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HOUSE BILL NO. 1432

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on _____)

(Patron Prior to Substitute—Delegate Mehta)

A BILL to amend and reenact §§ 4.1-305, 4.1-309, 4.1-1105.1, 4.1-1109, 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.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-305, 4.1-309, 4.1-1105.1, 4.1-1109, 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 younger than 21 years of age 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 younger 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 younger than 21 years of age 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 years of age 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 underage 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

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accused, defer further proceedings and place him on probation subject to appropriate conditions. Such conditions may include the imposition of the license suspension and restricted license provisions in subsection C. However, in all such deferred proceedings, the court shall require the accused to enter a treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. If the accused is placed on local community-based probation, the program or services shall be located in any of the judicial districts served by the local community-based probation services agency or in any judicial district ordered by the court when the placement is with an alcohol safety action program. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services; (ii) certified by the Commission on VASAP; or (iii) by 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 rather than the alcohol safety action program, 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.

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

When any juvenile is found to have committed a violation of subsection A, the disposition of the case shall be handled according to the provisions of Article 9 (§ 16.1-278 et seq.) of Chapter 11 of Title 16.1. Any unconcealed possession of an alcoholic beverage in violation of subsection A observed in plain sight by a law-enforcement officer shall be deemed contraband and may be seized by a law-enforcement officer. Any such beverage, the lawful possession of which is not established, seized by such officer shall be forfeited and disposed of pursuant to § 4.1-338. The seizure of contraband pursuant to this subsection shall be the sole penalty for a violation of subsection A. However, the provisions of § 16.1-278.6 shall apply.

G. A person under the legal age to consume, purchase, or possess alcoholic beverages 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 an alcoholic beverage 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.

H. A person who consumes, purchases, or possesses an alcoholic beverage 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, unless the person is being arrested, detained, or otherwise taken into custody for also committing another violation of law for which that action is legally permitted or required.

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

§ 4.1-309. Drinking or possessing alcoholic beverages in or on public school grounds; penalty.

A. No person shall possess or drink any alcoholic beverage in or upon the grounds of any public elementary or secondary school during school hours or school or student activities.

B. In addition, no person shall drink and no organization shall serve any alcoholic beverage in or upon the grounds of any public elementary or secondary school after school hours or school or student activities, except for religious congregations using wine for sacramental purposes only.

C. Any person 21 years of age or older convicted of a violation of this section shall be guilty of a Class 2 misdemeanor. Any person younger than 21 years of age alleged to have violated this section shall be subject to the provisions of § 4.1-305.

D. This section shall not prohibit any person from possessing or drinking alcoholic beverages or any organization from serving alcoholic beverages in areas approved by the Board at a performing arts facility, provided the organization operating the performing arts facility or its lessee has a license granted by the

Board.

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

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.

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.

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.

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.

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. Any unconcealed possession of marijuana or marijuana products in violation of this section observed in plain sight by a law-enforcement officer shall be deemed contraband and may be seized by a law-enforcement officer. Any such marijuana, the lawful possession of which is not established, seized by such officer shall be forfeited and disposed of pursuant to subdivision A 2 of § 19.2-386.23. The seizure of contraband pursuant to this subsection shall be the sole penalty for a violation of subsection A. However, the provisions of § 16.1-278.6 shall apply.

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 marijuana 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.

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, 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.

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

§ 4.1-1109. Consuming or possessing marijuana or marijuana products in or on public school grounds; penalty.

A. No person shall possess or consume any marijuana or marijuana product in or upon the grounds of any public elementary or secondary school during school hours or school or student activities.

B. In addition, no person shall consume and no organization shall serve any marijuana or marijuana products in or upon the grounds of any public elementary or secondary school after school hours or school or student activities.

C. Any person *21 years of age or older* convicted of a violation of this section is guilty of a Class 2 misdemeanor. *Any person younger than 21 years of age alleged to have violated this section shall be subject to the provisions of § 4.1-1105.1.*

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

A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu 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, 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 §§ 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, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

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

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

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

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

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

C. In criminal actions and proceedings in district court for a violation of any provision of Article 1 (§ 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 amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.257353);
2. Virginia Crime Victim-Witness Fund (.022059);
3. Regional Criminal Justice Training Academies Fund (.007353);
4. Courthouse Construction/Maintenance Fund (.014706);
5. Criminal Injuries Compensation Fund (.044118);
6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
7. Drug Offender Assessment and Treatment Fund (.551471);
8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

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

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

§ 16.1-260. Intake; petition; investigation.

