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## HOUSE BILL NO. 1432

Offered January 22, 2026

*A BILL to amend and reenact §§ 4.1-305, 4.1-1105.1, 16.1-69.48:1, 16.1-260, 16.1-278.9, 17.1-275.2, 17.1-275.7, 18.2-251.03, 19.2-188.1, and 19.2-303.4 of the Code of Virginia, relating to underage consumption or possession of alcoholic beverage or marijuana or marijuana products; consequences; procedures.*

Patron—Mehta

Referred to Committee on General Laws

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

1. That §§ 4.1-305, 4.1-1105.1, 16.1-69.48:1, 16.1-260, 16.1-278.9, 17.1-275.2, 17.1-275.7, 18.2-251.03, 19.2-188.1, and 19.2-303.4 of the Code of Virginia are amended and reenacted as follows:

**§ 4.1-305. Purchasing or possessing alcoholic beverages unlawful in certain cases; consequences; procedures.**

A. No person to whom an alcoholic beverage may not lawfully be sold under § 4.1-304 shall consume, purchase or possess, or attempt to consume, purchase or possess, any alcoholic beverage, except (i) pursuant to subdivisions 1 through 7 of § 4.1-200; (ii) where possession of the alcoholic beverages by a person less than 21 years of age is due to such person's making a delivery of alcoholic beverages in pursuance of his employment or an order of his parent; or (iii) by any state, federal, or local law-enforcement officer or his agent when possession of an alcoholic beverage is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the alcohol was possessed or consumed, or in the county or city in which the person exhibits evidence of physical indicia of consumption of alcohol. It shall be an affirmative defense to a charge of a violation of this subsection if the defendant shows that such consumption or possession was pursuant to subdivision 7 of § 4.1-200.

B. No person under the age of 21 years shall use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth certificate or student identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student identification card of another person in order to establish a false identification or false age for himself to consume, purchase, or attempt to consume or purchase an alcoholic beverage.

C. Any person found guilty of a violation of this section subsection B is guilty of a Class 1 misdemeanor, and upon conviction (i) such person shall be ordered to pay a mandatory minimum fine of \$500 or ordered to perform a mandatory minimum of 50 hours of community service as a condition of probation supervision and (ii) the license to operate a motor vehicle in the Commonwealth of any such person age 18 or older shall be suspended for a period of not less than six months and not more than one year; the license to operate a motor vehicle in the Commonwealth of any juvenile shall be handled in accordance with the provisions of § 16.1-278.9. The court, in its discretion and upon a demonstration of hardship, may authorize an adult convicted of a violation of this section the use of a restricted license to operate a motor vehicle in accordance with the provisions of subsection E of § 18.2-271.1 or when referred to a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1. During the period of license suspension, the court may require an adult who is issued a restricted license under the provisions of this subsection to be (a) monitored by an alcohol safety action program or (b) supervised by a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. The alcohol safety action program or local community-based probation services agency shall report to the court any violation of the terms of the restricted license, the required alcohol safety action program monitoring or local community-based probation services and any condition related thereto or any failure to remain alcohol-free during the suspension period.

D. Any alcoholic beverage purchased or possessed in violation of this section shall be deemed contraband and forfeited to the Commonwealth in accordance with § 4.1-338.

E. Any retail licensee who in good faith promptly notifies the Board or any state or local law-enforcement agency of a violation or suspected violation of this section shall be accorded immunity from an administrative penalty for a violation of § 4.1-304.

F. When any adult who has not previously been convicted of underaged consumption, purchase or possession of alcoholic beverages in Virginia or any other state or the United States is before the court, the court may, upon entry of a plea of guilty or not guilty, if the facts found by the court would justify a finding of guilt of a violation of subsection A, without entering a judgment of guilt and with the consent of the

59 accused, defer further proceedings and place him on probation subject to appropriate conditions. Such  
60 conditions may include the imposition of the license suspension and restricted license provisions in  
61 subsection C. However, in all such deferred proceedings, the court shall require the accused to enter a  
62 treatment or education program or both, if available, that in the opinion of the court best suits the needs of the  
63 accused. If the accused is placed on local community-based probation, the program or services shall be  
64 located in any of the judicial districts served by the local community-based probation services agency or in  
65 any judicial district ordered by the court when the placement is with an alcohol safety action program. The  
66 services shall be provided by (i) a program licensed by the Department of Behavioral Health and  
67 Developmental Services; (ii) certified by the Commission on VASAP, or (iii) by a program or services made  
68 available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173  
69 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a  
70 local community-based probation services rather than the alcohol safety action program, the local  
71 community-based probation services agency shall be responsible for providing for services or referring the  
72 offender to education or treatment services as a condition of probation.

73 Upon violation of a condition, the court may enter an adjudication of guilt and proceed as otherwise  
74 provided. Upon fulfillment of the conditions, the court shall discharge the person and dismiss the proceedings  
75 against him without an adjudication of guilt. A discharge and dismissal hereunder shall be treated as a  
76 conviction for the purpose of applying this section in any subsequent proceedings.

