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INTRODUCED

HB1028

1 **HOUSE BILL NO. 1028**

2 Offered January 14, 2026

3 Prefiled January 14, 2026

4 *A BILL to amend and reenact § 19.2-56, as it is currently effective and as it shall become effective, of the*
5 *Code of Virginia, relating to search warrant; search of place of abode; copy of affidavit to be part of*
6 *warrant and served therewith; temporary sealing.*

7 Patron—Walker

8 Committee Referral Pending

9 **Be it enacted by the General Assembly of Virginia:**10 **1. That § 19.2-56, as it is currently effective and as it shall become effective, of the Code of Virginia is**
11 **amended and reenacted as follows:**12 **§ 19.2-56. (Effective until July 1, 2026) To whom search warrant directed; what it shall command;**
13 **warrant to show date and time of issuance; copy of affidavit to be part of warrant and served**
14 **therewith; warrants not executed within 15 days.**15 A. The judge, magistrate, or other official authorized to issue criminal warrants shall issue a search
16 warrant only if he finds from the facts or circumstances recited in the affidavit that there is probable cause for
17 the issuance thereof. If a search warrant is issued for electronic records of a foreign corporation, as described
18 in § 19.2-53, such affidavit shall state that the complainant believes such records are actually or
19 constructively possessed by such foreign corporation. In order to comply with the requirements of § 19.2-54,
20 any search of the records of a foreign corporation, as described in § 19.2-53, shall be deemed to have been
21 made in the same place where the search warrant was issued.22 Every search warrant shall be directed (i) to the sheriff, sergeant, or any policeman of the county, city, or
23 town in which the place to be searched is located; (ii) to any law-enforcement officer or agent employed by
24 the Commonwealth and vested with the powers of sheriffs and police; or (iii) jointly to any such sheriff,
25 sergeant, policeman, or law-enforcement officer or agent and an agent, special agent, or officer of the Federal
26 Bureau of Investigation, the Bureau of Alcohol, Tobacco, Firearms and Explosives of the U.S. Department of
27 Justice, the United States Naval Criminal Investigative Service, the United States Army Criminal
28 Investigation Division, the United States Air Force Office of Special Investigations, or the U.S. Department
29 of Homeland Security or any inspector, law-enforcement official, or police personnel of the United States
30 Postal Service or the U.S. Drug Enforcement Administration. The warrant shall (a) name the affiant, (b)
31 recite the offense or the identity of the person to be arrested for whom a warrant or process for arrest has been
32 issued in relation to which the search is to be made, (c) name or describe the place to be searched, (d)
33 describe the property or person to be searched for, and (e) recite that the magistrate has found probable cause
34 to believe that the property or person constitutes evidence of a crime (identified in the warrant) or tends to
35 show that a person (named or described therein) has committed or is committing a crime or that the person to
36 be arrested for whom a warrant or process for arrest has been issued is located at the place to be searched.37 The warrant shall command that the place be forthwith searched and that the objects or persons described
38 in the warrant, if found there, be seized. An inventory shall be produced before a court having jurisdiction of
39 the offense or over the person to be arrested for whom a warrant or process for arrest has been issued in
40 relation to which the warrant was issued as provided in § 19.2-57.41 Any such warrant as provided in this section shall be executed by the policeman or other law-enforcement
42 officer or agent into whose hands it shall come or be delivered. If the warrant is directed jointly to a sheriff,
43 sergeant, policeman, or law-enforcement officer or agent of the Commonwealth and a federal agent or officer
44 as otherwise provided in this section, the warrant may be executed jointly or by the policeman, law-
45 enforcement officer, or agent into whose hands it is delivered. No other person may be permitted to be
46 present during or participate in the execution of a warrant to search a place except (1) the owners and
47 occupants of the place to be searched when permitted to be present by the officer in charge of the conduct of
48 the search and (2) persons designated by the officer in charge of the conduct of the search to assist or provide
49 expertise in the conduct of the search.50 Any search warrant for records or other information pertaining to a subscriber to, or customer of, an
51 electronic communication service or remote computing service, whether a domestic corporation or foreign
52 corporation, that is transacting or has transacted any business in the Commonwealth, to be executed upon
53 such service provider may be executed within or outside the Commonwealth by hand, United States mail,
54 commercial delivery service, facsimile, or other electronic means upon the service provider. Notwithstanding
55 the provisions of § 19.2-57, the officer executing a warrant pursuant to this paragraph shall endorse the date
56 of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was
57 58

