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HOUSE BILL NO. 118

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations on February 25, 2026)

(Patron Prior to Substitute—Delegate Keys-Gamarra)

A BILL to amend and reenact § 19.2-265.4 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 15 of Title 19.2 an article numbered 4.3, consisting of a section numbered 19.2-264.15, relating to discovery; methods of delivery; report.

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-265.4 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 15 of Title 19.2 an article numbered 4.3, consisting of a section numbered 19.2-264.15, as follows:

Article 4.3.

Discovery; Methods of Delivery.

§ 19.2-264.15. Discovery; methods of delivery.

A. In any circuit court, if discovery materials, as specified in Rule 3A:11 of the Rules of the Supreme Court, are requested by counsel of record for the accused, the Commonwealth shall provide a copy of such discovery unless such material is prohibited from being distributed by law.

B. If at any time during the course of the proceedings it is brought to the attention of the court that the attorney for the Commonwealth has failed to comply with the provisions of this section, the court may order the Commonwealth to permit discovery or inspection, grant a continuance, or prohibit the Commonwealth from introducing evidence not disclosed, or the court may enter such other order as it deems just under the circumstances.

§ 19.2-265.4. Failure to provide discovery.

A. In any criminal prosecution for a felony in a circuit court or for a misdemeanor brought on direct indictment, the attorney for the Commonwealth shall have a duty to adequately and fully provide discovery as provided under Rule 3A:11 of the Rules of the Supreme Court. Rule 3A:11 shall be construed to apply to such felony and misdemeanor prosecutions. This duty to disclose shall be continuing and shall apply to any additional evidence or material discovered by the Commonwealth prior to or during trial which that is subject to discovery or inspection and has been previously requested by the accused. In any criminal prosecution for a misdemeanor by trial de novo in circuit court, the attorney for the Commonwealth shall have a duty to adequately and fully provide discovery as provided under Rule 7C:5 of the Rules of the Supreme Court. If an order for discovery is entered for such criminal prosecution pursuant to Rule 3A:11, the accused may request to copy or photograph any discovery materials or evidence that the accused is permitted to inspect and review, including relevant police reports, criminal records, dashboard camera footage, and body-worn camera footage as described in § 15.2-1723.1. Upon such request, the attorney for the Commonwealth shall provide to the counsel of record for the accused copies of such discovery materials, subject to the redaction, restricted dissemination, and protective orders provisions of Rule 3A:11.

B. If at any time during the course of the proceedings it is brought to the attention of the court that the attorney for the Commonwealth has failed to comply with this section, the court may order the Commonwealth to permit the discovery or inspection, grant a continuance, or prohibit the Commonwealth from introducing evidence not disclosed, or the court may enter such other order as it deems just under the circumstances.

2. That the Department of Criminal Justice Services (the Department) shall evaluate the feasibility, costs, and other impacts associated with requiring the attorney for the Commonwealth, in any district court in a case prosecuted by the attorney for the Commonwealth, to provide to counsel of record for the accused a copy of any relevant police report at least 10 days prior to the date the case is set for trial or preliminary hearing. The Department shall submit a report on any findings to the Chairs of the Senate Committees on Finance and Appropriations and Courts of Justice and the House Committees on Appropriations and Courts of Justice no later than November 1, 2026.

SENATE SUBSTITUTE

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