77 When any juvenile is found to have committed a violation of subsection A, the disposition of the case  
78 shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title 16.1. Any  
79 person found in violation of subsection A is subject to the following consequences:

80 1. For a first violation, a written warning issued by a law-enforcement officer to the underage person. The  
81 written warning shall include the person's name, address, and date of birth and a copy of the warning  
82 containing this information. A sworn statement that includes a description of the relevant facts and  
83 circumstances that support the officer's determination that the person committed the violation shall be  
84 temporarily maintained in accordance with this section only for the purposes of determining a second or  
85 subsequent violation subject to the consequences set forth in subdivision 2 or 3. If the violation of this section  
86 is by a juvenile, a written notification concerning the violation shall be provided to the parent, guardian, or  
87 other person having legal custody of the juvenile;

88 2. For a second violation, a written warning issued by a law-enforcement officer to the underage person  
89 indicating that a second violation has occurred, which includes the person's name, address, and date of birth.  
90 If the violation is by a person 18 years of age or older, the officer shall provide the person with informational  
91 materials regarding access to community services provided by public or private agencies and organizations  
92 that shall assist the person with opportunities to access further social services, including counseling, tutoring  
93 programs, mentoring services, and faith-based or other community initiatives. If the violation is by a juvenile,  
94 a written notification concerning the second violation shall be provided to the parent, guardian, or other  
95 person having legal custody of the juvenile. The written notification shall include the same or similar  
96 informational materials regarding access to community services provided by public or private agencies and  
97 organizations as those provided to a person 18 years of age or older who commits a second violation  
98 pursuant to this subdivision. A copy of the second written warning to the underage person, and, if applicable,  
99 the written notification to the parent, guardian, or other person having legal custody of the juvenile  
100 concerning the second warning and a sworn statement that includes a description of the relevant facts and  
101 circumstances that support the officer's determination that the person committed the second violation shall be  
102 temporarily maintained in accordance with this section only for the purposes of determining a subsequent  
103 violation subject to the consequences set forth in subdivision 3; and

104 3. For a third or subsequent violation, a write-up issued by a law-enforcement officer to the underage  
105 person indicating that a third or subsequent violation has occurred, which includes the person's name,  
106 address, and date of birth. If the violation is by a person 18 years of age or older, the officer shall include  
107 with the write-up (i) a referral for accessing community services provided by a public or private agency or  
108 organization and (ii) provide notice to that agency or organization of the referral that may also be used to  
109 initiate contact with the person. The agency or organization shall offer assistance to the person by providing  
110 opportunities to access further social services, including counseling, tutoring programs, mentoring services,  
111 and faith-based or other community initiatives. If the violation is by a juvenile, a written notification  
112 concerning the third or subsequent violation shall be provided to the parent, guardian, or other person  
113 having legal custody of the juvenile. The written notification shall include a referral for the person and the  
114 parent, guardian, or other person having legal custody of the juvenile for accessing community services  
115 provided by a public or private agency or organization and provide notice to such agency or organization of  
116 the referral that may also then be used to initiate contact with both persons. The agency or organization shall  
117 offer assistance to both persons with opportunities to access further social services, including counseling,  
118 tutoring programs, mentoring services, and faith-based or other community initiatives. A copy of a write-up  
119 for a third or subsequent violation, the written notification to the parent, guardian, or other person having  
120 legal custody of the juvenile, if applicable, accompanying referrals, and a sworn statement that includes a

121 description of the relevant facts and circumstances that support the officer's determination that the person  
 122 committed the third or subsequent violation, shall be temporarily maintained in accordance with this section  
 123 to the extent necessary to track referrals to agencies and organizations and for the purposes of determining a  
 124 subsequent violation subject to the consequences set forth in this subdivision.

125 The failure of a person who is under the legal age to consume, purchase, or possess alcoholic beverages  
 126 or the failure of a parent, guardian, or other person having legal custody of the juvenile to accept assistance  
 127 from an agency or organization to which a law-enforcement referral was made or to access any community  
 128 services provided by that agency or organization shall not result in any summons, initiation of a complaint,  
 129 or other legal action to be adjudicated and enforced in any court.

130 G. A person under the legal age to consume, purchase, or possess alcoholic beverages is not capable of  
 131 giving lawful consent to a search to determine a violation of this section and a law-enforcement officer shall  
 132 not request that a person consent to a search for that purpose. No law-enforcement officer, as defined in §  
 133 9.1-101, shall lawfully stop, search, or seize any person, place, or thing for a violation of this section and no  
 134 search warrant related to a violation of this section shall be issued solely on the basis of the odor of alcoholic  
 135 beverages and no evidence discovered or obtained in violation of this subsection, including evidence  
 136 discovered or obtained with the person's consent, shall be admissible in any trial, hearing, or other  
 137 proceeding. The unconcealed possession of an alcoholic beverage in violation of this section observed in  
 138 plain sight by a law-enforcement officer shall not constitute probable cause to initiate a search of a person or  
 139 that person's personal property to determine any further violation of this section or any other violation of  
 140 law.

141 H. A person who consumes, purchases, or possesses an alcoholic beverage in violation of this section  
 142 shall not be subject to arrest, shall not be transported to a police station, police headquarters, or other place  
 143 of law-enforcement operations, and shall not otherwise be subject to detention or be taken into custody by a  
 144 law-enforcement officer at or near the location where the violation occurred, except to the extent that  
 145 detention or custody at or near the location is required to issue a written warning or write-up, collect the  
 146 information necessary to provide notice of a violation to a parent, guardian, or other person having legal  
 147 custody of the juvenile, or make referrals for accessing community services provided by a public or private  
 148 agency or organization due to a third or subsequent violation, unless the person is being arrested, detained,  
 149 or otherwise taken into custody for also committing another violation of law for which that action is legally  
 150 permitted or required.

151 I. The video and audio recording functions of a law-enforcement officer's body-worn camera system shall  
 152 be activated whenever the law-enforcement officer is responding to a call for service related to a violation of  
 153 this section or at the initiation of any other law enforcement or investigative encounter between an officer  
 154 and a person related to a violation or suspected violation of this section and shall remain activated until the  
 155 encounter has fully concluded and the officer leaves the scene of the encounter. The video and audio  
 156 recording functions of a body-worn camera system shall not be deactivated based on a request to deactivate  
 157 the camera by a person who is the subject of a responsive call for service or law enforcement or investigative  
 158 encounter related to a violation or suspected violation of this section.

