

# VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

## CHAPTER 384

*An Act to amend and reenact §§ 4.1-225, 9.1-176.1, 15.2-907, 16.1-260, 16.1-278.8:01, 18.2-251, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-308, 18.2-308.1:5, 18.2-308.4, 18.2-474.1, 19.2-83.1, 19.2-187, 19.2-386.22 through 19.2-386.25, 22.1-277.08, 22.1-279.3:1, 24.2-233, 53.1-145, 53.1-203, and 54.1-3446 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-248.1:1, relating to penalties for transport, possession, sale or distribution, etc., of synthetic cannabinoids; controlled substances.*

[H 1434]

Approved March 23, 2011

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

**1. That §§ 4.1-225, 9.1-176.1, 15.2-907, 16.1-260, 16.1-278.8:01, 18.2-251, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-308, 18.2-308.1:5, 18.2-308.4, 18.2-474.1, 19.2-83.1, 19.2-187, 19.2-386.22 through 19.2-386.25, 22.1-277.08, 22.1-279.3:1, 24.2-233, 53.1-145, 53.1-203, and 54.1-3446 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-248.1:1 as follows:**

§ 4.1-225. Grounds for which Board may suspend or revoke licenses.

The Board may suspend or revoke any license other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

a. Has misrepresented a material fact in applying to the Board for such license;

b. Has defrauded or attempted to defraud the Board, or any federal, state or local government or governmental agency or authority, by making or filing any report, document or tax return required by statute or regulation which is fraudulent or contains a false representation of a material fact; or has willfully deceived or attempted to deceive the Board, or any federal, state or local government, or governmental agency or authority, by making or maintaining business records required by statute or regulation which are false or fraudulent;

c. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-227, has (i) been convicted of a violation of any law, ordinance or regulation of the Commonwealth, of any county, city or town in the Commonwealth, of any state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages; (ii) violated any provision of Chapter 3 (§ 4.1-300 et seq.) ~~of this title~~; (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with any regulation, rule or order of the Board; or (v) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

d. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state, or of the United States;

e. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business which have not been disclosed;

f. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;

g. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;

h. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;

i. Knowingly employs in the business conducted under such license, as agent, servant, or employee, other than a busboy, cook or other kitchen help, any person who has been convicted in any court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of the Commonwealth, of any other state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages;

j. Subsequent to the granting of his original license, has demonstrated by his police record a lack of respect for law and order;

k. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person whom he knew or had reason to believe was (i) less than 21 years of age, (ii) interdicted, or (iii)

intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;

1. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as provided under this title;

m. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;

n. Has allowed any obscene literature, pictures or materials upon the licensed premises;

o. Has possessed any illegal gambling apparatus, machine or device upon the licensed premises;

p. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell or use marijuana, controlled substances, imitation controlled substances, drug paraphernalia or controlled paraphernalia as those terms are defined in Articles 1 and 1.1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.) *or synthetic cannabinoids as defined in § 18.2-248.1:1*; (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Articles 1 and 1.1 of Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.). The provisions of this subdivision shall also apply to any conduct related to the operation of the licensed business which facilitates the commission of any of the offenses set forth herein; or

q. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-344 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety.

2. The place occupied by the licensee:

a. Does not conform to the requirements of the governing body of the county, city or town in which such establishment is located, with respect to sanitation, health, construction or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulations;

b. Has been adjudicated a common nuisance under the provisions of this title or § 18.2-258; or

c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers or habitual law violators or has become a place where illegal drugs are regularly used or distributed. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.

3. The licensee or any employee of the licensee discriminated against any member of the armed forces of the United States by prices charged or otherwise.

4. The licensee, his employees, or any entertainer performing on the licensed premises has been convicted of a violation of a local public nudity ordinance for conduct occurring on the licensed premises and the licensee allowed such conduct to occur.

5. Any cause exists for which the Board would have been entitled to refuse to grant such license had the facts been known.

6. Any other cause authorized by this title.

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

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

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

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

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

4. Conduct, at his discretion, random drug and alcohol tests on any offender whom the officer has reason to believe is engaged in the illegal use of controlled substances  $\text{\textcircled{æ}}$ , marijuana, *or synthetic cannabinoids* or the abuse of alcohol or prescribed medication;

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

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

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

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

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

10. Determine by reviewing the Local Inmate Data System upon intake and again prior to discharge whether a blood, saliva, or tissue sample has been taken for DNA analysis for each offender required to 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 has been taken, require an offender to submit a sample for DNA analysis.

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

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

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

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

4. Assist the courts, when requested, by monitoring the collection of court costs, fines and restitution to the victims of crime for offenders placed on local probation; and

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

§ 15.2-907. Authority to require removal, repair, etc., of buildings and other structures harboring illegal drug use.

A. As used in this section:

"Affidavit" means the affidavit prepared by a locality in accordance with subdivision B 1 a hereof.

"Controlled substance" means illegally obtained controlled substances or marijuana, as defined in § 54.1-3401, *or synthetic cannabinoids as defined in § 18.2-248.1:1*.

"Corrective action" means the taking of steps which are reasonably expected to be effective to abate drug blight on real property, such as removal, repair or securing of any building, wall or other structure.

"Drug blight" means a condition existing on real property which tends to endanger the public health or safety of residents of a locality and is caused by the regular presence on the property of persons under the influence of controlled substances or the regular use of the property for the purpose of illegally possessing, manufacturing or distributing controlled substances.

"Owner" means the record owner of real property.

"Property" means real property.

B. Any locality may, by ordinance, provide that:

1. The locality may undertake corrective action with respect to property in accordance with the procedures described herein:

a. The locality shall execute an affidavit, citing this section, to the effect that (i) drug blight exists on the property and in the manner described therein; (ii) the locality has used diligence without effect to abate the drug blight; and (iii) the drug blight constitutes a present threat to the public's health, safety or welfare.

b. The locality shall then send a notice to the owner of the property, to be sent by regular mail to the last address listed for the owner on the locality's assessment records for the property, together with a copy of such affidavit, advising that (i) the owner has up to ~~thirty~~ 30 days from the date thereof to undertake corrective action to abate the drug blight described in such affidavit and (ii) the locality will, if requested to do so, assist the owner in determining and coordinating the appropriate corrective action to abate the drug blight described in such affidavit.

c. If no corrective action is undertaken during such ~~thirty~~ 30-day period, the locality shall send by regular mail an additional notice to the owner of the property, at the address stated in the preceding subdivision, stating the date on which the locality may commence corrective action to abate the drug blight on the property, which date shall be no earlier than ~~fifteen~~ 15 days after the date of mailing of the notice. Such additional notice shall also reasonably describe the corrective action contemplated to be taken by the locality. Upon receipt of such notice, the owner shall have a right, upon reasonable notice to the locality, to seek equitable relief, and the locality shall initiate no corrective action while a proper petition for relief is pending before a court of competent jurisdiction.

2. If the locality undertakes corrective action with respect to the property after complying with the provisions of subdivision B 1, the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected.

3. Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1.

C. If the owner of such property takes timely corrective action pursuant to such ordinance, the locality shall deem the drug blight abated, shall close the proceeding without any charge or cost to the owner and shall promptly provide written notice to the owner that the proceeding has been terminated

satisfactorily. The closing of a proceeding shall not bar the locality from initiating a subsequent proceeding if the drug blight recurs.

D. Nothing in this section shall be construed to abridge or waive any rights or remedies of an owner of property at law or in equity.

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H of this section and in § 16.1-259. The form and content of the petition shall be as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of Social Services prior to filing a petition seeking support for a child. Complaints, requests and the processing of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the Commonwealth of the city or county may file a petition on his own motion with the clerk, (ii) designated nonattorney employees of the Department of Social Services may complete, sign and file petitions and motions relating to the establishment, modification, or enforcement of support on forms approved by the Supreme Court of Virginia with the clerk, and (iii) any attorney may file petitions on behalf of his client with the clerk except petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of supervision or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving child support services or public assistance. No individual who is receiving support services or public assistance shall be denied the right to file a petition or motion to establish, modify or enforce an order for support of a child. If the petitioner is seeking or receiving child support services or public assistance, the clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the court date, to the Division of Child Support Enforcement.

B. The appearance of a child before an intake officer may be by (i) personal appearance before the intake officer or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, an intake officer may exercise all powers conferred by law. All communications and proceedings shall be conducted in the same manner as if the appearance were in person, and any documents filed may be transmitted by facsimile process. The facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petition to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition.

An intake officer may proceed informally on a complaint alleging a child is in need of services, in need of supervision or delinquent only if the juvenile (i) is not alleged to have committed a violent juvenile felony or (ii) has not previously been proceeded against informally or adjudicated delinquent for an offense that would be a felony if committed by an adult. A petition alleging that a juvenile committed a violent juvenile felony shall be filed with the court. A petition alleging that a juvenile is delinquent for an offense that would be a felony if committed by an adult shall be filed with the court if the juvenile had previously been proceeded against informally by intake or had been adjudicated delinquent for an offense that would be a felony if committed by an adult.