59 seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording,
60 within three days after the materials ordered to be produced are received by the officer from the service
61 provider. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant
62 was (A) executed, if executed within the Commonwealth, and a copy of the return shall also be delivered to
63 the clerk of the circuit court of the county or city where the warrant was issued or (B) issued, if executed
64 outside the Commonwealth. Saturdays, Sundays, or any federal or state legal holiday shall not be used in
65 computing the three-day filing period.

66 Electronic communication service or remote computing service providers, whether a foreign or domestic
67 corporation, shall also provide the contents of electronic communications pursuant to a search warrant issued
68 under this section and § 19.2-70.3 using the same process described in the preceding paragraph.

69 Any search warrant for electronic records or other information stored outside of the Commonwealth by a
70 commercial enterprise, whether a domestic corporation or a foreign corporation, that is transacting or has
71 transacted any business in the Commonwealth, to be executed upon such commercial enterprise may be
72 executed within or outside the Commonwealth by hand, United States mail, commercial delivery service,
73 facsimile, or other electronic means upon the commercial enterprise. Notwithstanding the provisions of
74 § 19.2-57, the officer executing a warrant pursuant to this paragraph shall endorse the date of execution
75 thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and
76 the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three
77 days after the materials ordered to be produced are received by the officer from the commercial enterprise.
78 The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was (I)
79 executed, if executed within the Commonwealth, and a copy of the return shall also be delivered to the clerk
80 of the circuit court of the county or city where the warrant was issued or (II) issued, if executed outside the
81 Commonwealth. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the
82 three-day filing period.

83 Notwithstanding the provisions of § 19.2-57, any search warrant for records or other information
84 pertaining to a customer of a financial institution as defined in § 6.2-604, money transmitter as defined in
85 § 6.2-1900, commercial business providing credit history or credit reports, or issuer as defined in § 6.2-424
86 may be executed within the Commonwealth by hand, United States mail, commercial delivery service,
87 facsimile, or other electronic means upon the financial institution, money transmitter, commercial business
88 providing credit history or credit reports, or issuer. The officer executing such warrant shall endorse the date
89 of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was
90 seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording,
91 within three days after the materials ordered to be produced are received by the officer from the financial
92 institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The
93 return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was executed.
94 Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing
95 period. For the purposes of this section, the warrant will be considered executed in the jurisdiction where the
96 entity on which the warrant is served is located.

97 Every search warrant shall contain the date and time it was issued. However, the failure of any such
98 search warrant to contain the date and time it was issued shall not render the warrant void, provided that the
99 date and time of issuing of said warrant is established by competent evidence.

100 The judge, magistrate, or other official authorized to issue criminal warrants shall attach a copy of the
101 affidavit required by § 19.2-54, which shall become a part of the search warrant and served therewith.
102 However, this provision shall not be applicable in any case in which the affidavit is made by means of a voice
103 or videotape recording or where the affidavit has been sealed pursuant to § 19.2-54.

104 Any search warrant not executed within 15 days after issuance thereof shall be returned to, and voided by,
105 the officer who issued such search warrant.

106 B. No law-enforcement officer shall seek, execute, or participate in the execution of a no-knock search
107 warrant. A search warrant for any place of abode authorized under this section shall require that a law-
108 enforcement officer be recognizable and identifiable as a uniformed law-enforcement officer and provide
109 audible notice of his authority and purpose reasonably designed to be heard by the occupants of such place to
110 be searched prior to the execution of such search warrant.