A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection H and in § 16.1-259. The form and content of the petition shall be

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

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

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

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

If a juvenile is alleged to be a truant pursuant to a complaint filed in accordance with § 22.1-258 and the attendance officer has provided documentation to the intake officer that the relevant school division has complied with the provisions of § 22.1-258, then the intake officer shall file a petition with the court. The intake officer may defer filing the petition and proceed informally by developing a truancy plan, provided that (1) the juvenile has not previously been proceeded against informally or adjudicated in need of supervision on more than two occasions for failure to comply with compulsory school attendance as provided in § 22.1-254 and (2) the immediately previous informal action or adjudication occurred at least three calendar years prior to the current complaint. The juvenile and his parent or parents, guardian, or other person standing in loco parentis must agree, in writing, for the development of a truancy plan. The truancy plan may include requirements that the juvenile and his parent or parents, guardian, or other person standing in loco parentis participate in such programs, cooperate in such treatment, or be subject to such conditions and limitations as necessary to ensure the juvenile's compliance with compulsory school attendance as provided in § 22.1-254. The intake officer may refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan using an interagency interdisciplinary team approach. The team may include qualified personnel who are reasonably available from the appropriate department of social services, community services board, local school division, court service unit, and other appropriate and available

308 public and private agencies and may be the family assessment and planning team established pursuant to
309 § 2.2-5207. If at the end of the deferral period the juvenile has not successfully completed the truancy plan or
310 the truancy program, then the intake officer shall file the petition.

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

325 C. The intake officer shall accept and file a petition in which it is alleged that (i) the custody, visitation, or
326 support of a child is the subject of controversy or requires determination, (ii) a person has deserted,
327 abandoned, or failed to provide support for any person in violation of law, (iii) a child or such child's parent,
328 guardian, legal custodian, or other person standing in loco parentis is entitled to treatment, rehabilitation, or
329 other services which are required by law, (iv) family abuse has occurred and a protective order is being
330 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
331 occurred, a protective order is being sought pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, and either
332 the alleged victim or the respondent is a juvenile. If any such complainant does not file a petition, the intake
333 officer may file it. In cases in which a child is alleged to be abused, neglected, in need of services, in need of
334 supervision, or delinquent, if the intake officer believes that probable cause does not exist, or that the
335 authorization of a petition will not be in the best interest of the family or juvenile or that the matter may be
336 effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition.
337 The intake officer shall provide to a person seeking a protective order pursuant to § 16.1-253.1, 16.1-253.4,
338 or 16.1-279.1 a written explanation of the conditions, procedures and time limits applicable to the issuance of
339 protective orders pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1. If the person is seeking a protective
340 order pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10, the intake officer shall provide a written
341 explanation of the conditions, procedures, and time limits applicable to the issuance of protective orders
342 pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10.

343 D. Prior to the filing of any petition alleging that a child is in need of supervision, the matter shall be
344 reviewed by an intake officer who shall determine whether the petitioner and the child alleged to be in need
345 of supervision have utilized or attempted to utilize treatment and services available in the community and
346 have exhausted all appropriate nonjudicial remedies which are available to them. When the intake officer
347 determines that the parties have not attempted to utilize available treatment or services or have not exhausted
348 all appropriate nonjudicial remedies which are available, he shall refer the petitioner and the child alleged to
349 be in need of supervision to the appropriate agency, treatment facility, or individual to receive treatment or
350 services, and a petition shall not be filed. Only after the intake officer determines that the parties have made a
351 reasonable effort to utilize available community treatment or services may he permit the petition to be filed.

352 E. If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult
353 would be punishable as a Class 1 misdemeanor or as a felony, when such refusal is based solely upon a
354 finding that no probable cause exists, the complainant shall be notified in writing at that time of the
355 complainant's right to apply to a magistrate for a warrant. The application for a warrant to the magistrate shall
356 be filed within 10 days of the issuance of the written notification. The written notification shall indicate that
357 the intake officer made a finding that no probable cause exists and shall provide notice that the complainant
358 has 10 days to apply for a warrant to the magistrate. The complainant shall provide the magistrate with a copy
359 of the written notification upon application to the magistrate. If a magistrate determines that probable cause
360 exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant
361 shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition
362 founded upon the warrant. If the court is closed and the magistrate finds that the criteria for detention or
363 shelter care set forth in § 16.1-248.1 have been satisfied, the juvenile may be detained pursuant to the warrant
364 issued in accordance with this subsection. If the intake officer refuses to authorize a petition relating to a
365 child in need of services or in need of supervision, a status offense, or a misdemeanor other than Class 1, his
366 decision is final. If the intake officer refuses to authorize a petition relating to an offense that if committed by
367 an adult would be punishable as a Class 1 misdemeanor or as a felony when such refusal is based upon a
368 finding that (i) probable cause exists, but that (ii) the matter is appropriate for diversion, his decision is final
369 and the complainant shall not have a right to apply to a magistrate for a warrant.

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

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

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

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

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

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

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

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

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

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

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

9. Robbery pursuant to § 18.2-58;

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

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

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

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

14. A threat pursuant to § 18.2-60.

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

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

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

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

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

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 other alcohol-related offense, provided that the juvenile is released to the custody of a parent or legal guardian pending the initial court date. The officer releasing a juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and shall also issue a summons requiring the parent or legal guardian to appear before the court with the juvenile. Disposition of the charge shall be in the manner 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 § 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 samples of both blood and breath for chemical analysis pursuant to §§ 18.2-268.1 through 18.2-268.12 or 29.1-738.2, the provisions of these sections shall be followed except that the magistrate shall authorize execution of the warrant as a summons. The summons shall be served on a parent or legal guardian and the juvenile, and a copy of the summons shall be forwarded to the court in which the violation is to be tried. ~~When a violation of § 4.1-305 is charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration of informal proceedings pursuant to subsection B; provided that such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 4.1-305 is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.~~

4. In the case of offenses which, if committed by an adult, would be punishable as a Class 3 or Class 4 misdemeanor. In such cases the court may direct that an intake officer proceed as provided in § 16.1-237 on a

summons issued by the officer investigating the violation in the same manner as provided by law for adults provided that notice of the summons to appear is mailed by the investigating officer within five days of the issuance of the summons to a parent or legal guardian of the juvenile.