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the complaint for 90 days and proceed informally by developing a truancy plan. The intake officer may proceed informally only if the juvenile has not previously been proceeded against informally or adjudicated in need of supervision for failure to comply with compulsory school attendance as provided in § 22.1-254. The juvenile and his parent or parents, guardian or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian or other person standing in loco parentis participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit and other appropriate and available public and private agencies and may be the family assessment and planning team established pursuant to § 2.2-5207. If at the end of the

90-day period the juvenile has not successfully completed the truancy plan or the truancy program, then the intake officer shall file the petition.

Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in need of services, in need of supervision or delinquent, the intake officer shall (i) develop a plan for the juvenile, which may include restitution and the performance of community service, based upon community resources and the circumstances which resulted in the complaint, (ii) create an official record of the action taken by the intake officer and file such record in the juvenile's case file, and (iii) advise the juvenile and the juvenile's parent, guardian or other person standing in loco parentis and the complainant that any subsequent complaint alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-241 will result in the filing of a petition with the court.

C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation or support of a child is the subject of controversy or requires determination, (ii) a person has deserted, abandoned or failed to provide support for any person in violation of law, (iii) a child or such child's parent, guardian, legal custodian or other person standing in loco parentis is entitled to treatment, rehabilitation or other services which are required by law, or (iv) family abuse has occurred and a protective order is being sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If any such complainant does not file a petition, the intake officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of supervision or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition. The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1.

D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need of supervision have utilized or attempted to utilize treatment and services available in the community and have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer determines that the parties have not attempted to utilize available treatment or services or have not exhausted all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to be in need of supervision to the appropriate agency, treatment facility or individual to receive treatment or services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If a magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his decision is final.

Upon delivery to the juvenile court of a warrant issued pursuant to subdivision 2 of § 16.1-256, the intake officer shall accept and file a petition founded upon the warrant.

F. The intake officer shall notify the attorney for the Commonwealth of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.

G. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter, the intake officer shall file a report with the division superintendent of the school division in which any student who is the subject of a petition alleging that such student who is a juvenile has committed an act, wherever committed, which would be a crime if committed by an adult, or that such student who is an adult has committed a crime and is alleged to be within the jurisdiction of the court. The report shall notify the division superintendent of the filing of the petition and the nature of the offense, if the violation involves:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), or 7 (§ 18.2-308 et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

6. Manufacture, sale or distribution of marijuana *or synthetic cannabinoids* pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
9. Robbery pursuant to § 18.2-58;
10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;
11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3; or
12. An act of violence by a mob pursuant to § 18.2-42.1.

The failure to provide information regarding the school in which the student who is the subject of the petition may be enrolled shall not be grounds for refusing to file a petition.

The information provided to a division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.

H. The filing of a petition shall not be necessary:

1. In the case of violations of the traffic laws, including offenses involving bicycles, hitchhiking and other pedestrian offenses, game and fish laws or a violation of the ordinance of any city regulating surfing or any ordinance establishing curfew violations, animal control violations or littering violations. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults. Additionally, an officer investigating a motor vehicle accident may, at the scene of the accident or at any other location where a juvenile who is involved in such an accident may be located, proceed on a summons in lieu of filing a petition.

2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of § 16.1-241.

3. In the case of a violation of § 18.2-266 or 29.1-738, or the commission of any other alcohol-related offense, provided the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner provided in § 16.1-278.8 or 16.1-278.9. If the juvenile so charged with a violation of § 18.2-51.4, 18.2-266, 18.2-266.1, 18.2-272, or 29.1-738 refuses to provide a sample of blood or breath or samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried.

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

I. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-241.

§ 16.1-278.8:01. Juveniles found delinquent of first drug offense; screening; assessment; drug tests; costs and fees; education or treatment programs.

Whenever any juvenile who has not previously been found delinquent of any offense under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or under any statute of the United States or of any state relating to narcotic drugs, marijuana, *synthetic cannabinoids*, or stimulant, depressant or hallucinogenic drugs, or has not previously had a proceeding against him for a violation of such an offense dismissed as provided in § 18.2-251, is found delinquent of any offense concerning the use, in any manner, of drugs, controlled substances, narcotics, marijuana, *synthetic cannabinoids*, noxious chemical substances and like substances, the juvenile court or the circuit court shall require such juvenile to undergo a substance abuse screening pursuant to § 16.1-273 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be directed by the court. Such testing shall be conducted by a court services unit of the Department of Juvenile Justice, or by a locally operated court services unit or by personnel of any program or agency approved by the Department. The cost of such testing ordered by the court shall be paid by the Commonwealth from funds appropriated to the Department for this purpose. The court shall also order the juvenile to undergo such treatment or education program for substance abuse, if available, as the court deems appropriate based upon consideration of the substance abuse assessment. The treatment or education shall be provided by a program licensed by the Department of Behavioral Health and Developmental Services or by a similar program available through a facility or program operated by or under contract to the Department of Juvenile Justice or a locally operated court services unit or a program funded through the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.).

§ 18.2-248.1:1. *Penalties for possession, sale, gift, or distribution of or possession with intent to sell, give, or distribute synthetic cannabinoids; manufacturing.*

A. For the purposes of this title, *synthetic cannabinoids* means any substance that contains one or more of the following and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more of the following:

5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);  
 5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);  
 5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);  
 5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);  
 1-pentyl-3-(1-naphthoyl)indole (other name: JWH-018);  
 1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);  
 1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);  
 1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);  
 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);  
 (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (other name: HU-210).

B. It is unlawful for any person to knowingly or intentionally possess synthetic cannabinoids. Any person who violates this subsection is guilty of a Class 1 misdemeanor.

C. It is unlawful for any person to sell, give, distribute, or possess with intent to sell, give, or distribute synthetic cannabinoids. Any person who violates this subsection is guilty of a Class 6 felony.

D. If a person proves that he gave, distributed or possessed with intent to give or distribute synthetic cannabinoids only as an accommodation to another individual and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the synthetic cannabinoids to use or become addicted to or dependent upon such synthetic cannabinoids, he is guilty of a Class 1 misdemeanor. Any person who gives, distributes or possesses synthetic cannabinoids as an accommodation and not with intent to profit thereby, to an inmate of a state or local correctional facility as defined in § 53.1-1, or in the custody of an employee thereof is guilty of a Class 4 felony.

E. Any person who manufactures synthetic cannabinoids or possesses synthetic cannabinoids with intent to manufacture such substance is guilty of a felony punishable by imprisonment of not less than five nor more than 30 years and a fine not to exceed \$10,000.

F. Any drug not listed in this section or the Drug Control Act (§ 54.1-3400 et seq.), which is privately compounded, with the specific intent to circumvent the criminal penalties for synthetic cannabinoids, to emulate or simulate the effects of synthetic cannabinoids through chemical changes such as the addition, subtraction or rearranging of a radical or the addition, subtraction or rearranging of a substituent, shall be subject to the same criminal penalties as for synthetic cannabinoids.

G. Upon conviction, in addition to any other punishment, a person found guilty of a violation of this section shall be ordered by the court to make restitution, as the court deems appropriate, to any innocent property owner whose property is damaged, destroyed, or otherwise rendered unusable as a result of such synthetic cannabinoid production. This restitution may include the person's or his estate's estimated or actual expenses associated with cleanup, removal, or repair of the affected property.

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

Whenever any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, *synthetic cannabinoids*, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, pleads guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250 or to possession of marijuana under § 18.2-250.1, or to possession of *synthetic cannabinoids* under subsection B of § 18.2-248.1:1, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions.

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

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

As a condition of probation, the court shall require the accused (i) to successfully complete treatment

or education program or services, (ii) to remain drug and alcohol free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug and alcohol free, (iii) to make reasonable efforts to secure and maintain employment, and (iv) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a misdemeanor. Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency.

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

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of §§ 18.2-259.1, 22.1-315 and 46.2-390.1, and the driver's license forfeiture provisions of those sections shall be imposed. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

§ 18.2-255. Distribution of certain drugs to persons under 18 prohibited; penalty.

A. Except as authorized in the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1, it shall be unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any drug classified in Schedule I, II, III or IV ~~or~~, marijuana *or synthetic cannabinoids* to any person under 18 years of age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any drug classified in Schedule I, II, III or IV ~~or~~, marijuana *or synthetic cannabinoids*. Any person violating this provision shall upon conviction be imprisoned in a state correctional facility for a period not less than 10 nor more than 50 years, and fined not more than \$100,000. Five years of the sentence imposed for a conviction under this section involving a Schedule I or II controlled substance or one ounce or more of marijuana shall be a mandatory minimum sentence. Two years of the sentence imposed for a conviction under this section involving *synthetic cannabinoids or involving* less than one ounce of marijuana shall be a mandatory minimum sentence.

B. It shall be unlawful for any person who is at least 18 years of age to knowingly or intentionally (i) distribute any imitation controlled substance to a person under 18 years of age who is at least three years his junior or (ii) cause any person under 18 years of age to assist in such distribution of any imitation controlled substance. Any person violating this provision shall be guilty of a Class 6 felony.

§ 18.2-255.1. Distribution, sale or display of printed material advertising instruments for use in administering marijuana, synthetic cannabinoids, or controlled substances to minors; penalty.