159 J. The existence and description of an alcoholic beverage consumed, purchased, or possessed in violation  
 160 of this section shall be included in the sworn statement that includes a description of the relevant facts and  
 161 circumstances that support the officer's determination that the person committed a violation of this section  
 162 and which record is temporarily maintained in accordance with this section to determine subsequent  
 163 possession or consumption violations and track referrals for accessing community services provided by a  
 164 public or private agency or organization due to a third or subsequent violation.

165 K. Any copy of any written warning or write-up issued to a person in violation of this section, written  
 166 notification provided to the person's parent, guardian, or other person having legal custody of a juvenile,  
 167 sworn statement describing the relevant facts and circumstances that support an officer's determination that  
 168 a person committed a violation, or referrals for accessing community services provided by a public or private  
 169 agency or organization pertaining to a third or subsequent violation shall be maintained in a separate  
 170 physical location or electronic repository or database from any other records maintained by a law-  
 171 enforcement agency and shall not be reported to the Central Criminal Records Exchange. Such records shall  
 172 only be used to the extent necessary to determine a subsequent violation of this section or to track referrals to  
 173 agencies and organizations and shall not be revealed, reviewed, or considered in any manner with respect to  
 174 any current or subsequent juvenile delinquency matter, including a charge, filing, eligibility or decision for  
 175 diversion or discharge, sentencing, other disposition, or related decision affecting the juvenile, or with  
 176 respect to any current or subsequent prosecution for committing an offense or other violation of law,  
 177 including a charge, filing, eligibility or decision for diversion or discharge, sentencing, other disposition, or  
 178 related decision affecting an adult younger than 21 years of age. These records shall be deemed confidential  
 179 and shall not be subject to public inspection nor their contents disclosed to the public pursuant to § 16.1-301,  
 180 and their existence shall not be acknowledged based upon any inquiry in the same manner as if the records  
 181 were expunged records pursuant to the provisions of § 19.2-392.2. A law-enforcement agency shall destroy  
 182 any such records two years after the creation of the record concerning a violation or not later than the last

183 *day of the month in which the two-year date falls or not later than the twenty-first birthday of a person who is*  
184 *the subject of a record or not later than the last day of the month in which that birthday falls, whichever date*  
185 *occurs sooner, except that a record shall be maintained upon request by the person named in the record or*  
186 *representative thereof. The law-enforcement officer who created the record or the law-enforcement agency*  
187 *maintaining the record may request a record continue to be maintained if it involves a lawsuit, disciplinary*  
188 *complaint, or criminal prosecution arising from the violation described in the record; however, upon final*  
189 *disposition of the matter for which the extended record was requested, the record shall be destroyed.*

190 **§ 4.1-1105.1. Possession of marijuana or marijuana products unlawful in certain cases; consequences; procedures.**

191 A. No person younger than 21 years of age shall consume or possess, or attempt to consume or possess, any marijuana or marijuana products, except by any federal, state, or local law-enforcement officer or his agent when possession of marijuana or marijuana products is necessary in the performance of his duties. Such person may be prosecuted either in the county or city in which the marijuana or marijuana products were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia of consumption of marijuana or marijuana products.

192 B. Any person 18 years of age or older who violates subsection A is subject to a civil penalty of no more than \$25 and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused.

201 C. Any juvenile who violates subsection A is subject to a civil penalty of no more than \$25 and the court shall require the accused to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. For purposes of §§ 16.1-266, 16.1-273, 16.1-278.8, 16.1-278.8:01, and 16.1-278.9, the court shall treat the child as delinquent.

205 D. Any such substance abuse treatment or education program to which a person is ordered pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services or (ii) a program or services made available through a community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services agency, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.

212 E. Any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund established pursuant to § 18.2-251.02 to the same consequences provided in subsection F of § 4.1-305. The failure of a person who is under the legal age to consume or possess marijuana or marijuana products or the failure of a parent, guardian, or other person having legal custody of the juvenile to accept assistance from an agency or organization to which a law-enforcement referral was made or to access any community services provided by that agency or organization shall not result in any summons, initiation of a complaint, or other legal action to be adjudicated and enforced in any court.

219 C. A person under the legal age to consume or possess marijuana or marijuana products is not capable of giving lawful consent to a search to determine a violation of this section and a law-enforcement officer shall not request that a person consent to a search for that purpose. No law-enforcement officer, as defined in § 9.1-101, shall lawfully stop, search, or seize any person, place, or thing for a violation of this section and no search warrant related to a violation of this section shall be issued solely on the basis of the odor of alcoholic beverages and no evidence discovered or obtained in violation of this subsection, including evidence discovered or obtained with the person's consent, shall be admissible in any trial, hearing, or other proceeding. The unconcealed possession of marijuana or marijuana products in violation of this section observed in plain sight by a law-enforcement officer shall not constitute probable cause to initiate a search of a person or that person's personal property to determine any further violation of this section or any other violation of law.

230 D. A person who consumes or possesses marijuana or marijuana products in violation of this section shall not be subject to arrest, shall not be transported to a police station, police headquarters, or other place of law-enforcement operations, and shall not otherwise be subject to detention or be taken into custody by a law-enforcement officer at or near the location where the violation occurred, except to the extent that detention or custody at or near the location is required to issue a written warning or write-up, collect the information necessary to provide notice of a violation to a parent, guardian, or other person having legal custody of the juvenile, or make referrals for accessing community services provided by a public or private agency or organization due to a third or subsequent violation, unless the person is being arrested, detained, or otherwise taken into custody for committing another violation of law for which that action is legally permitted or required.