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

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

A. If a court has found facts ~~which~~ *that* would justify a finding that a child at least 13 years of age at the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of any county, city, or town; (ii) a refusal to take a breath test in violation of § 18.2-268.2; (iii) a 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 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; (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) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city, or town; ~~(vii)~~ (vi) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below; or ~~(viii)~~ (vii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty authorized by this section, if the offense involves a violation designated under clause (i) and the child was transporting a person 17 years of age or younger, the court shall impose the additional fine and order community service as provided in § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii), or ~~(viii)~~ (vii), the denial of a driver's license shall be for a period of one year or until the juvenile reaches ~~the age of 17 years of age~~, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches ~~the age of 18 years of age~~, whichever is longer, for a second or subsequent such offense. If the offense involves a violation designated under clause (iv); or (v); ~~or (vi)~~, the denial of driving privileges shall be for a period of six months unless the offense is committed by a child ~~under the age of~~ *younger than* 16 years and three months *of age*, in which case the child's ability to apply for a driver's license shall be delayed for a period of six months following the date he reaches ~~the age of~~ *16 years and three months of age*. If the offense involves a first violation designated under clause (v) ~~or (vi)~~, the court shall impose the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the case pursuant to subsection F. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a violation designated under clause ~~(vii)~~ (vi), the denial of driving privileges shall be for a period of not less than 30 days, except when the offense involves possession of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving privileges shall be for a period of two years unless the offense is committed by a child ~~under the age of~~ *younger than* 16 years and three months *of age*, in which event the child's ability to apply for a driver's license shall be delayed for a period of two years following the date he reaches ~~the age of~~ *16 years and three months of age*.

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

If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a period of one year or until the juvenile reaches ~~the age of~~ *18 years of age*, whichever is longer, or delay the child's ability to apply for a driver's license for a period of one year following the date he reaches ~~the age of~~ *16 years and three months of age*, as may be appropriate.

A2. If a court finds that a child at least 13 years of age has refused to take a blood test in violation of § 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 the juvenile reaches ~~the age of~~ *17 years of age*, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches ~~the age of~~ *18 years of age*, whichever is longer, for a second or subsequent such offense.

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 provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the physical custody of the court during any period of license denial.

C. The court shall report any order issued under this section to the Department of Motor Vehicles, which shall preserve a record thereof. The report and the record shall include a statement as to whether the child was represented by or waived counsel or whether the order was issued pursuant to subsection A1 or A2.

Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding results in an adjudication of guilt pursuant to subsection F.

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

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

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

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

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

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

In circuit court, upon the conviction of a person of any and each misdemeanor reduced from a felony charge, or upon a deferred disposition of proceedings in the case of any and each misdemeanor reduced from a felony charge and deferred pursuant to the terms and conditions of § ~~4.1-305~~, 16.1-278.8, 16.1-278.9, 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 known as the fixed fee for felony reduced to misdemeanor. However, this section shall not apply to those proceedings provided for in § 17.1-275.8.

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

1. Sentencing/supervision fee (General Fund) (.1695154);
2. Forensic science fund (.1707048);
3. Court reporter fund (.1465639);
4. Witness expenses/expert witness fund (.0088106);
5. Virginia Crime Victim-Witness Fund (.0132159);
6. Intensified Drug Enforcement Jurisdiction Fund (.0176211);
7. Criminal Injuries Compensation Fund (.0881057);
8. Commonwealth's attorney fund (state share) (.0881057);
9. Commonwealth's attorney fund (local share) (.0881057);
10. Regional Criminal Justice Academy Training Fund (.0044053);

11. Warrant fee (.0528634);
12. Courthouse construction/maintenance fund (.0088106); and
13. Clerk of the circuit court (.1431718).

§ 17.1-275.7. Fixed misdemeanor fee.

In circuit court, upon (i) conviction of any and each misdemeanor, not originally charged as a felony; (ii) a deferred disposition of proceedings in the case of any and each misdemeanor not originally charged as a 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, 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 driver improvement clinic or traffic school in lieu of a finding of guilt for a traffic infraction; or (iv) proof of compliance with law under §§ 46.2-104 and 46.2-1158.02, there shall be assessed as court costs a fee of \$80, to be known as the fixed misdemeanor fee. However, this section shall not apply to those proceedings provided for in § 17.1-275.8. This fee shall be in addition to any fee assessed in the district court.

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

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

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

A. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A circuit or district court, which that has deferred further proceedings; without entering a judgment of guilt; and placed a defendant on probation subject to terms and conditions pursuant to § 4.1-305, 16.1-278.8, 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 impose upon the defendant costs.