It shall be a Class 1 misdemeanor for any person knowingly to sell, distribute, or display for sale to a minor any book, pamphlet, periodical or other printed matter which he knows advertises for sale any instrument, device, article, or contrivance for advertised use in unlawfully ingesting, smoking, administering, preparing or growing marijuana, *synthetic cannabinoids*, or a controlled substance.

§ 18.2-255.2. Prohibiting the sale or manufacture of drugs on or near certain properties; penalty.

A. It shall be unlawful for any person to manufacture, sell or distribute or possess with intent to sell, give or distribute any controlled substance, imitation controlled substance ~~or~~, marijuana *or synthetic cannabinoids* while:

(~~i~~) ~~upon~~ 1. Upon the property, including buildings and grounds, of any public or private elementary, secondary, or post secondary school, or any public or private two-year or four-year institution of higher education, or any clearly marked licensed child day center as defined in § 63.2-100;

(~~ii~~) ~~upon~~ 2. Upon public property or any property open to public use within 1,000 feet of the property described in ~~clause~~ (~~i~~) *subdivision 1*;

(~~iii~~) ~~on~~ 3. On any school bus as defined in § 46.2-100;

(~~iv~~) ~~upon~~ 4. Upon a designated school bus stop, or upon either public property or any property open to public use which is within 1,000 feet of such school bus stop, during the time when school children are waiting to be picked up and transported to or are being dropped off from school or a school-sponsored activity;

(~~v~~) ~~upon~~ 5. Upon the property, including buildings and grounds, of any publicly owned or publicly operated recreation or community center facility or any public library; or

(~~vi~~) ~~upon~~ 6. Upon the property of any state facility as defined in § 37.2-100 or upon public property or property open to public use within 1,000 feet of such an institution. It is a violation of the provisions of this section if the person possessed the controlled substance, imitation controlled substance ~~or~~, marijuana *or synthetic cannabinoids* on the property described in ~~clauses~~ (~~i~~) *subdivisions 1* through (~~vi~~) ~~of this subsection~~ 6, regardless of where the person intended to sell, give or distribute the controlled substance, imitation controlled substance ~~or~~, marijuana, *or synthetic cannabinoids*. Nothing in this section shall prohibit the authorized distribution of controlled substances.

B. Violation of this section shall constitute a separate and distinct felony. Any person violating the provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor more than five years and fined not more than \$100,000. A second or subsequent conviction hereunder for an offense involving a controlled substance classified in Schedule I, II, or III of the Drug Control Act (§ 54.1-3400 et seq.) *or synthetic cannabinoids* or more than one-half ounce of marijuana shall be punished by a mandatory minimum term of imprisonment of one year to be served consecutively with any other sentence. However, if such person proves that he sold such controlled substance ~~or~~, marijuana, *or synthetic cannabinoids* only as an accommodation to another individual and not with intent to profit thereby from any consideration received or expected nor to induce the recipient or intended recipient of the controlled substance ~~or~~, marijuana, *or synthetic cannabinoids* to use or become addicted to or dependent upon such controlled substance ~~or~~, marijuana, *or synthetic cannabinoids*, he shall be guilty of a Class 1 misdemeanor.

C. If a person commits an act violating the provisions of this section, and the same act also violates another provision of law that provides for penalties greater than those provided for by this section, then nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of law or the imposition of any penalties provided for thereby.

§ 18.2-258. Certain premises deemed common nuisance; penalty.

Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment, building of any kind, vehicle, vessel, boat, or aircraft, which with the knowledge of the owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant thereof, is frequented by persons under the influence of illegally obtained controlled substances or marijuana, as defined in § 54.1-3401, *or synthetic cannabinoids*, or for the purpose of illegally obtaining possession of, manufacturing or distributing controlled substances ~~or~~, marijuana, *or synthetic cannabinoids*, or is used for the illegal possession, manufacture or distribution of controlled substances ~~or~~, marijuana, *or synthetic cannabinoids* shall be deemed a common nuisance. Any such owner, lessor, agent of any such lessor, manager, chief executive officer, operator, or tenant who knowingly permits, establishes, keeps or maintains such a common nuisance is guilty of a Class 1 misdemeanor and, for a second or subsequent offense, a Class 6 felony.

§ 18.2-258.02. Maintaining a fortified drug house; penalty.

Any office, store, shop, restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment or building or structure of any kind which is (i) substantially altered from its original status by means of reinforcement with the intent to impede, deter or delay lawful entry by a law-enforcement officer into such structure, (ii) being used for the purpose of manufacturing or distributing controlled substances ~~or~~, marijuana, *or synthetic cannabinoids*, and (iii) the object of a valid search warrant, shall be considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5 felony.

§ 18.2-258.1. Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit or forgery.

A. It shall be unlawful for any person to obtain or attempt to obtain any drug or procure or attempt to procure the administration of any controlled substance ~~or~~, marijuana, *or synthetic cannabinoids*: (i) by fraud, deceit, misrepresentation, embezzlement, or subterfuge; or (ii) by the forgery or alteration of a prescription or of any written order; or (iii) by the concealment of a material fact; or (iv) by the use of a false name or the giving of a false address.

B. It shall be unlawful for any person to furnish false or fraudulent information in or omit any information from, or willfully make a false statement in, any prescription, order, report, record, or other document required by Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1.

C. It shall be unlawful for any person to use in the course of the manufacture or distribution of a controlled substance ~~or~~, marijuana, *or synthetic cannabinoids* a license number which is fictitious, revoked, suspended, or issued to another person.

D. It shall be unlawful for any person, for the purpose of obtaining any controlled substance ~~or~~, marijuana, *or synthetic cannabinoids* to falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian or other authorized person.

E. It shall be unlawful for any person to make or utter any false or forged prescription or false or forged written order.

F. It shall be unlawful for any person to affix any false or forged label to a package or receptacle containing any controlled substance.

G. This section shall not apply to officers and employees of the United States, of this Commonwealth or of a political subdivision of this Commonwealth acting in the course of their employment, who obtain such drugs for investigative, research or analytical purposes, or to the agents or duly authorized representatives of any pharmaceutical manufacturer who obtain such drugs for investigative, research or analytical purposes and who are acting in the course of their employment; provided that such manufacturer is licensed under the provisions of the Federal Food, Drug and Cosmetic Act; and provided further, that such pharmaceutical manufacturer, its agents and duly authorized representatives file with the Board such information as the Board may deem appropriate.

H. Except as otherwise provided in this subsection, any person who shall violate any provision herein shall be guilty of a Class 6 felony.

Whenever any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed, or reduced as provided in this section, pleads guilty to or enters a plea of not guilty to the court for violating this section, upon such plea if the facts found by the court would justify a finding of guilt, the court may place him on probation upon terms and conditions.

As a term or condition, the court shall require the accused to be evaluated and enter a treatment and/or education program, if available, such as, in the opinion of the court, may be best suited to the needs of the accused. This program may be located in the judicial circuit in which the charge is brought or in any other judicial circuit as the court may provide. The services shall be provided by a program certified or licensed by the Department of Behavioral Health and Developmental Services. The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, evaluation, testing and education, based upon the person's ability to pay unless the person is determined by the court to be indigent.

As a condition of supervised probation, the court shall require the accused to remain drug free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug free. Such testing may be conducted by the personnel of any screening, evaluation, and education program to which the person is referred or by the supervising agency.

Unless the accused was fingerprinted at the time of arrest, the court shall order the accused to report to the original arresting law-enforcement agency to submit to fingerprinting.

Upon violation of a term or condition, the court may enter an adjudication of guilt upon the felony and proceed as otherwise provided. Upon fulfillment of the terms and conditions of probation, the court shall find the defendant guilty of a Class 1 misdemeanor.

§ 18.2-308. Personal protection; carrying concealed weapons; when lawful to carry.

A. If any person carries about his person, hidden from common observation, (i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material; (ii) any dirk, bowie knife, switchblade knife, ballistic knife, machete, razor, slingshot, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart; or (v) any weapon of like kind as those enumerated in this subsection, he shall be guilty of a Class 1 misdemeanor. A second violation of this section or a conviction under this section subsequent to any conviction under any substantially similar ordinance of any county, city, or town shall be punishable as a Class 6 felony, and a third or subsequent such violation shall be punishable as a Class 5 felony. For the purpose of this section, a weapon shall be deemed to be hidden from common observation when it is observable but is of such deceptive appearance as to disguise the weapon's true nature.

B. This section shall not apply to any person while in his own place of abode or the curtilage thereof.

Except as provided in subsection J1, this section shall not apply to:

1. Any person while in his own place of business;
2. Any law-enforcement officer, wherever such law-enforcement officer may travel in the Commonwealth;
3. Any regularly enrolled member of a target shooting organization who is at, or going to or from, an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported;
4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped while being transported;
5. Any person carrying such weapons between his place of abode and a place of purchase or repair, provided the weapons are unloaded and securely wrapped while being transported;
6. Any person actually engaged in lawful hunting, as authorized by the Board of Game and Inland Fisheries, under inclement weather conditions necessitating temporary protection of his firearm from those conditions, provided that possession of a handgun while engaged in lawful hunting shall not be construed as hunting with a handgun if the person hunting is carrying a valid concealed handgun permit;
7. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Alcoholic Beverage Control Board, any conservation police officer retired from the Department of Game and Inland Fisheries, and any Virginia

Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 15 years of service with any such law-enforcement agency, board or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be forwarded by the chief or the Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) of this subdivision who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) of this subdivision for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation. A retired law-enforcement officer who receives proof of consultation and favorable review pursuant to this subdivision is authorized to carry a concealed handgun in the same manner as a law-enforcement officer authorized to carry a concealed handgun pursuant to subdivision 2 of this subsection.