240 E. The video and audio recording functions of a law-enforcement officer's body-worn camera system shall be activated whenever the law-enforcement officer is responding to a call for service related to a violation of this section or at the initiation of any other law enforcement or investigative encounter between an officer and a person related to a violation or suspected violation of this section and shall remain activated until the encounter has fully concluded and the officer leaves the scene of the encounter. The video and audio

245 recording functions of a body-worn camera system shall not be deactivated based on a request to deactivate  
 246 the camera by a person who is the subject of a responsive call for service or law enforcement or investigative  
 247 encounter related to a violation or suspected violation of this section.

248 F. Any marijuana or marijuana product possessed in violation of this section shall be deemed contraband  
 249 and may be seized by a law-enforcement officer. Any such product, the lawful possession of which is not  
 250 established, seized by such officer shall be forfeited and disposed of according to the process described in  
 251 subdivision A 2 of § 19.2-386.23. The existence and description of the marijuana or marijuana product and  
 252 any drug or paraphernalia shall be included in the sworn statement that includes a description of the relevant  
 253 facts and circumstances that support the officer's determination that the person committed a violation of this  
 254 section and which record is temporarily maintained in accordance with this section to determine subsequent  
 255 possession or consumption violations and track referrals for accessing community services provided by a  
 256 public or private agency or organization due to a third or subsequent violation.

257 G. Any copy of any written warning or write-up issued to a person in violation of this section, written  
 258 notification provided to the person's parent, guardian, or other person having legal custody of a juvenile,  
 259 sworn statement describing the relevant facts and circumstances that support an officer's determination that  
 260 a person committed a violation, or referrals for accessing community services provided by a public or private  
 261 agency or organization pertaining to a third or subsequent violation shall be maintained in accordance with  
 262 the provisions of subsection K of § 4.1-305.

263 **§ 16.1-69.48:1. Fixed fee for misdemeanors, traffic infractions, and other violations in district court; additional fees to be added.**

264 A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing  
 265 in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of  
 266 guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty;  
 267 (iv) an appearance for court hearing in which the court requires that the defendant successfully complete  
 268 traffic school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu  
 269 of a finding of guilty; (v) a deferral of proceedings pursuant to § 4.1-305, 4.1-1120, 16.1-278.8, 16.1-278.9,  
 270 18.2-57.3, 18.2-251, 19.2-298.02, 19.2-303.2, or 19.2-303.6; or (vi) proof of compliance with law under  
 271 §§ 46.2-104, 46.2-300, 46.2-301, 46.2-324, 46.2-613, 46.2-646, 46.2-711, 46.2-715, 46.2-716, 46.2-752,  
 272 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

273 In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever a  
 274 defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such  
 275 failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the  
 276 applicable fixed fee provided in subsection B, C, or D more than once for a single appearance or trial in  
 277 absence related to that incident. However, when a defendant who has multiple charges arising from the same  
 278 incident and who has been assessed a fixed fee for one of those charges is later convicted of another charge  
 279 that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference between  
 280 the fixed fee earlier assessed and the higher fixed fee.

281 A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if  
 282 the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

283 In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall also  
 284 assess any costs otherwise specifically provided by statute.

285 B. In misdemeanors tried in district court, except for those proceedings provided for in subsection C, there  
 286 shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for the fixed fee  
 287 shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

- 288 1. Processing fee (General Fund) (.573770);
- 289 2. Virginia Crime Victim-Witness Fund (.049180);
- 290 3. Regional Criminal Justice Training Academies Fund (.016393);
- 291 4. Courthouse Construction/Maintenance Fund (.032787);
- 292 5. Criminal Injuries Compensation Fund (.098361);
- 293 6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
- 294 7. Sentencing/supervision fee (General Fund) (.131148); and
- 295 8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

296 C. In criminal actions and proceedings in district court for a violation of any provision of Article 1  
 297 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136. The  
 298 amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the  
 299 following funds in the fractional amounts designated:

- 300 1. Processing fee (General Fund) (.257353);
- 301 2. Virginia Crime Victim-Witness Fund (.022059);
- 302 3. Regional Criminal Justice Training Academies Fund (.007353);
- 303 4. Courthouse Construction/Maintenance Fund (.014706);
- 304 5. Criminal Injuries Compensation Fund (.044118);
- 305 6. Intensified Drug Enforcement Jurisdiction Fund (.029412);

307        7. Drug Offender Assessment and Treatment Fund (.551471);  
308        8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and  
309        9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

310        D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of \$51. The  
311 amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the  
312 following funds in the fractional amounts designated:

- 313        1. Processing fee (General Fund) (.764706);  
314        2. Virginia Crime Victim-Witness Fund (.058824);  
315        3. Regional Criminal Justice Training Academies Fund (.019608);  
316        4. Courthouse Construction/Maintenance Fund (.039216);  
317        5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and  
318        6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

