

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 19.2-265.4 of the Code of Virginia and to amend the Code of Virginia by*
 3 *adding in Chapter 15 of Title 19.2 an article numbered 4.3, consisting of a section numbered 19.2-264.15,*
 4 *relating to discovery; methods of delivery.*

5 [H 118]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**
 8 **1. That § 19.2-265.4 of the Code of Virginia is amended and reenacted and that the Code of Virginia is**
 9 **amended by adding in Chapter 15 of Title 19.2 an article numbered 4.3, consisting of a section**
 10 **numbered 19.2-264.15, as follows:**

11 *Article 4.3.*12 *Discovery; Methods of Delivery.*13 **§ 19.2-264.15. Discovery; methods of delivery.**

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

17 *B. In any district court in a case prosecuted by the attorney for the Commonwealth, the attorney for the*
 18 *Commonwealth shall provide to counsel of record for the accused, if requested, a copy of any relevant police*
 19 *report at least 10 days prior to the date the case is set for trial or preliminary hearing. Any police report*
 20 *provided pursuant to this subsection shall only be provided to counsel of record for the accused and*
 21 *disseminated to any of such counsel's agents or employees or an expert witness. Such report shall not be*
 22 *otherwise disseminated, including the creation of any reproduction or copy, except that the counsel of record*
 23 *for the accused may communicate the contents of such report to the accused. If such materials are requested*
 24 *by counsel of record for the accused for a preliminary hearing held in a district court, the circuit court shall*
 25 *order counsel of record to provide discovery to the attorney for the Commonwealth as provided in Rule*
 26 *3A:11 of the Rules of the Supreme Court prior to trial of a felony offense in circuit court.*

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

32 **§ 19.2-265.4. Failure to provide discovery.**

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

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

ENROLLED

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