7a. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency or board mentioned in subdivision 7 who has resigned in good standing from such law-enforcement agency or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Board or Commission to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege to carry a concealed handgun pursuant to subdivision 7 or this subdivision, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or resigned law-enforcement officer who receives proof of consultation and review pursuant to subdivision 7 or this subdivision shall have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency to carry a firearm;

8. Any State Police officer who is a member of the organized reserve forces of any of the armed services of the United States, national guard, or naval militia, while such officer is called to active military duty, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege to carry a concealed handgun pursuant to this subdivision, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit;

9. Any attorney for the Commonwealth or assistant attorney for the Commonwealth, wherever such attorney may travel in the Commonwealth; and

10. Any person who may lawfully possess a firearm and is carrying a handgun while in a personal, private motor vehicle or vessel and such handgun is secured in a container or compartment in the vehicle or vessel.

C. This section shall also not apply to any of the following individuals while in the discharge of their official duties, or while in transit to or from such duties:

1. Carriers of the United States mail;
2. Officers or guards of any state correctional institution;
3. [Repealed.]

4. Conservators of the peace, except that an attorney for the Commonwealth or assistant attorney for the Commonwealth may carry a concealed handgun pursuant to subdivision B 9. However, the following conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a permit as provided in subsection D hereof: (a) notaries public; (b) registrars; (c) drivers, operators or other persons in charge of any motor vehicle carrier of passengers for hire; or (d) commissioners in chancery;

5. Noncustodial employees of the Department of Corrections designated to carry weapons by the Director of the Department of Corrections pursuant to § 53.1-29; and

6. Harbormaster of the City of Hopewell.

D. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides, or if he is a member of the United States Armed Forces, the county or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no requirement regarding the length of time an applicant has been a resident or domiciliary of the county or city. The application shall be made under oath before a notary or other person qualified to take oaths and shall be made only on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. The clerk shall enter on the application the date on which the application and all other information required to be submitted by the applicant is received. The court shall consult with either the sheriff or police department of the county or city and receive a report from the Central Criminal Records Exchange. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting if required by local ordinance in the county or city where the applicant resides and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant, and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law-enforcement agencies. However, no local ordinance shall require an applicant to submit to fingerprinting if the applicant has an existing concealed handgun permit issued pursuant to this section and is applying for a new five-year permit pursuant to subsection I. Where feasible and practical, the local law-enforcement agency may transfer information electronically to the State Police instead of inked fingerprint cards. Upon completion of the criminal history records check, the State Police shall return the fingerprint cards to the submitting local agency or, in the case of scanned fingerprints, destroy the electronic record. The local agency shall then promptly notify the person that he has 21 days from the date of the notice to request return of the fingerprint cards, if any. All fingerprint cards not claimed by the applicant within 21 days of notification by the local agency shall be destroyed. All optically scanned fingerprints shall be destroyed upon completion of the criminal history records check without requiring that the applicant be notified. Fingerprints taken for the purposes described in this section shall not be copied, held or used for any other purposes. The court shall issue the permit and notify the State Police of the issuance of the permit within 45 days of receipt of the completed application unless it is determined that the applicant is disqualified. A court may authorize the clerk to issue concealed handgun permits, without judicial review, to applicants who have submitted complete applications, for whom the criminal history records check does not indicate a disqualification and, after consulting with either the sheriff or police department of the county or city, about which there are no outstanding questions or issues concerning the application. The court clerk shall be immune from suit arising from any acts or omissions relating to the issuance of concealed handgun permits without judicial review pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law, or to affect any cause of action accruing prior to July 1, 2010. Upon denial of the application, the clerk shall provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law. Any order denying issuance of the permit shall state the basis for the denial of the permit and the applicant's right to and the requirements for perfecting an appeal of such order pursuant to subsection L. Only a circuit court judge may deny issuance of a permit. An application is deemed complete when all information required to be furnished by the applicant is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check. If the court has not issued the permit or determined that the applicant is disqualified within 45 days of the date of receipt noted on the application, the clerk shall certify on the application that the 45-day period has expired, and send a copy of the certified application to the applicant. The certified application shall serve as a de facto permit, which shall expire 90 days after issuance, and shall be recognized as a valid concealed handgun permit when presented with a valid government-issued photo

identification pursuant to subsection H, until the court issues a five-year permit or finds the applicant to be disqualified. If the applicant is found to be disqualified after the de facto permit is issued, the applicant shall surrender the de facto permit to the court and the disqualification shall be deemed a denial of the permit and a revocation of the de facto permit. If the applicant is later found by the court to be disqualified after a five-year permit has been issued, the permit shall be revoked. The clerk of court may withhold from public disclosure the social security number contained in a permit application in response to a request to inspect or copy any such permit application, except that such social security number shall not be withheld from any law-enforcement officer acting in the performance of his official duties.

E. The following persons shall be deemed disqualified from obtaining a permit:

1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2 or 18.2-308.1:3 or the substantially similar law of any other state or of the United States.
2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his application for a concealed handgun permit.
3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency or capacity was restored pursuant to § 37.2-1012 less than five years before the date of his application for a concealed handgun permit.
4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from commitment less than five years before the date of this application for a concealed handgun permit.
5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-308.1:4 from purchasing or transporting a firearm.
6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except that a permit may be obtained in accordance with subsection C of that section.
7. An individual who has been convicted of two or more misdemeanors within the five-year period immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1. Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this disqualification.
8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, *synthetic cannabinoids*, or any controlled substance.
9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other state, the District of Columbia, the United States, or its territories within the three-year period immediately preceding the application, or who is a habitual drunkard as determined pursuant to § 4.1-333.
10. An alien other than an alien lawfully admitted for permanent residence in the United States.
11. An individual who has been discharged from the Armed Forces of the United States under dishonorable conditions.
12. An individual who is a fugitive from justice.
13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief of police, or attorney for the Commonwealth may submit to the court a sworn written statement indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the specific acts, or upon a written statement made under oath before a notary public of a competent person having personal knowledge of the specific acts.
14. An individual who has been convicted of any assault, assault and battery, sexual battery, discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation of § 18.2-282 within the three-year period immediately preceding the application.
15. An individual who has been convicted of stalking.
16. An individual whose previous convictions or adjudications of delinquency were based on an offense which would have been at the time of conviction a felony if committed by an adult under the laws of any state, the District of Columbia, the United States or its territories. For purposes of this disqualifier, only convictions occurring within 16 years following the later of the date of (i) the conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or adjudication shall be deemed to be "previous convictions."
17. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision 14 or 15.
18. An individual who has received mental health treatment or substance abuse treatment in a

residential setting within five years prior to the date of his application for a concealed handgun permit.

19. An individual not otherwise ineligible pursuant to this section, who, within the three-year period immediately preceding the application for the permit, was found guilty of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title or of a criminal offense of illegal possession or distribution of marijuana, *synthetic cannabinoids*, or any controlled substance, under the laws of any state, the District of Columbia, or the United States or its territories.

20. An individual, not otherwise ineligible pursuant to this section, with respect to whom, within the three-year period immediately preceding the application, upon a charge of any criminal offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title or upon a charge of illegal possession or distribution of marijuana, *synthetic cannabinoids*, or any controlled substance under the laws of any state, the District of Columbia, or the United States or its territories, the trial court found that the facts of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the substantially similar law of any other state, the District of Columbia, or the United States or its territories.

F. The making of a materially false statement in an application under this section shall constitute perjury, punishable as provided in § 18.2-434.

G. The court shall require proof that the applicant has demonstrated competence with a handgun and the applicant may demonstrate such competence by one of the following, but no applicant shall be required to submit to any additional demonstration of competence, nor shall any proof of demonstrated competence expire:

1. Completing any hunter education or hunter safety course approved by the Department of Game and Inland Fisheries or a similar agency of another state;

2. Completing any National Rifle Association firearms safety or training course;

3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services;

4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition or current military service or proof of an honorable discharge from any branch of the armed services;

6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any firearms training or safety course or class, including an electronic, video, or on-line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

9. Completing any other firearms training which the court deems adequate.

A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this subsection.

H. The permit to carry a concealed handgun shall specify only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and signature of the permittee; the signature of the judge issuing the permit, of the clerk of court who has been authorized to sign such permits by the issuing judge, or of the clerk of court who has been authorized to issue such permits pursuant to subsection D; the date of issuance; and the expiration date. The permit to carry a concealed handgun shall be no larger than two inches wide by three and one-fourth inches long and shall be of a uniform style prescribed by the Department of State Police. The person issued the permit shall have such permit on his person at all times during which he is carrying a concealed handgun and shall display the permit and a photo-identification issued by a government agency of the Commonwealth or by the United States Department of Defense or United States State Department (passport) upon demand by a law-enforcement officer.