111 After entering and securing the place to be searched and prior to undertaking any search or seizure
112 pursuant to the search warrant, the executing law-enforcement officer shall give a copy of the search warrant
113 and affidavit to the person to be searched or the owner of the place to be searched or, if the owner is not
114 present, to at least one adult occupant of the place to be searched. If the place to be searched is unoccupied by
115 an adult, the executing law-enforcement officer shall leave a copy of the search warrant and affidavit in a
116 conspicuous place within or affixed to the place to be searched. *However, a copy of the affidavit shall not be*
117 *given in any case where such affidavit has been sealed pursuant to § 19.2-54.*

118 Search warrants authorized under this section for the search of any place of abode shall be executed by
119 initial entry of the abode only in the daytime hours between 8:00 a.m. and 5:00 p.m. unless (i) a judge or a
120 magistrate, if a judge is not available, authorizes the execution of such search warrant at another time for

121 good cause shown by particularized facts in an affidavit or (ii) prior to the issuance of the search warrant,
 122 law-enforcement officers lawfully entered and secured the place to be searched and remained at such place
 123 continuously.

124 A law-enforcement officer shall make reasonable efforts to locate a judge before seeking authorization to
 125 execute the warrant at another time, unless circumstances require the issuance of the warrant after 5:00 p.m.,
 126 pursuant to the provisions of this subsection, in which case the law-enforcement officer may seek such
 127 authorization from a magistrate without first making reasonable efforts to locate a judge. Such reasonable
 128 efforts shall be documented in an affidavit and submitted to a magistrate when seeking such authorization.

129 Any evidence obtained from a search warrant executed in violation of this subsection shall not be
 130 admitted into evidence for the Commonwealth in any prosecution.

131 C. For the purposes of this section:

132 "Foreign corporation" means any corporation or other entity, whose primary place of business is located
 133 outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of service
 134 agreement with a resident of the Commonwealth to be performed in whole or in part by either party in the
 135 Commonwealth, or a corporation that has been issued a certificate of authority pursuant to § 13.1-759 to
 136 transact business in the Commonwealth. The making of the contract or terms of service agreement or the
 137 issuance of a certificate of authority shall be considered to be the agreement of the foreign corporation or
 138 entity that a search warrant or subpoena, which has been properly served on it, has the same legal force and
 139 effect as if served personally within the Commonwealth.

140 "Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by
 141 commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its
 142 general manager in the Commonwealth, to any natural person designated by it as agent for the service of
 143 process, or if such corporation has designated a corporate agent, to any person named in the latest annual
 144 report filed pursuant to § 13.1-775.

145 **§ 19.2-56. (Effective July 1, 2026) To whom search warrant directed; what it shall command; warrant to show date and time of issuance; copy of affidavit to be part of warrant and served therewith; warrants not executed within 15 days.**

146 A. The judge, magistrate, or other official authorized to issue criminal warrants shall issue a search
 147 warrant only if he finds from the facts or circumstances recited in the affidavit that there is probable cause for
 148 the issuance thereof. If a search warrant is issued for electronic records of a foreign corporation, as described
 149 in § 19.2-53, such affidavit shall state that the complainant believes such records are actually or
 150 constructively possessed by such foreign corporation. In order to comply with the requirements of § 19.2-54,
 151 any search of the records of a foreign corporation, as described in § 19.2-53, shall be deemed to have been
 152 made in the same place where the search warrant was issued.

153 Every search warrant shall be directed (i) to the sheriff, sergeant, or any policeman of the county, city, or
 154 town in which the place to be searched is located; (ii) to any law-enforcement officer or agent employed by
 155 the Commonwealth and vested with the powers of sheriffs and police; or (iii) jointly to any such sheriff,
 156 sergeant, policeman, or law-enforcement officer or agent and an agent, special agent, or officer of the Federal
 157 Bureau of Investigation, the Bureau of Alcohol, Tobacco, Firearms and Explosives of the U.S. Department of
 158 Justice, the United States Naval Criminal Investigative Service, the United States Army Criminal
 159 Investigation Division, the United States Air Force Office of Special Investigations, or the U.S. Department
 160 of Homeland Security or any inspector, law-enforcement official, or police personnel of the United States
 161 Postal Service or the U.S. Drug Enforcement Administration. The warrant shall (a) name the affiant, (b)
 162 recite the offense or the identity of the person to be arrested for whom a warrant or process for arrest has been
 163 issued in relation to which the search is to be made, (c) name or describe the place to be searched, (d)
 164 describe the property or person to be searched for, and (e) recite that the magistrate has found probable cause
 165 to believe that the property or person constitutes evidence of a crime (identified in the warrant) or tends to
 166 show that a person (named or described therein) has committed or is committing a crime or that the person to
 167 be arrested for whom a warrant or process for arrest has been issued is located at the place to be searched.

