hearing, consider the case and act with reference thereto within a reasonable time
942 thereafter. Upon request of the Board, the attorney for the Commonwealth of the jurisdiction within which
943 such hearings are to be held shall request the circuit court of that jurisdiction to appoint one or more
944 discreet attorneys-at-law to represent parolees in proceedings held or to be held before the Board. Each
945 attorney shall be available to serve upon request of the Board. The term of each attorney's appointment
946 shall continue until such time as a successor may be appointed. The Board, in its discretion, may revoke
947 the parole and order the reincarceration of the prisoner for the unserved portion of the term of
948 imprisonment originally imposed upon him, or it may reinstate the parole either upon such terms and
949 conditions as were originally prescribed, or as may be prescribed in addition thereto or in lieu thereof.
950 When a parole violation is based on a new felony conviction for which the individual has been sentenced
951 to two or more years, excluding any time of said sentence which has been suspended, any individual Board
952 member, so authorized by the Board, may after such hearing revoke the individual's parole as otherwise
953 provided herein.

954 Upon revocation of parole for any felony offense, the Board or its authorized representative shall
955 order that the Department of Corrections take fingerprints and a photograph of the person for each offense
956 and transmit such information to the Central Criminal Records Exchange pursuant to subsection D of §
957 19.2-390.

958 B. In cases in which a parolee or felon serving a period of postrelease supervision is in another
959 state, any hearing officer who has been designated as such by the Director of the Department may be sent
960 to that state to conduct a preliminary hearing to determine probable cause that the parolee has violated one
961 or more of the terms and conditions upon which he was released upon parole.

962 C. Any attorney-at-law appointed pursuant to this section shall be paid as directed by the court
963 making the appointment, from funds appropriated for court costs and expenses, reasonable compensation
964 on an hourly basis and necessary expenses, based upon a report to be furnished to it by such attorney. In
965 the event an attorney-at-law is appointed in another state, he shall be paid out of funds appropriated to the
966 Department.

967 2. § 1. The Department of State Police shall make reasonable efforts to ensure that criminal history record
968 information that was reported to the Central Criminal Records Exchange pursuant to § 19.2-390 of the
969 Code of Virginia prior to July 1, 2019, and not applied to the criminal history record of a person be applied
970 to the criminal history record of that person. Such efforts shall prioritize identifying any felony convictions
971 that have not been applied to criminal history records and providing such information to the law-
972 enforcement agency that made the arrest and to the attorney for the Commonwealth in the jurisdiction
973 where the conviction was entered. All state and local government agencies shall provide such assistance
974 as may be requested by the Department of State Police to aid in the successful and timely completion of
975 these efforts. Notwithstanding any other provision of law to the contrary, the Department of State Police
976 and other state and local government agencies may receive from and disseminate to individuals, state
977 agencies, and local government agencies any information that may be necessary for the successful and
978 timely completion of these efforts. The Department of State Police shall report on the progress of these
979 efforts to the Governor and the Chairman of the Virginia State Crime Commission by November 1, 2019.

980 **3. That the Department of State Police, in coordination with the Department of Criminal Justice**
981 **Services, shall develop a form to be used by local community-based probation officers when**
982 **ordering an offender to report to a law-enforcement agency or to the Department of State Police**
983 **and submit to having his fingerprints and photograph taken pursuant to the provisions of**
984 **subdivision A 12 of § 9.1-176.1 of the Code of Virginia, as amended by this act. Such form shall**
985 **include information necessary for that law-enforcement agency or the Department of State Police**
986 **to ensure that the fingerprints and photograph of the offender can be applied to his criminal history**
987 **record for each offense that does not appear on the criminal history record. Such form shall include**
988 **a portion that is returnable to the local community-based probation office by the law-enforcement**

989 agency or Department of State Police and a portion to be provided to the offender after fingerprints
990 and a photograph have been taken.

991 #