H1. If a permit holder is a member of the Virginia National Guard, Armed Forces of the United States, or the Armed Forces reserves of the United States, and his five-year permit expires during an active-duty military deployment outside of the permittee's county or city of residence, such permit shall remain valid for 90 days after the end date of the deployment. In order to establish proof of continued validity of the permit, such a permittee shall carry with him and display, upon request of a law-enforcement officer, a copy of the permittee's deployment orders or other documentation from the permittee's commanding officer that order the permittee to travel outside of his county or city of residence and that indicate the start and end date of such deployment.

I. Persons who previously have held a concealed handgun permit shall be issued, upon application as provided in subsection D, and upon receipt by the circuit court of criminal history record information as provided in subsection D, a new five-year permit unless it is found that the applicant is subject to any of the disqualifications set forth in subsection E. Persons who previously have been issued a concealed handgun permit pursuant to subsection D shall not be required to appear in person to apply for a new five-year permit pursuant to this subsection, and the application for the new permit may be submitted via the United States mail. The circuit court that receives the application shall promptly notify an applicant if the application is incomplete or if the fee submitted for the permit pursuant to subsection K is incorrect. If the new five-year permit is issued while an existing permit remains valid, the new five-year permit shall become effective upon the expiration date of the existing permit, provided that the application is received by the court at least 90 days but no more than 180 days prior to the expiration of the existing permit. If the circuit court denies the permit, the specific reasons for the denial shall be stated in the order of the court denying the permit. Upon denial of the application, the clerk shall provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law.

J. Any person convicted of an offense that would disqualify that person from obtaining a permit under subsection E or who violates subsection F shall forfeit his permit for a concealed handgun and surrender it to the court. Upon receipt by the Central Criminal Records Exchange of a record of the arrest, conviction or occurrence of any other event that would disqualify a person from obtaining a concealed handgun permit under subsection E, the Central Criminal Records Exchange shall notify the court having issued the permit of such disqualifying arrest, conviction or other event. Upon receipt of such notice of a conviction, the court shall revoke the permit of a person disqualified pursuant to this subsection, and shall promptly notify the State Police and the person whose permit was revoked of the revocation.

J1. Any person permitted to carry a concealed handgun, who is under the influence of alcohol or illegal drugs while carrying such handgun in a public place, shall be guilty of a Class 1 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a period of five years.

J2. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision E 14 or E 15, holding a permit for a concealed handgun, may have the permit suspended by the court before which such charge is pending or by the court that issued the permit.

J3. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted by the Virginia Alcoholic Beverage Control Board under Title 4.1 of the Code of Virginia may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

J4. The court shall revoke the permit of any individual for whom it would be unlawful to purchase, possess or transport a firearm under § 18.2-308.1:2 or 18.2-308.1:3, and shall promptly notify the State Police and the person whose permit was revoked of the revocation.

K. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Alcoholic Beverage Control Board or as a law-enforcement officer with the Department of State Police, the Department of Game and Inland Fisheries, or a sheriff or police department, bureau or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement officer with the United States Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, Customs Service, Department of State Diplomatic Security Service, U.S. Marshals Service or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia or any of the territories of the United States, after completing 15 years of service; (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii) through (iv), after completing 15 years of service; or (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching age 55. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit,

including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this section. The \$35 fee shall include any amount assessed by the Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the Federal Bureau of Investigation to the State Police with the fingerprints taken from the applicant. The State Police may charge a fee not to exceed \$5 to cover their costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who accepts the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is accepted by the court as a complete application. The order issuing such permit, or the copy of the permit application certified by the clerk as a de facto permit pursuant to subsection D, shall be provided to the State Police and the law-enforcement agencies of the county or city. The State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status will be made known to law-enforcement personnel accessing the Network for investigative purposes. The State Police shall withhold from public disclosure permittee information submitted to the State Police for purposes of entry into the Virginia Criminal Information Network, except that such information shall not be withheld from any law-enforcement agency, officer, or authorized agent thereof acting in the performance of official law-enforcement duties, nor shall such information be withheld from an entity that has a valid contract with any local, state, or federal law-enforcement agency for the purpose of performing official duties of the law-enforcement agency. However, nothing in this subsection shall be construed to prohibit the release of (a) records by the State Police concerning permits issued to nonresidents of the Commonwealth pursuant to subsection P1, or (b) statistical summaries, abstracts, or other records containing information in an aggregate form that does not identify any individual permittees.

K1. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon presentation of the valid permit and proof of a new address of residence by the permit holder, issue a replacement permit specifying the permit holder's new address. The clerk of court shall forward the permit holder's new address of residence to the State Police. The State Police may charge a fee not to exceed \$5, and the clerk of court issuing the replacement permit may charge a fee not to exceed \$5. The total amount assessed for processing a replacement permit pursuant to this subsection shall not exceed \$10, with such fees to be paid in one sum to the person who accepts the information for the replacement permit.

L. Any person denied a permit to carry a concealed handgun under the provisions of this section may present a petition for review to the Court of Appeals. The petition for review shall be filed within 60 days of the expiration of the time for requesting an ore tenus hearing pursuant to subsection I, or if an ore tenus hearing is requested, within 60 days of the entry of the final order of the circuit court following the hearing. The petition shall be accompanied by a copy of the original papers filed in the circuit court, including a copy of the order of the circuit court denying the permit. Subject to the provisions of subsection B of § 17.1-410, the decision of the Court of Appeals or judge shall be final. Notwithstanding any other provision of law, if the decision to deny the permit is reversed upon appeal, taxable costs incurred by the person shall be paid by the Commonwealth.

M. For purposes of this section:

"Handgun" means any pistol or revolver or other firearm, except a machine gun, originally designed, made and intended to fire a projectile by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Law-enforcement officer" means those individuals defined as a law-enforcement officer in § 9.1-101, campus police officers appointed pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23, law-enforcement agents of the Armed Forces of the United States, the Naval Criminal Investigative Service, and federal agents who are otherwise authorized to carry weapons by federal law. "Law-enforcement officer" shall also mean any sworn full-time law-enforcement officer employed by a law-enforcement agency of the United States or any state or political subdivision thereof, whose duties are substantially similar to those set forth in § 9.1-101.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

"Personal knowledge" means knowledge of a fact that a person has himself gained through his own senses, or knowledge that was gained by a law-enforcement officer or prosecutor through the performance of his official duties.

N. As used in this article:

"Ballistic knife" means any knife with a detachable blade that is propelled by a spring-operated mechanism.

"Spring stick" means a spring-loaded metal stick activated by pushing a button which rapidly and forcefully telescopes the weapon to several times its original length.

O. The granting of a concealed handgun permit shall not thereby authorize the possession of any

handgun or other weapon on property or in places where such possession is otherwise prohibited by law or is prohibited by the owner of private property.

P. A valid concealed handgun or concealed weapon permit or license issued by another state shall authorize the holder of such permit or license who is at least 21 years of age to carry a concealed handgun in the Commonwealth, provided (i) the issuing authority provides the means for instantaneous verification of the validity of all such permits or licenses issued within that state, accessible 24 hours a day, and (ii) except for the age of the permit or license holder and the type of weapon authorized to be carried, the requirements and qualifications of that state's law are adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth under this section. The Superintendent of State Police shall (a) in consultation with the Office of the Attorney General determine whether states meet the requirements and qualifications of this section, (b) maintain a registry of such states on the Virginia Criminal Information Network (VCIN), and (c) make the registry available to law-enforcement officers for investigative purposes. The Superintendent of the State Police, in consultation with the Attorney General, may also enter into agreements for reciprocal recognition with any state qualifying for recognition under this subsection.

P1. Nonresidents of the Commonwealth 21 years of age or older may apply in writing to the Virginia Department of State Police for a five-year permit to carry a concealed handgun. Every applicant for a nonresident concealed handgun permit shall submit two photographs of a type and kind specified by the Department of State Police for inclusion on the permit and shall submit fingerprints on a card provided by the Department of State Police for the purpose of obtaining the applicant's state or national criminal history record. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting by his local or state law-enforcement agency and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law-enforcement agencies. The application shall be made under oath before a notary or other person qualified to take oaths on a form provided by the Department of State Police, requiring only that information necessary to determine eligibility for the permit. If the permittee is later found by the Department of State Police to be disqualified, the permit shall be revoked and the person shall return the permit after being so notified by the Department of State Police. The permit requirement and restriction provisions of subsections E and F shall apply, mutatis mutandis, to the provisions of this subsection.

The applicant shall demonstrate competence with a handgun by one of the following:

1. Completing a hunter education or hunter safety course approved by the Virginia Department of Game and Inland Fisheries or a similar agency of another state;
2. Completing any National Rifle Association firearms safety or training course;
3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services or a similar agency of another state;
4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;
5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition approved by the Department of State Police or current military service or proof of an honorable discharge from any branch of the armed services;
6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;
7. Completing any firearms training or safety course or class, including an electronic, video, or on-line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;
8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or
9. Completing any other firearms training that the Virginia Department of State Police deems adequate.

A photocopy of a certificate of completion of any such course or class, an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant, or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall satisfy the requirement for demonstration of competence with a handgun.