168 The warrant shall command that the place be forthwith searched and that the objects or persons described
 169 in the warrant, if found there, be seized. An inventory shall be produced before a court having jurisdiction of
 170 the offense or over the person to be arrested for whom a warrant or process for arrest has been issued in
 171 relation to which the warrant was issued as provided in § 19.2-57.

172 Any such warrant as provided in this section shall be executed by the policeman or other law-enforcement
 173 officer or agent into whose hands it shall come or be delivered. If the warrant is directed jointly to a sheriff,
 174 sergeant, policeman, or law-enforcement officer or agent of the Commonwealth and a federal agent or officer
 175 as otherwise provided in this section, the warrant may be executed jointly or by the policeman, law-
 176 enforcement officer, or agent into whose hands it is delivered. No other person may be permitted to be
 177 present during or participate in the execution of a warrant to search a place except (1) the owners and
 178 occupants of the place to be searched when permitted to be present by the officer in charge of the conduct of
 179 the search and (2) persons designated by the officer in charge of the conduct of the search to assist or provide
 180 expertise in the conduct of the search.

183 Any search warrant for records or other information pertaining to a subscriber to, or customer of, an
184 electronic communication service or remote computing service, whether a domestic corporation or foreign
185 corporation, that is transacting or has transacted any business in the Commonwealth, to be executed upon
186 such service provider may be executed within or outside the Commonwealth by hand, United States mail,
187 commercial delivery service, facsimile, or other electronic means upon the service provider. Notwithstanding
188 the provisions of § 19.2-57, the officer executing a warrant pursuant to this paragraph shall endorse the date
189 of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was
190 seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording,
191 within three days after the materials ordered to be produced are received by the officer from the service
192 provider. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant
193 was (A) executed, if executed within the Commonwealth, and a copy of the return shall also be delivered to
194 the clerk of the circuit court of the county or city where the warrant was issued or (B) issued, if executed
195 outside the Commonwealth. Saturdays, Sundays, or any federal or state legal holiday shall not be used in
196 computing the three-day filing period.

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198 corporation, shall also provide the contents of electronic communications pursuant to a search warrant issued
199 under this section and § 19.2-70.3 using the same process described in the preceding paragraph.

200 Any search warrant for electronic records or other information stored outside of the Commonwealth by a
201 commercial enterprise, whether a domestic corporation or a foreign corporation, that is transacting or has
202 transacted any business in the Commonwealth, to be executed upon such commercial enterprise may be
203 executed within or outside the Commonwealth by hand, United States mail, commercial delivery service,
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205 § 19.2-57, the officer executing a warrant pursuant to this paragraph shall endorse the date of execution
206 thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and
207 the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three
208 days after the materials ordered to be produced are received by the officer from the commercial enterprise.
209 The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was (I)
210 executed, if executed within the Commonwealth, and a copy of the return shall also be delivered to the clerk
211 of the circuit court of the county or city where the warrant was issued or (II) issued, if executed outside the
212 Commonwealth. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the
213 three-day filing period.