319        **§ 16.1-260. Intake; petition; investigation.**

320        A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a  
321 petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be  
322 as provided in § 16.1-262. No individual shall be required to obtain support services from the Department of  
323 Social Services prior to filing a petition seeking support for a child. Complaints, requests, and the processing  
324 of petitions to initiate a case shall be the responsibility of the intake officer. However, (i) the attorney for the  
325 Commonwealth of the city or county may file a petition on his own motion with the clerk; (ii) designated  
326 nonattorney employees of the Department of Social Services may complete, sign, and file petitions and  
327 motions relating to the establishment, modification, or enforcement of support on forms approved by the  
328 Supreme Court of Virginia with the clerk; (iii) designated nonattorney employees of a local department of  
329 social services may complete, sign, and file with the clerk, on forms approved by the Supreme Court of  
330 Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish  
331 paternity, motions to establish or modify support, motions to amend or review an order, and motions for a  
332 rule to show cause; and (iv) any attorney may file petitions on behalf of his client with the clerk except  
333 petitions alleging that the subject of the petition is a child alleged to be in need of services, in need of  
334 supervision, or delinquent. Complaints alleging abuse or neglect of a child shall be referred initially to the  
335 local department of social services in accordance with the provisions of Chapter 15 (§ 63.2-1500 et seq.) of  
336 Title 63.2. Motions and other subsequent pleadings in a case shall be filed directly with the clerk. The intake  
337 officer or clerk with whom the petition or motion is filed shall inquire whether the petitioner is receiving  
338 child support services or public assistance. No individual who is receiving support services or public  
339 assistance shall be denied the right to file a petition or motion to establish, modify, or enforce an order for  
340 support of a child. If the petitioner is seeking or receiving child support services or public assistance, the  
341 clerk, upon issuance of process, shall forward a copy of the petition or motion, together with notice of the  
342 court date, to the Division of Child Support Enforcement. If a petitioner is seeking to establish child support,  
343 the intake officer shall provide the petitioner information on the possible availability of medical assistance  
344 through the Family Access to Medical Insurance Security (FAMIS) plan or other government-sponsored  
345 coverage through the Department of Medical Assistance Services.

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

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

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

368        If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the

369 attendance officer has provided documentation to the intake officer that the relevant school division has  
 370 complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The  
 371 intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided  
 372 that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of  
 373 supervision on more than two occasions for failure to comply with compulsory school attendance as provided  
 374 in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three  
 375 calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person  
 376 standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may  
 377 include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco  
 378 parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and  
 379 limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided  
 380 in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of  
 381 developing a truancy plan using an interagency interdisciplinary team approach. The team may include  
 382 qualified personnel who are reasonably available from the appropriate department of social services,  
 383 community services board, local school division, court service unit, and other appropriate and available  
 384 public and private agencies and may be the family assessment and planning team established pursuant to  
 385 § 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or  
 386 the truancy program, then the intake officer shall file the petition.

387 Whenever informal action is taken as provided in this subsection on a complaint alleging that a child is in  
 388 need of services, in need of supervision, or delinquent, the intake officer shall (A) develop a plan for the  
 389 juvenile, which may include restitution, the performance of community service, or on a complaint alleging  
 390 that a child has committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor  
 391 if committed by an adult and with the consent of the juvenile's parent or legal guardian, referral to a youth  
 392 justice diversion program established pursuant to § 16.1-309.11, based upon community resources and the  
 393 circumstances which resulted in the complaint, (B) create an official record of the action taken by the intake  
 394 officer and file such record in the juvenile's case file, and (C) advise the juvenile and the juvenile's parent,  
 395 guardian, or other person standing in loco parentis and the complainant that any subsequent complaint  
 396 alleging that the child is in need of supervision or delinquent based upon facts which may be sufficient to  
 397 invoke the jurisdiction of the court pursuant to § 16.1-241, or in the case of a referral to a youth justice  
 398 diversion program established pursuant to § 16.1-309.11, that any subsequent report from the youth justice  
 399 diversion program alleging that the juvenile failed to comply with the youth justice diversion program's  
 400 sentence within 180 days of the sentencing date, may result in the filing of a petition with the court.

401 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or  
 402 support of a child is the subject of controversy or requires determination, (ii) a person has deserted,  
 403 abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent,  
 404 guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or  
 405 other services which are required by law, (iv) family abuse has occurred and a protective order is being  
 406 sought pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, or (v) an act of violence, force, or threat has  
 407 occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either  
 408 the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake  
 409 officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of  
 410 supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the  
 411 authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be  
 412 effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition.  
 413 The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4,  
 414 or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of  
 415 protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective  
 416 order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written  
 417 explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders  
 418 pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

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

428 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult  
 429 would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely upon a  
 430 finding that no probable cause exists, the complainant shall be notified in writing at that time of the

431 complainant's right to apply to a magistrate for a warrant. The application for a warrant to the magistrate shall  
432 be filed within 10 days of the issuance of the written notification. The written notification shall indicate that  
433 the intake officer made a finding that no probable cause exists and shall provide notice that the complainant  
434 has 10 days to apply for a warrant to the magistrate. The complainant shall provide the magistrate with a copy  
435 of the written notification upon application to the magistrate. If a magistrate determines that probable cause  
436 exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant  
437 shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition  
438 founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or  
439 shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant  
440 issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a  
441 child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his  
442 decision is final. If the intake officer refuses to authorize a petition relating to an offense that if committed by  
443 an adult would be punishable as a Class 1 misdemeanor or as a felony when such refusal is based upon a  
444 finding that (i) probable cause exists, but that (ii) the matter is appropriate for diversion, his decision is final  
445 and the complainant shall not have a right to apply to a magistrate for a warrant.