The Department of State Police may charge a fee not to exceed \$100 to cover the cost of the background check and issuance of the permit. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the nonresident concealed handgun permit program. The Department of State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status are known to law-enforcement

personnel accessing the Network for investigative purposes.

The permit to carry a concealed handgun shall contain only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and photograph of the permittee; the signature of the Superintendent of the Virginia Department of State Police or his designee; the date of issuance; and the expiration date. The person to whom the permit is issued shall have such permit on his person at all times when he is carrying a concealed handgun in the Commonwealth and shall display the permit on demand by a law-enforcement officer.

The Superintendent of the State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for obtaining a nonresident concealed handgun permit.

Q. A valid concealed handgun permit issued by the State of Maryland shall be valid in the Commonwealth provided, (i) the holder of the permit is licensed in the State of Maryland to perform duties substantially similar to those performed by Virginia branch pilots licensed pursuant to Chapter 9 (§ 54.1-900 et seq.) of Title 54.1 and is performing such duties while in the Commonwealth, and (ii) the holder of the permit is 21 years of age or older.

R. For the purposes of participation in concealed handgun reciprocity agreements with other jurisdictions, the official government-issued law-enforcement identification card issued to an active-duty law-enforcement officer in the Commonwealth who is exempt from obtaining a concealed handgun permit under this section shall be deemed a concealed handgun permit.

S. For the purposes of understanding the law relating to the use of deadly and lethal force, the Department of State Police, in consultation with the Supreme Court on the development of the application for a concealed handgun permit under this section, shall include a reference to the Virginia Supreme Court website address or the Virginia Reports on the application.

§ 18.2-308.1:5. Purchase or transportation of firearm by persons convicted of certain drug offenses prohibited.

Any person who, within a thirty-six consecutive month period, has been convicted of two misdemeanor offenses under § *subsection B of § 18.2-248.1:1*, § 18.2-250, or § 18.2-250.1 shall be ineligible to purchase or transport a handgun. However, upon expiration of a period of five years from the date of the second conviction and provided the person has not been convicted of any such offense within that period, the ineligibility shall be removed.

§ 18.2-308.4. Possession of firearms while in possession of certain substances.

A. It shall be unlawful for any person unlawfully in possession of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1 to simultaneously with knowledge and intent possess any firearm. A violation of this subsection is a Class 6 felony and constitutes a separate and distinct felony.

B. It shall be unlawful for any person unlawfully in possession of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to simultaneously with knowledge and intent possess any firearm on or about his person. A violation of this subsection is a Class 6 felony and constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment of two years. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

C. It shall be unlawful for any person to possess, use, or attempt to use any pistol, shotgun, rifle, or other firearm or display such weapon in a threatening manner while committing or attempting to commit the illegal manufacture, sale, distribution, or the possession with the intent to manufacture, sell, or distribute a controlled substance classified in Schedule I or Schedule II of the Drug Control Act (§ 54.1-3400 et seq.) of Title 54.1, *synthetic cannabinoids* or more than one pound of marijuana. A violation of this subsection is a Class 6 felony, and constitutes a separate and distinct felony and any person convicted hereunder shall be sentenced to a mandatory minimum term of imprisonment of five years. Such punishment shall be separate and apart from, and shall be made to run consecutively with, any punishment received for the commission of the primary felony.

§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners.

Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver, attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the Commonwealth of Virginia, or of any political subdivision thereof, any drug which is a controlled substance regulated by the Drug Control Act in Chapter 34 of Title 54.1, *synthetic cannabinoids* or marijuana, shall be guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or attempt to deliver or conspire to deliver to any such prisoner, firearms, ammunitions, or explosives of any nature shall be guilty of a Class 3 felony.

Nothing herein contained shall be construed to repeal or amend § 18.2-473.

§ 19.2-83.1. Report of arrest of school employees and adult students for certain offenses.

A. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, upon arresting a person who is known or discovered by the arresting official to be a full-time, part-time, permanent, or temporary

teacher or other employee in any public school division in this Commonwealth for a felony or a Class 1 misdemeanor or an equivalent offense in another state shall file a report of such arrest with the division superintendent of the employing division as soon as practicable. The contents of the report required pursuant to this section shall be utilized by the local school division solely to implement the provisions of subsection B of § 22.1-296.2 and § 22.1-315.

B. Every state official or agency and every sheriff, police officer, or other local law-enforcement officer or conservator of the peace having the power to arrest for a felony, shall file a report, as soon as practicable, with the division superintendent of the school division in which the student is enrolled upon arresting a person who is known or discovered by the arresting official to be a student age 18 or older in any public school division in this Commonwealth for:

1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), or 7 (§ 18.2-308 et seq.) of Chapter 7 of Title 18.2;
2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2;
4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;
5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
6. Manufacture, sale or distribution of marijuana *or synthetic cannabinoids* pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;
7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;
8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;
9. Robbery pursuant to § 18.2-58;
10. Prohibited criminal street gang activity pursuant to § 18.2-46.2; or
11. Recruitment of juveniles for criminal street gang pursuant to § 18.2-46.3.

§ 19.2-187. Admission into evidence of certain certificates of analysis.  
In any hearing or trial of any criminal offense or in any proceeding brought pursuant to Chapter 22.1 (§ 19.2-386.1 et seq.) of this title, a certificate of analysis of a person performing an analysis or examination, duly attested by such person, shall be admissible in evidence as evidence of the facts therein stated and the results of the analysis or examination referred to therein, provided (i) the certificate of analysis is filed with the clerk of the court hearing the case at least seven days prior to the proceeding if the attorney for the Commonwealth intends to offer it into evidence in a preliminary hearing or the accused intends to offer it into evidence in any hearing or trial, or (ii) the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1, when any such analysis or examination is performed in any laboratory operated by the Division of Consolidated Laboratory Services or the Department of Forensic Science or authorized by such Department to conduct such analysis or examination, or performed by a person licensed by the Department of Forensic Science pursuant to § 18.2-268.9 or 46.2-341.26:9 to conduct such analysis or examination, or performed by the Federal Bureau of Investigation, the federal Postal Inspection Service, the federal Bureau of Alcohol, Tobacco and Firearms, the Naval Criminal Investigative Service, the National Fish and Wildlife Forensics Laboratory, the federal Drug Enforcement Administration, or the United States Secret Service Laboratory.

In a hearing or trial in which the provisions of subsection A of § 19.2-187.1 do not apply, a copy of such certificate shall be mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused at no charge at least seven days prior to the hearing or trial upon request made by such counsel to the clerk with notice of the request to the attorney for the Commonwealth. The request to the clerk shall be on a form prescribed by the Supreme Court and filed with the clerk at least 10 days prior to the hearing or trial. In the event that a request for a copy of a certificate is filed with the clerk with respect to a case that is not yet before the court, the clerk shall advise the requester that he must resubmit the request at such time as the case is properly before the court in order for such request to be effective. If, upon proper request made by counsel of record for the accused, a copy of such certificate is not mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused in a timely manner in accordance with this section, the accused shall be entitled to continue the hearing or trial.

The certificate of analysis of any examination conducted by the Department of Forensic Science relating to a controlled substance ~~or~~, marijuana, *or synthetic cannabinoids as defined in § 18.2-248.1:1* shall be mailed or forwarded by personnel of the Department of Forensic Science to the attorney for the Commonwealth of the jurisdiction where such offense may be heard. The attorney for the Commonwealth shall acknowledge receipt of the certificate on forms provided by the laboratory.

Any such certificate of analysis purporting to be signed by any such person shall be admissible as evidence in such hearing or trial without any proof of the seal or signature or of the official character of the person whose name is signed to it.

For the purposes of this section and §§ 19.2-187.01, 19.2-187.1, and 19.2-187.2, the term "certificate

of analysis" includes reports of analysis and results of laboratory examination.

§ 19.2-386.22. Seizure of property used in connection with or derived from illegal drug transactions.

A. The following property shall be subject to lawful seizure by any officer charged with enforcing the provisions of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2: (i) all money, medical equipment, office equipment, laboratory equipment, motor vehicles, and all other personal and real property of any kind or character, used in substantial connection with (a) the illegal manufacture, sale or distribution of controlled substances or possession with intent to sell or distribute controlled substances in violation of § 18.2-248, (b) the sale or distribution of marijuana or possession with intent to distribute marijuana in violation of subdivisions (a) (2), (a) (3) and (c) of § 18.2-248.1, ~~or~~ (c) *the sale or distribution of synthetic cannabinoids or possession with intent to distribute or manufacture synthetic cannabinoids in violation of subsections C and E of § 18.2-248.1:1, or* (d) a drug-related offense in violation of § 18.2-474.1; (ii) everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of § 18.2-248 or for marijuana in violation of § 18.2-248.1 *or for synthetic cannabinoids in violation of § 18.2-248.1:1* or for a controlled substance ~~or~~, marijuana, *or synthetic cannabinoids* in violation of § 18.2-474.1; and (iii) all moneys or other property, real or personal, traceable to such an exchange, together with any interest or profits derived from the investment of such money or other property. Under the provisions of clause (i), real property shall not be subject to lawful seizure unless the minimum prescribed punishment for the violation is a term of not less than five years.

B. All seizures and forfeitures under this section shall be governed by the procedures contained in Chapter 22.1 (§ 19.2-386.1 et seq.) of this title.