214 Notwithstanding the provisions of § 19.2-57, any search warrant for records or other information
215 pertaining to a customer of a financial institution as defined in § 6.2-604, money transmitter as defined in
216 § 6.2-1922, commercial business providing credit history or credit reports, or issuer as defined in § 6.2-424
217 may be executed within the Commonwealth by hand, United States mail, commercial delivery service,
218 facsimile, or other electronic means upon the financial institution, money transmitter, commercial business
219 providing credit history or credit reports, or issuer. The officer executing such warrant shall endorse the date
220 of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was
221 seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording,
222 within three days after the materials ordered to be produced are received by the officer from the financial
223 institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The
224 return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was executed.
225 Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing
226 period. For the purposes of this section, the warrant will be considered executed in the jurisdiction where the
227 entity on which the warrant is served is located.

228 Every search warrant shall contain the date and time it was issued. However, the failure of any such
229 search warrant to contain the date and time it was issued shall not render the warrant void, provided that the
230 date and time of issuing of said warrant is established by competent evidence.

231 The judge, magistrate, or other official authorized to issue criminal warrants shall attach a copy of the
232 affidavit required by § 19.2-54, which shall become a part of the search warrant and served therewith.
233 However, this provision shall not be applicable in any case in which the affidavit is made by means of a voice
234 or videotape recording or where the affidavit has been sealed pursuant to § 19.2-54.

235 Any search warrant not executed within 15 days after issuance thereof shall be returned to, and voided by,
236 the officer who issued such search warrant.

237 B. No law-enforcement officer shall seek, execute, or participate in the execution of a no-knock search
238 warrant. A search warrant for any place of abode authorized under this section shall require that a law-
239 enforcement officer be recognizable and identifiable as a uniformed law-enforcement officer and provide
240 audible notice of his authority and purpose reasonably designed to be heard by the occupants of such place to
241 be searched prior to the execution of such search warrant.

242 After entering and securing the place to be searched and prior to undertaking any search or seizure
243 pursuant to the search warrant, the executing law-enforcement officer shall give a copy of the search warrant
244 and affidavit to the person to be searched or the owner of the place to be searched or, if the owner is not

245 present, to at least one adult occupant of the place to be searched. If the place to be searched is unoccupied by
246 an adult, the executing law-enforcement officer shall leave a copy of the search warrant and affidavit in a
247 conspicuous place within or affixed to the place to be searched. *However, a copy of the affidavit shall not be*
248 *given in any case where such affidavit has been sealed pursuant to § 19.2-54.*

249 Search warrants authorized under this section for the search of any place of abode shall be executed by
250 initial entry of the abode only in the daytime hours between 8:00 a.m. and 5:00 p.m. unless (i) a judge or a
251 magistrate, if a judge is not available, authorizes the execution of such search warrant at another time for
252 good cause shown by particularized facts in an affidavit or (ii) prior to the issuance of the search warrant,
253 law-enforcement officers lawfully entered and secured the place to be searched and remained at such place
254 continuously.

255 A law-enforcement officer shall make reasonable efforts to locate a judge before seeking authorization to
256 execute the warrant at another time, unless circumstances require the issuance of the warrant after 5:00 p.m.,
257 pursuant to the provisions of this subsection, in which case the law-enforcement officer may seek such
258 authorization from a magistrate without first making reasonable efforts to locate a judge. Such reasonable
259 efforts shall be documented in an affidavit and submitted to a magistrate when seeking such authorization.

260 Any evidence obtained from a search warrant executed in violation of this subsection shall not be
261 admitted into evidence for the Commonwealth in any prosecution.

262 C. For the purposes of this section:

263 "Foreign corporation" means any corporation or other entity, whose primary place of business is located
264 outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of service
265 agreement with a resident of the Commonwealth to be performed in whole or in part by either party in the
266 Commonwealth, or a corporation that has been issued a certificate of authority pursuant to § 13.1-759 to
267 transact business in the Commonwealth. The making of the contract or terms of service agreement or the
268 issuance of a certificate of authority shall be considered to be the agreement of the foreign corporation or
269 entity that a search warrant or subpoena, which has been properly served on it, has the same legal force and
270 effect as if served personally within the Commonwealth.

271 "Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by
272 commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its
273 general manager in the Commonwealth, to any natural person designated by it as agent for the service of
274 process, or if such corporation has designated a corporate agent, to any person named in the latest annual
275 report filed pursuant to § 13.1-775.