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

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

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

456 1. A firearm offense pursuant to Article 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et  
457 seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2;

458 2. Homicide, pursuant to Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

459 3. Felonious assault and bodily wounding, pursuant to Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title  
460 18.2;

461 4. Criminal sexual assault, pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

462 5. Manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances, pursuant to  
463 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2;

464 6. Manufacture, sale or distribution of marijuana pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of  
465 Title 18.2;

466 7. Arson and related crimes, pursuant to Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2;

467 8. Burglary and related offenses, pursuant to §§ 18.2-89 through 18.2-93;

468 9. Robbery pursuant to § 18.2-58;

469 10. Prohibited criminal street gang activity pursuant to § 18.2-46.2;

470 11. Recruitment of other juveniles for a criminal street gang activity pursuant to § 18.2-46.3;

471 12. An act of violence by a mob pursuant to § 18.2-42.1;

472 13. Abduction of any person pursuant to § 18.2-47 or 18.2-48; or

473 14. A threat pursuant to § 18.2-60.

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

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

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

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

486 2. In the case of seeking consent to apply for the issuance of a work permit pursuant to subsection H of  
487 § 16.1-241.

488 3. In the case of a misdemeanor violation of § 18.2-266, 18.2-266.1, or 29.1-738 or the commission of any  
489 other alcohol-related offense, provided that the juvenile is released to the custody of a parent or legal  
490 guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal  
491 guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal  
492 guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner

493 provided in § 16.1-278.8, 16.1-278.8:01, or 16.1-278.9. If the juvenile so charged with a violation of  
 494 § 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  
 495 samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or  
 496 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize  
 497 execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the  
 498 juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried.  
 499 ~~When a violation of § 4.1-305 is charged by summons, the juvenile shall be entitled to have the charge  
 500 referred to intake for consideration of informal proceedings pursuant to subsection B, provided that such right  
 501 is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons  
 502 alleging a violation of § 4.1-305 is served, the officer shall also serve upon the juvenile written notice of the  
 503 right to have the charge referred to intake on a form approved by the Supreme Court and make return of such  
 504 service to the court. If the officer fails to make such service or return, the court shall dismiss the summons  
 505 without prejudice.~~

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

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

513 **§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses; truancy.**

514 A. If a court has found facts ~~which that~~ would justify a finding that a child at least 13 years of age at the  
 515 time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar  
 516 ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a  
 517 felony violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or 18.2-250; (iv) a  
 518 misdemeanor violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1 or § 18.2-248, 18.2-248.1, or 18.2-250;  
 519 (v) the ~~unlawful purchase, possession, or consumption of alcohol in violation of § 4.1-305 or the unlawful~~ drinking or possession of alcoholic beverages in or on public school grounds in violation of § 4.1-309; (vi)  
 520 public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town; (vii) the  
 521 unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below; or (viii) a  
 522 violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as provided  
 523 by law for the offense, that the child be denied a driver's license. In addition to any other penalty authorized  
 524 by this section, if the offense involves a violation designated under clause (i) and the child was transporting a  
 525 person 17 years of age or younger, the court shall impose the additional fine and order community service as  
 526 provided in § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or (viii), the  
 527 denial of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17,  
 528 whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of  
 529 18, whichever is longer, for a second or subsequent such offense. If the offense involves a violation  
 530 designated under clause (iv), (v), or (vi), the denial of driving privileges shall be for a period of six months  
 531 unless the offense is committed by a child under the age of 16 years and three months, in which case the  
 532 child's ability to apply for a driver's license shall be delayed for a period of six months following the date he  
 533 reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v) or  
 534 (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a  
 535 judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the  
 536 case pursuant to subsection F. If the offense involves a violation designated under clause (iii) or (iv), the  
 537 court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions  
 538 of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of  
 539 driving privileges shall be for a period of not less than 30 days, except when the offense involves possession  
 540 of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding  
 541 stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in  
 542 which case the denial of driving privileges shall be for a period of two years unless the offense is committed  
 543 by a child under the age of 16 years and three months, in which event the child's ability to apply for a driver's  
 544 license shall be delayed for a period of two years following the date he reaches the age of 16 and three  
 545 months.

546 A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and  
 547 meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving  
 548 privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of 16  
 549 years and three months, the child's ability to apply for a driver's license shall be delayed for a period of not  
 550 less than 30 days following the date he reaches the age of 16 and three months.

551 If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a  
 552 period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability

555 to apply for a driver's license for a period of one year following the date he reaches the age of 16 and three  
556 months, as may be appropriate.

557 A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of  
558 § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or until  
559 the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or  
560 until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.

561 B. Any child who has a driver's license at the time of the offense or at the time of the court's finding as  
562 provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the  
563 physical custody of the court during any period of license denial.

564 C. The court shall report any order issued under this section to the Department of Motor Vehicles, which  
565 shall preserve a record thereof. The report and the record shall include a statement as to whether the child was  
566 represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2.  
567 Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2, this record  
568 shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other  
569 record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding  
570 results in an adjudication of guilt pursuant to subsection F.

571 The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's  
572 license until such time as is stipulated in the court order or until notification by the court of withdrawal of the  
573 order of denial under subsection E.

574 D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of  
575 subsection A or a violation designated under subsection A2, the child may be referred to a certified alcohol  
576 safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set  
577 forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii)  
578 of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such  
579 terms and conditions as the court may set forth.

580 The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted  
581 permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the  
582 time of the court's finding as provided in subsection A1 or A2 for any of the purposes set forth in subsection  
583 E of § 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to  
584 and from home and school when school-provided transportation is available and no restricted license shall be  
585 issued if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A,  
586 or if it involves a second or subsequent violation of any offense designated in subsection A, a second finding  
587 by the court of failure to comply with school attendance and meeting requirements as provided in subsection  
588 A1, or a second or subsequent finding by the court of a refusal to take a blood test as provided in subsection  
589 A2. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be  
590 provided to the child, and shall specifically enumerate the restrictions imposed and contain such information  
591 regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under  
592 the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any  
593 restrictions imposed pursuant to this section is guilty of a violation of § 46.2-301.