§ 19.2-386.23. Disposal of seized controlled substances, marijuana, synthetic cannabinoids, and paraphernalia.

A. All controlled substances, imitation controlled substances, marijuana, *synthetic cannabinoids as defined in § 18.2-248.1:1*, or paraphernalia, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer or have been seized in connection with violations of Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, shall be forfeited and disposed of as follows:

1. Upon written application by the Department of Forensic Science the court may order the forfeiture of any such substance or paraphernalia to the Department for research and training purposes and for destruction pursuant to regulations of the United States Department of Justice Drug Enforcement Administration and of the Board of Pharmacy once these purposes have been fulfilled.

2. In the event no application is made under subdivision 1 of this subsection, the court shall order the destruction of all such substances or paraphernalia, which order shall state the existence and nature of the substance or paraphernalia, the quantity thereof, the location where seized, the person or persons from whom the substance or paraphernalia was seized, if known, and the manner whereby such item shall be destroyed. However, the court may order that paraphernalia identified in subdivision 5 of § 18.2-265.1 not be destroyed and that it be given to a person or entity that makes a showing to the court of sufficient need for the property and an ability to put the property to a lawful and publicly beneficial use. A return under oath, reporting the time, place and manner of destruction shall be made to the court and to the Board of Pharmacy by the officer to whom the order is directed. A copy of the order and affidavit shall be made a part of the record of any criminal prosecution in which the substance or paraphernalia was used as evidence and shall, thereafter, be prima facie evidence of its contents. In the event a law-enforcement agency recovers, seizes, finds, is given or otherwise comes into possession of any such substances or paraphernalia that are not evidence in a trial in the Commonwealth, the chief law-enforcement officer of the agency or his designee may, with the written consent of the appropriate attorney for the Commonwealth, order destruction of same; provided that, a statement under oath, reporting a description of the substances and paraphernalia destroyed, and the time, place and manner of destruction is made to the chief law-enforcement officer and to the Board of Pharmacy by the officer to whom the order is directed.

B. No such substance or paraphernalia used or to be used in a criminal prosecution under Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 shall be disposed of as provided by this section until all rights of appeal have been exhausted, except as provided in § 19.2-386.24.

§ 19.2-386.24. Destruction of seized controlled substances, marijuana, or synthetic cannabinoids prior to trial.

Where seizures of controlled substances ~~or~~, marijuana, *or synthetic cannabinoids* are made in excess of 10 pounds in connection with any prosecution or investigation under Chapter 7 (§ 18.2-247 et seq.) of Title 18.2, the appropriate law-enforcement agency may retain 10 pounds of the substance randomly selected from the seized substance for representative purposes as evidence and destroy the remainder of the seized substance.

Before any destruction is carried out under this section, the law-enforcement agency shall cause the material seized to be photographed with identification case numbers or other means of identification and shall prepare a report identifying the seized material. It shall also notify the accused, or other interested party, if known, or his attorney, at least five days in advance that the photography will take place and

that they may be present. Prior to any destruction under this section, the law-enforcement agency shall also notify the accused or other interested party, if known, and his attorney at least seven days prior to the destruction of the time and place the destruction will occur. Any notice required under the provisions of this section shall be by first-class mail to the last known address of the person required to be notified. In addition to the substance retained for representative purposes as evidence, all photographs and records made under this section and properly identified shall be admissible in any court proceeding for any purposes for which the seized substance itself would have been admissible.

§ 19.2-386.25. Judge may order law-enforcement agency to maintain custody of controlled substances, etc.

Upon request of the clerk of any court, a judge of the court may order a law-enforcement agency to take into its custody or to maintain custody of substantial quantities of any controlled substances, imitation controlled substances, chemicals, marijuana, *synthetic cannabinoids* or paraphernalia used or to be used in a criminal prosecution under Chapter 7 (§ 18.2-247 et seq.) of Title 18.2. The court in its order may make provision for ensuring integrity of these items until further order of the court.

§ 22.1-277.08. Expulsion of students for certain drug offenses.

A. School boards shall expel from school attendance any student whom such school board has determined, in accordance with the procedures set forth in this article, to have brought a controlled substance, imitation controlled substance, or marijuana as defined in § 18.2-247, or *synthetic cannabinoids as defined in § 18.2-248.1:1* onto school property or to a school-sponsored activity. A school board may, however, determine, based on the facts of the particular case, that special circumstances exist and another disciplinary action is appropriate. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.

B. Each school board shall revise its standards of student conduct to incorporate the requirements of this section no later than three months after the date on which this act becomes effective.

§ 22.1-279.3:1. Reports of certain acts to school authorities.

A. Reports shall be made to the division superintendent and to the principal or his designee on all incidents involving (i) the assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity; (ii) the assault and battery that results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, or stalking of any person as described in § 18.2-60.3, on a school bus, on school property, or at a school-sponsored activity; (iii) any conduct involving alcohol, marijuana, *synthetic cannabinoids as defined in § 18.2-248.1:1*, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications; (iv) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity; (v) the illegal carrying of a firearm, as defined in § 22.1-277.07, onto school property; (vi) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; (vii) any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses; or (viii) the arrest of any student for an incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefor.

B. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1, local law-enforcement authorities shall report, and the principal or his designee and the division superintendent shall receive such reports, on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult or would be a violation of the Drug Control Act (§ 54.1-3400 et seq.) and occurred on a school bus, on school property, or at a school-sponsored activity, or would be an adult misdemeanor involving any incidents described in clauses (i) through (viii) of subsection A, and whether the student is released to the custody of his parent or, if 18 years of age or more, is released on bond. As part of any report concerning an offense that would be an adult misdemeanor involving an incident described in clauses (i) through (viii) of subsection A, local law-enforcement authorities and attorneys for the Commonwealth shall be authorized to disclose information regarding terms of release from detention, court dates, and terms of any disposition orders entered by the court, to the superintendent of such student's school division, upon request by the superintendent, if, in the determination of the law-enforcement authority or attorney for the Commonwealth, such disclosure would not jeopardize the investigation or prosecution of the case. No disclosures shall be made pursuant to this section in violation of the confidentiality provisions of subsection A of § 16.1-300 or the record retention and redisclosure provisions of § 22.1-288.2. Further, any school superintendent who receives notification that a juvenile has committed an act that would be a crime if committed by an adult pursuant to subsection G of § 16.1-260 shall report such information to the principal of the school in which the juvenile is enrolled.

C. The principal or his designee shall submit a report of all incidents required to be reported pursuant to this section to the superintendent of the school division. The division superintendent shall annually report all such incidents to the Department of Education for the purpose of recording the frequency of such incidents on forms that shall be provided by the Department and shall make such information available to the public.

In submitting reports of such incidents, principals and division superintendents shall accurately indicate any offenses, arrests, or charges as recorded by law-enforcement authorities and required to be reported by such authorities pursuant to subsection B.

A division superintendent who knowingly fails to comply or secure compliance with the reporting requirements of this subsection shall be subject to the sanctions authorized in § 22.1-65. A principal who knowingly fails to comply or secure compliance with the reporting requirements of this section shall be subject to sanctions prescribed by the local school board, which may include, but need not be limited to, demotion or dismissal.

The principal or his designee shall also notify the parent of any student involved in an incident required pursuant to this section to be reported, regardless of whether disciplinary action is taken against such student or the nature of the disciplinary action. Such notice shall relate to only the relevant student's involvement and shall not include information concerning other students.

Whenever any student commits any reportable incident as set forth in this section, such student shall be required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or his designee. Prevention and intervention activities shall be identified in the local school division's drug and violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV - Safe and Drug-Free Schools and Communities Act).

D. Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal shall immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through (vii) of subsection A that may constitute a criminal offense and may report to the local law-enforcement agency any incident described in clause (i) of subsection A.

Further, except as may be prohibited by federal law, regulation, or jurisprudence, the principal shall also immediately report any act enumerated in clauses (ii) through (v) of subsection A that may constitute a criminal offense to the parents of any minor student who is the specific object of such act. Further, the principal shall report that the incident has been reported to local law enforcement as required by law and that the parents may contact local law enforcement for further information, if they so desire.

E. A statement providing a procedure and the purpose for the requirements of this section shall be included in school board policies required by § 22.1-253.13:7.

The Board of Education shall promulgate regulations to implement this section, including, but not limited to, establishing reporting dates and report formats.

F. For the purposes of this section, "parent" or "parents" means any parent, guardian or other person having control or charge of a child.

G. This section shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

#### § 24.2-233. Removal of elected and certain appointed officers by courts.

Upon petition, a circuit court may remove from office any elected officer or officer who has been appointed to fill an elective office, residing within the jurisdiction of the court:

1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the conduct of the office, or

2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving the:

a. Manufacture, sale, gift, distribution, or possession with intent to manufacture, sell, give, or distribute a controlled substance  $\text{\textcircled{æ}}$ , marijuana, or *synthetic cannabinoids as defined in § 18.2-248.1:1*, or

b. Sale, possession with intent to sell, or placing an advertisement for the purpose of selling drug paraphernalia, or

c. Possession of any controlled substance  $\text{\textcircled{æ}}$ , marijuana, or *synthetic cannabinoids as defined in § 18.2-248.1:1*, and such conviction under a, b, or c has a material adverse effect upon the conduct of such office, or

3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a "hate crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the conduct of such office.

