

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 19.2-134.1 of the Code of Virginia, relating to collection and reporting of data related to adults charged with a criminal offense punishable by confinement in jail or a term of imprisonment; Virginia Longitudinal Data System.

[S 480]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-134.1 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-134.1. Collection and reporting of data related to adults charged with a criminal offense punishable by confinement in jail or a term of imprisonment.

A. The Virginia Criminal Sentencing Commission shall, on an annual basis, collect statewide and locality-level data related to all adults charged with any criminal offense punishable by confinement in jail or a term of imprisonment in the Commonwealth. The Virginia Criminal Sentencing Commission may request data and shall be provided such data upon request from (i) every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party, or any political subdivision thereof; (ii) any criminal justice agency as defined in § 9.1-101; and (iii) the clerk of each circuit court. If the statewide Circuit Court Case Management System is used by the circuit court clerk, the Executive Secretary of the Supreme Court shall provide for the transfer of such data upon request of the Virginia Criminal Sentencing Commission. The Virginia Criminal Sentencing Commission shall use the data only for research, evaluation, or statistical purposes and shall ensure the confidentiality and security of the data.

B. The Virginia Criminal Sentencing Commission shall collect data as necessary to report on the following:

1. Information about the individual charged, including sex, race, year of birth, and residential zip code;

2. The type of charging document, including summons, warrant, direct indictment, or any other charging document;

3. Information related to the offense or offenses with which the individual was charged, including (i) the date on which the individual was charged; (ii) the total number of charges; (iii) the Code section or county, city, or town ordinance under which the charge was issued; (iv) whether the charge was a felony, misdemeanor, or other type of offense; and (v) the classification of each such felony, misdemeanor, or other type of offense;

4. Whether, at the time the individual was charged, that individual was a named defendant in any pending criminal proceeding in the Commonwealth;

5. Whether, at the time the individual was charged, that individual was under the supervision of the Department of Corrections, any local community-based probation agency, or any pretrial services agency;

6. Whether, at the time the individual was charged, that individual's criminal history record included any charges or convictions for failure to appear within the Commonwealth, and if so, the date of such charge or conviction;

7. Whether, at the time the individual was charged, that individual's criminal history record included any conviction for any criminal offense committed within the Commonwealth, and if so, the offense for which that individual was convicted and the date of such conviction;

8. Whether, at the time the individual was charged, that individual's criminal history record included any convictions for which the individual was ordered to serve an active term of incarceration;

9. Information related to the individual's detention status at the time of the charge and any changes to the individual's detention status prior to the final disposition of the charge, including whether that individual was released on a summons, denied bail, or admitted to bail, and if admitted to bail, the date of release from custody;

10. For those individuals who were detained at the time of the charge, information related to the conditions of bail and the bond initially ordered on the charge, including (i) whether bail was denied, (ii) whether the bond was secured or unsecured, and (iii) all monetary amounts set on the bond;

11. For those individuals admitted to bail prior to the final disposition of the charge, whenever available, information related to the conditions of bail and the bond at the time that individual was admitted to bail, including (i) whether the bond was secured or unsecured, (ii) all monetary amounts set on the bond, (iii) whether that individual was ordered to be supervised by a pretrial services agency, and (iv) whether that individual utilized the services of a bail bondsman;

12. Whether the individual was charged with failure to appear in the Commonwealth prior to the final

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57 disposition of the charge, and if so, the date on which the failure to appear was alleged to have occurred and
58 whether the individual was convicted of the charge of failure to appear;

59 13. Whether the individual was charged with any other criminal offense punishable by confinement in jail
60 or a term of imprisonment in the Commonwealth prior to the final disposition of the charge, and if so, the
61 offense for which the individual was charged, the date of the offense, the date of arrest, and whether the
62 individual was convicted of the offense;

63 14. Information related to the final disposition of the charge, including (i) the date of final disposition; (ii)
64 whether the charge resulted in a conviction, dismissal, entry of a nolle prosequi, finding of not guilty, or other
65 disposition; (iii) whether the individual was sentenced to a term of incarceration for such charge, and if so,
66 the length of such term of incarceration and the length of time that the individual was incarcerated for such
67 charge; (iv) whether the individual was placed under the supervision of the Department of Corrections; and
68 (v) when available, whether the individual was placed under the supervision of any local community-based
69 probation agency for such charge;

70 15. Whether the individual was represented by a public defender or court-appointed attorney on the charge
71 at the time of the final disposition of the case; and

72 16. Any other data deemed relevant and reliable by the Virginia Criminal Sentencing Commission.

73 C. The Virginia Criminal Sentencing Commission shall submit an annual report on the statewide and
74 locality-level data collected pursuant to this section on or before December 1 to the General Assembly, the
75 Governor, and the Office of the Executive Secretary of the Supreme Court of Virginia. Such report may
76 include recommendations related to the collection of data.

77 D. The Virginia Criminal Sentencing Commission shall annually make the statewide and locality-level
78 data collected pursuant to this section publicly available on a website established and maintained by the
79 Virginia Criminal Sentencing Commission on or before December 1. The data shall be made available as (i)
80 an electronic dataset, excluding any personal and case identifying information, that may be downloaded by
81 members of the public and (ii) an electronic interactive data dashboard tool that displays aggregated data
82 based on characteristics or indicators selected by the user. The Virginia Criminal Sentencing Commission
83 shall not be required to provide electronic data in a format not regularly used by the agency. Data containing
84 any personal or case identifying information shall not be subject to the Virginia Freedom of Information Act
85 (§ 2.2-3700 et seq.) and shall not be made publicly available.

86 E. Nothing in this section shall require any (i) department, division, board, bureau, commission, authority,
87 or other agency created by the Commonwealth, or to which the Commonwealth is a party, or any political
88 subdivision thereof; (ii) criminal justice agency as defined in § 9.1-101; or (iii) clerk of circuit court to
89 provide data to the Virginia Criminal Sentencing Commission if the requested data is not regularly
90 maintained by such entity or if such data is prohibited from such disclosure under any other law or under the
91 Virginia Rules of Professional Conduct.

92 *F. Notwithstanding the provisions of this section, the Virginia Criminal Sentencing Commission may*
93 *contribute the statewide and locality-level data collected pursuant to this section to the Virginia Longitudinal*
94 *Data System. Such data may include personal and case identifying information that may be used for linking*
95 *the data to other datasets for the purpose of creating de-identified datasets for research, but such data shall*
96 *only be used for this purpose and any personal and case identifying information shall not be released.*
97 *Additionally, any data provided that contains any personal or case identifying information shall be kept*
98 *confidential and shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*