594 E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any  
595 order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 or A2.  
596 For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one  
597 year after its issuance.

598 F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A,  
599 upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has  
600 been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if  
601 the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge  
602 the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be  
603 without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying  
604 this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in  
605 an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv)  
606 of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of  
607 pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second  
608 violation under clause (v), (vi) or (vii) of subsection A, the charge shall not be dismissed pursuant to this  
609 subsection but shall be disposed of under § 16.1-278.8.

610 **§ 17.1-275.2. Fixed fee for felony reduced to misdemeanor.**

611 In circuit court, upon the conviction of a person of any and each misdemeanor reduced from a felony  
612 charge, or upon a deferred disposition of proceedings in the case of any and each misdemeanor reduced from  
613 a felony charge and deferred pursuant to the terms and conditions of § 4.1-305, 16.1-278.8, 16.1-278.9,  
614 18.2-57.3, 19.2-298.02, 19.2-303.2, or 19.2-303.6, there shall be assessed as court costs a fee of \$227, to be  
615 known as the fixed fee for felony reduced to misdemeanor. However, this section shall not apply to those  
616 proceedings provided for in § 17.1-275.8.

617 The amount collected, in whole or in part, for the fixed fee for felony reduced to misdemeanor shall be  
 618 apportioned to the following funds in the fractional amounts designated:

- 619 1. Sentencing/supervision fee (General Fund) (.1695154);
- 620 2. Forensic science fund (.1707048);
- 621 3. Court reporter fund (.1465639);
- 622 4. Witness expenses/expert witness fund (.0088106);
- 623 5. Virginia Crime Victim-Witness Fund (.0132159);
- 624 6. Intensified Drug Enforcement Jurisdiction Fund (.0176211);
- 625 7. Criminal Injuries Compensation Fund (.0881057);
- 626 8. Commonwealth's attorney fund (state share) (.0881057);
- 627 9. Commonwealth's attorney fund (local share) (.0881057);
- 628 10. Regional Criminal Justice Academy Training Fund (.0044053);
- 629 11. Warrant fee (.0528634);
- 630 12. Courthouse construction/maintenance fund (.0088106); and
- 631 13. Clerk of the circuit court (.1431718).

632 **§ 17.1-275.7. Fixed misdemeanor fee.**

633 In circuit court, upon (i) conviction of any and each misdemeanor, not originally charged as a felony; (ii) a  
 634 deferred disposition of proceedings in the case of any and each misdemeanor not originally charged as a  
 635 felony and deferred pursuant to the terms and conditions of § 4.1-305, 16.1-278.8, 16.1-278.9, 18.2-57.3,  
 636 19.2-298.02, 19.2-303.2, or 19.2-303.6; (iii) any and each conviction of a traffic infraction or referral to a  
 637 driver improvement clinic or traffic school in lieu of a finding of guilt for a traffic infraction; or (iv) proof of  
 638 compliance with law under §§ 46.2-104 and 46.2-1158.02, there shall be assessed as court costs a fee of \$80,  
 639 to be known as the fixed misdemeanor fee. However, this section shall not apply to those proceedings  
 640 provided for in § 17.1-275.8. This fee shall be in addition to any fee assessed in the district court.

641 The amount collected, in whole or in part, for the fixed misdemeanor fee shall be apportioned, as provided  
 642 by law, to the following funds in the fractional amounts designated:

- 643 1. Sentencing/supervision fee (General Fund) (.0125000);
- 644 2. Witness expenses/expert witness fee (General Fund) (.0250000);
- 645 3. Virginia Crime Victim-Witness Fund (.0375000);
- 646 4. Intensified Drug Enforcement Jurisdiction Fund (.0500000);
- 647 5. Criminal Injuries Compensation Fund (.2500000);
- 648 6. Commonwealth's Attorney Fund (state share) (.0937500);
- 649 7. Commonwealth's Attorney Fund (local share) (.0937500);
- 650 8. Regional Criminal Justice Academy Training Fund (.0125000);
- 651 9. Warrant fee, as prescribed by § 17.1-272 (.1500000);
- 652 10. Courthouse Construction/Maintenance Fund (.0250000); and
- 653 11. Clerk of the circuit court (.2500000).

654 **§ 18.2-251.03. Arrest and prosecution when experiencing or reporting an overdose or act of sexual  
 655 violence.**

656 A. For purposes of this section:

657 "Act of sexual violence" means an alleged violation of § 18.2-361, 18.2-370, or 18.2-370.1 or the laws  
 658 pertaining to criminal sexual assault pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4.

659 "Overdose" means a life-threatening condition resulting from the consumption or use of a controlled  
 660 substance, alcohol, or any combination of such substances.