The petition must be signed by a number of registered voters who reside within the jurisdiction of the officer equal to ten percent of the total number of votes cast at the last election for the office that the officer holds.

Any person removed from office under the provisions of subdivision 2 or 3 may not be subsequently

subject to the provisions of this section for the same criminal offense.

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

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

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

2. Supervise and assist all persons within his territory placed on probation, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and furnish every such person with a written statement of the conditions of his probation and instruct him therein; if any such person has been committed to the Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, the conditions of probation shall include the requirement that the person comply with all conditions given him by the Department of Behavioral Health and Developmental Services, and that he follow all of the terms of his treatment plan;

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

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

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

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

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

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

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

10. Determine by reviewing the Local Inmate Data System upon intake and again prior to release whether a blood, saliva, or tissue sample has been taken for DNA analysis for each person placed on probation or parole required to 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 has been taken, require a person placed on probation or parole to submit a sample for DNA analysis; and

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

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

§ 53.1-203. Felonies by prisoners; penalties.

It shall be unlawful for a prisoner in a state, local or community correctional facility or in the custody of an employee thereof to:

1. Escape from a correctional facility or from any person in charge of such prisoner;

2. Willfully break, cut or damage any building, furniture, fixture or fastening of such facility or any part thereof for the purpose of escaping, aiding any other prisoner to escape therefrom or rendering such facility less secure as a place of confinement;

3. Make, procure, secrete or have in his possession any instrument, tool or other thing for the purpose of escaping from or aiding another to escape from a correctional facility or employee thereof;
4. Make, procure, secrete or have in his possession a knife, instrument, tool or other thing not authorized by the superintendent or sheriff which is capable of causing death or bodily injury;
5. Procure, sell, secrete or have in his possession any chemical compound which he has not lawfully received;
6. Procure, sell, secrete or have in his possession a controlled substance classified in Schedule III of the Drug Control Act (§ 54.1-3400 et seq.) ~~or~~, marijuana, *or synthetic cannabinoids as defined in § 18.2-248.1:1*;
7. Introduce into a correctional facility or have in his possession firearms or ammunition for firearms;
8. Willfully burn or destroy by use of any explosive device or substance, in whole or in part, or cause to be so burned or destroyed, any personal property, within any correctional facility;
9. Willfully tamper with, damage, destroy, or disable any fire protection or fire suppression system, equipment, or sprinklers within any correctional facility; or
10. Conspire with another prisoner or other prisoners to commit any of the foregoing acts.

For violation of any of the provisions of this section, except subdivision 6, the prisoner shall be guilty of a Class 6 felony. For a violation of subdivision 6, he shall be guilty of a Class 5 felony. If the violation is of subdivision 1 of this section and the escapee is a felon, he shall be sentenced to a mandatory minimum term of confinement of one year, which shall be served consecutively with any other sentence. The prisoner shall, upon conviction of escape, immediately commence to serve such escape sentence, and he shall not be eligible for parole during such period. Any prisoner sentenced to life imprisonment who escapes shall not be eligible for parole. No part of the time served for escape shall be credited for the purpose of parole toward the sentence or sentences, the service of which is interrupted for service of the escape sentence, nor shall it be credited for such purpose toward any other sentence.

§ 54.1-3446. Schedule I.

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

Acetylmethadol;  
 Allylprodine;  
 Alphacetylmethadol (except levo-alpha-acetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);  
 Alphameprodine;  
 Alphamethadol;  
 Benzethidine;  
 Betacetylmethadol;  
 Betameprodine;  
 Betamethadol;  
 Betaprodine;  
 Clonitazene;  
 Dextromoramide;  
 Diampromide;  
 Diethylthiambutene;  
 Difenoxyin;  
 Dimenoxadol;  
 Dimepheptanol;  
 Dimethylthiambutene;  
 Dioxaphetylbutyrate;  
 Dipipanone;  
 Ethylmethylthiambutene;  
 Etonitazene;  
 Etoxidine;  
 Furethidine;  
 Hydroxypethidine;  
 Ketobemidone;  
 Levomoramide;  
 Levophenacymorphan;  
 Morpheridine;  
 Noracymethadol;  
 Norlevorphanol;  
 Normethadone;

Norpipanone;  
 Phenadoxone;  
 Phenampromide;  
 Phenomorphan;  
 Phenoperidine;  
 Piritramide;  
 Proheptazine;  
 Properidine;  
 Propiram;  
 Racemoramide;  
 Tilidine;  
 Trimeperidine.

2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

Acetorphine;  
 Acetyldihydrocodeine;  
 Benzylmorphine;  
 Codeine methylbromide;  
 Codeine-N-Oxide;  
 Cyprenorphine;  
 Desomorphine;  
 Dihydromorphine;  
 Drotebanol;  
 Etorphine;  
 Heroin;  
 Hydromorphanol;  
 Methyldesorphine;  
 Methyldihydromorphine;  
 Morphine methylbromide;  
 Morphine methylsulfonate;  
 Morphine-N-Oxide;  
 Myrophine;  
 Nicocodeine;  
 Nicomorphine;  
 Normorphine;  
 Pholcodine;  
 Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

Alpha-ethyltryptamine (some trade or other names: Monase;a-ethyl-1H-indole-3-ethanamine;  
 3-2-aminobutyl] indole; a-ET; AET);

4 - B r o m o - 2 , 5 - d i m e t h o x y p h e n e t h y l a m i n e ( s o m e t r a d e o r o t h e r n a m e s :  
 2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane;alpha-desmethyl DOB;2C-B; Nexus);

3,4-methylenedioxy amphetamine;

5-methoxy-3,4-methylenedioxy amphetamine;

3,4,5-trimethoxy amphetamine;

Alpha-methyltryptamine (other name: AMT);

Bufotenine;

Diethyltryptamine;

Dimethyltryptamine;

4-methyl-2,5-dimethoxyamphetamine;

2,5-dimethoxy-4-ethylamphetamine (DOET);

2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

Ibogaine;

5-methoxy-N,N-diisopropyltryptamine (other name: 5-MeO-DIPT);

Lysergic acid diethylamide;

Mescaline;

Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6,  
 9-trimethyl-6H-dibenzo -b,d] pyran; Synhexyl);

Peyote;

N-ethyl-3-piperidyl benzilate;  
 N-methyl-3-piperidyl benzilate;  
 Psilocybin;  
 Psilocyn;  
 Salvinorin A;

Tetrahydrocannabinols, except as present in marijuana and dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration;

Hashish oil (some trade or other names: hash oil; liquid marijuana; liquid hashish);

2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);

3,4-methylenedioxyamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;

3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);

N-hydroxy-3,4-methylenedioxyamphetamine (some other names: N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);

4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);

4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA);

Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl) -pyrrolidine, PCPy, PHP);

Thiophene analog of phencyclidine (some other names: 1-1-(2-thienyl) -cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);

1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);;

3,4-methylenedioxyprovalerone (other name: MDPV);

4-methylmethcathinone (other names: mephedrone, 4-MMC).

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

Mecloqualone;

Methaqualone.

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4, 5-dihydro-5-phenyl-2-oxazolamine);

N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);

Fenethylamine;

Ethylamphetamine;

Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;

Methcathinone (some other names: 2-(methylamino)-propionophenone; alpha-(methylamino) propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);

Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

N,N-dimethylamphetamine (other names: N,N-alpha-trimethyl-benzeneethanamine, N,N-alpha-trimethylphenethylamine).

6. Any material, compound, mixture or preparation containing any quantity of the following substances:

N-3-methyl-1-(2-phenethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl), its optical and geometric isomers, salts, and salts of isomers;

1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP), its optical isomers, salts and salts of isomers;

1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP), its optical isomers, salts and salts of isomers;

N-1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide (other names: 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine), alpha-methylfentanyl);

N-1-(1-methyl-2-phenethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl), its optical isomers, salts and salts of isomers;

N-1-(1-methyl-2-(2-thienyl)ethyl)-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl), its optical isomers, salts and salts of isomers;

N-1-benzyl-4-piperidyl]N-phenylpropanamide (other name: benzylfentanyl), its optical isomers, salts and salts of isomers;

N-1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl), its optical isomers, salts and salts of isomers;

N-3-methyl-1-(2-hydroxy-2-phenethyl)-4-piperidyl]N-phenylpropanamide (other name: beta-hydroxy-3-methylfentanyl), its optical and geometric isomers, salts and salts of isomers;

N-(3-methyl-1-(2-thienyl)ethyl)-4-piperidinyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl), its optical and geometric isomers, salts and salts of isomers;

N-1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (other name: thenylfentanyl), its optical isomers, salts and salts of isomers;

N-phenyl-N-1-(2-thienyl)ethyl-4-piperidinyl]-propanamide (other name: thiofentanyl), its optical isomers, salts and salts of isomers;

N-(4-fluorophenyl)-N-1-(2-phenethyl)-4-piperidinyl]propanamide (other name: para-fluorofentanyl), its optical isomers, salts and salts of isomers.

**2. That an emergency exists and this act is in force from its passage.**

**3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 874 of the Acts of Assembly of 2010 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**