661 B. No individual shall be subject to arrest or prosecution for the unlawful purchase, possession, or  
 662 consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana  
 663 pursuant to § 4.1-1105.1, involuntary manslaughter pursuant to § 18.2-36.3, possession of a controlled  
 664 substance pursuant to § 18.2-250, intoxication in public pursuant to § 18.2-388, or possession of controlled  
 665 paraphernalia pursuant to § 54.1-3466 if:

666 1. Such individual (i) in good faith, seeks or obtains emergency medical attention (a) for himself, if he is  
 667 experiencing an overdose, or (b) for another individual, if such other individual is experiencing an overdose;  
 668 (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical  
 669 attention for such individual, by contemporaneously reporting such overdose to a firefighter, as defined in  
 670 § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, a law-enforcement officer, as  
 671 defined in § 9.1-101, or an emergency 911 system; or (iii) in good faith, renders emergency care or  
 672 assistance, including cardiopulmonary resuscitation (CPR) or the administration of naloxone or other opioid  
 673 antagonist for overdose reversal, to an individual experiencing an overdose while another individual seeks or  
 674 obtains emergency medical attention in accordance with this subdivision;

675 2. Such individual remains at the scene of the overdose or at any alternative location to which he or the  
 676 person requiring emergency medical attention has been transported until a law-enforcement officer responds  
 677 to the report of an overdose. If no law-enforcement officer is present at the scene of the overdose or at the  
 678 alternative location, then such individual shall cooperate with law enforcement as otherwise set forth herein;

679       3. Such individual identifies himself to the law-enforcement officer who responds to the report of the  
680       overdose; and

681       4. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of  
682       the individual seeking or obtaining emergency medical attention or rendering emergency care or assistance.

683       C. No individual shall be subject to arrest or prosecution for ~~the unlawful purchase, possession, or~~  
684       ~~consumption of alcohol pursuant to § 4.1-305, unlawful purchase, possession, or consumption of marijuana~~  
685       ~~pursuant to § 4.1-1105.1, possession of a controlled substance pursuant to § 18.2-250, intoxication in public~~  
686       ~~pursuant to § 18.2-388, or possession of controlled paraphernalia pursuant to § 54.1-3466 if:~~

687       1. Such individual, in good faith, seeks or obtains assistance for himself or another individual from  
688       emergency medical services personnel, as defined in § 32.1-111.1, a health care provider, as defined in  
689       § 8.01-581.1, or a law-enforcement officer, as defined in § 9.1-101, and seeks to report an act of sexual  
690       violence committed against himself or another individual;

691       2. Such individual identifies himself to the law-enforcement officer who responds to the report of the act  
692       of sexual violence; and

693       3. The evidence for the prosecution of an offense enumerated in this subsection was obtained as a result of  
694       the individual seeking or obtaining medical attention, rendering care or assistance, or reporting to law  
695       enforcement.

696       This subsection shall not apply to an individual who is alleged to have committed the act of sexual  
697       violence.

698       D. The provisions of this section shall not apply to any person who seeks or obtains emergency medical  
699       attention for himself or another individual, to a person experiencing an overdose or who has experienced an  
700       act of sexual violence when another individual seeks or obtains emergency medical attention for him, or to a  
701       person who renders emergency care or assistance to an individual experiencing an overdose or who has  
702       experienced an act of sexual violence while another person seeks or obtains emergency medical attention  
703       during the execution of a search warrant or during the conduct of a lawful search or a lawful arrest.

704       E. This section does not establish protection from arrest or prosecution for any individual or offense other  
705       than those listed in subsection B or C. However, any individual immune to arrest or prosecution under this  
706       section shall not have his bail, probation, furlough, supervised release, suspended sentence, or parole revoked  
707       for the behavior immune from arrest or prosecution under the provisions of this section.

708       F. No law-enforcement officer acting in good faith shall be found liable for false arrest if it is later  
709       determined that the person arrested was immune from prosecution under this section.

710       **§ 19.2-188.1. Testimony regarding identification of controlled substances.**

711       A. In any preliminary hearing on a violation of Chapter 11 (§ 4.1-1100 et seq.) of Title 4.1, Article 1  
712       (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or subdivision 6 of § 53.1-203, any law-enforcement officer  
713       shall be permitted to testify as to the results of field tests that have been approved by the Department of  
714       Forensic Science pursuant to regulations adopted in accordance with the Administrative Process Act  
715       (§ 2.2-4000 et seq.), regarding whether or not any substance the identity of which is at issue in such hearing is  
716       a controlled substance, imitation controlled substance, or marijuana, as defined in § 18.2-247.

717       B. ~~In any trial for a violation of § 4.1-1105.1, any law enforcement officer shall be permitted to testify as~~  
718       ~~to the results of any marijuana field test approved as accurate and reliable by the Department of Forensic~~  
719       ~~Science pursuant to regulations adopted in accordance with the Administrative Process Act (§ 2.2-4000 et~~  
720       ~~seq.), regarding whether or not any plant material, the identity of which is at issue, is marijuana provided the~~  
721       ~~defendant has been given written notice of his right to request a full chemical analysis. Such notice shall be~~  
722       ~~on a form approved by the Supreme Court and shall be provided to the defendant prior to trial.~~

723       In any case in which the person accused of a violation of § 4.1-1105.1, or the attorney of record for the  
724       accused, desires a full chemical analysis of the alleged plant material, he may, by motion prior to trial before  
725       the court in which the charge is pending, request such a chemical analysis. Upon such motion, the court shall  
726       order that the analysis be performed by the Department of Forensic Science in accordance with the provisions  
727       of § 18.2-247 and shall prescribe in its order the method of custody, transfer, and return of evidence  
728       submitted for chemical analysis.

729       **§ 19.2-303.4. Payment of costs when proceedings deferred and defendant placed on probation.**

730       A circuit or district court, ~~which~~ that has deferred further proceedings, without entering a judgment of  
731       guilt, and placed a defendant on probation subject to terms and conditions pursuant to § 4.1-305, 16.1-278.8,  
732       16.1-278.9, 18.2-57.3, 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-251, 19.2-298.02, 19.2-303.2, or 19.2-303.6 shall  
733       impose upon the defendant costs.