

**REPORT OF THE  
VIRGINIA STATE CRIME COMMISSION  
IN COOPERATION WITH THE  
VIRGINIA COMMISSION ON YOUTH**

**Access To Juvenile  
Records For The  
Purchase of Firearms**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 71**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1993**



# COMMONWEALTH of VIRGINIA

## VIRGINIA STATE CRIME COMMISSION

General Assembly Building

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EXECUTIVE DIRECTOR

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November 17, 1992

TO: The Honorable L. Douglas Wilder, Governor of Virginia,  
and Members of the General Assembly:

House Joint Resolution 131, adopted by the 1992 General Assembly, directed the Virginia State Crime Commission, in cooperation with the Virginia Commission on Youth, to conduct a study of access to juvenile records for the purchase of firearms. On November 17, 1992, the Virginia State Crime Commission adopted the report on access to juvenile records for the purchase of firearms and approved it for publication. The Commission requests that the Governor and General Assembly adopt the recommendations herein.

I have the honor of submitting the Virginia State Crime Commission report in response to House Joint Resolution 131.

Respectfully submitted,

Robert B. Ball, Sr.  
Chairman

RBB:dgs

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**Attorney General's Office:**

H. Lane Kneedler

## **Subcommittee II**

### **Crime Commission Members**

Delegate James F. Almand, Chairman  
Mr. Robert C. Bobb  
Delegate Jean W. Cunningham  
Senator Virgil H. Goode  
Delegate Raymond R. Guest, Jr.  
Mr. H. Lane Kneeder  
Senator Edgar S. Robb  
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Study of Access to Juvenile Records for the Purchase of Firearms

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## Study of Access to Juvenile Records for the Purchase of Firearms

### I. Authority for Study

During the 1992 General Assembly session, Delegate Howard Copeland of Norfolk successfully patroned House Joint Resolution 131, directing the Virginia State Crime Commission, in cooperation with the Virginia Commission on Youth, to study the feasibility of accessing juvenile court records for the purchase of firearms. HJR 131 specifically requested that the Commission "study methods for obtaining meaningful access to the juvenile record of an individual attempting to purchase a firearm in the Commonwealth." (See Appendix A.)

Section 9-125 of the Code of Virginia establishes and directs the Virginia State Crime Commission "to study, report, and make recommendations on all areas of public safety and protection." Section 9-127 of the Code of Virginia provides that "the Commission shall have the duty and power to make such studies and gather information in order to accomplish its purpose, as set forth in Section 9-125, and to formulate its recommendations to the Governor and the General Assembly." Section 9-134 of the Code of Virginia authorizes the Commission to "conduct private and public hearings, and to designate a member of the Commission to preside over such hearings." The Virginia State Crime Commission, in fulfilling its legislative mandate, undertook the study of access to juvenile records for the purchase of firearms.

### II. Members Appointed to Serve

At the April 21, 1992 meeting of the Crime Commission, Chairman Robert B. Ball, Sr., of Henrico selected Delegate James F. Almand to serve as Chairman of Subcommittee II studying access to juvenile records for the purchase of firearms. The following members of the Crime Commission were selected to serve on the subcommittee:

Delegate James F. Almand, Arlington, Chairman  
Mr. Robert C. Bobb, Richmond  
Delegate Jean W. Cunningham, Richmond  
Senator Virgil H. Goode, Rocky Mount  
Delegate Raymond R. Guest, Jr., Front Royal  
Mr. H. Lane Kneedler, Attorney General's Office  
Senator Edgar S. Robb, Charlottesville  
Delegate Clifton A. Woodrum, Roanoke

### III. Executive Summary

During the 1992 General Assembly session, the House and Senate Rules Committees approved HJR 131, patroned by Delegate Howard Copeland of Norfolk. HJR 131 directed the Crime Commission, in cooperation with the Commission on Youth, to study the feasibility of accessing juvenile records in order to prohibit an adult who committed a felonious offense as a juvenile from subsequently purchasing a firearm.

Commission staff worked with Delegate Copeland during the course of the study to receive patron input, and met with staff from the Department of Youth and Family Services, the Virginia Supreme Court, the Virginia State Police and the Virginia Firearms Association, Inc. Commission staff also presented progress reports on the HJR 131 study to the Virginia Commission on Youth, the Juvenile Justice Delinquency Prevention Advisory Committee, the Governor's Task Force on Violent Crime and the Interagency Records Committee.

Daniel Phelps, Agent, Richmond Office, of the U.S. Dept. of the Treasury, Bureau of Alcohol, Tobacco and Firearms, was instrumental in providing federal laws and regulations related to firearms purchases. Dr. John Schuiteman of the Department of Criminal Justice Services contributed research assistance related to federal and state firearms purchase laws. Lt. Lewis Vass provided invaluable assistance to staff in reviewing Virginia State Police criminal background check policies and procedures, and in drafting proposed legislation. The Virginia Commission on Youth offered its expertise in juvenile policy in receiving study progress reports, and reviewing and commenting on the final report and recommendations.

Subcommittee II held three meetings to address the issues in HJR 131, and approved the subcommittee's report on October 27, 1992. The full Commission reviewed and approved the subcommittee's report, including its findings and recommendations, at its November 17, 1992 meeting.

The findings and recommendations are as follows:

**Recommendation 1:** Amend §19.2-390 to require the clerks of court of the Juvenile and Domestic Relations District Courts to forward to the Central Criminal Records Exchange the adjudications of those juveniles found guilty of the felonious offenses enumerated in §16.1-299. (NOTE: During the 1993 General Assembly session, HB 593 as amended required that the records of 15-year-old or older juveniles who were adjudicated for felonious offenses would be forwarded to the Central Criminal Records Exchange. The bill was not amended to include 13- or 14-year-old juveniles who were adjudicated for one of the enumerated offenses in §16.1-299.)

**Recommendation 2:** Create a new Code section requiring the Virginia State Police Central Criminal Records Exchange to lift automatically at age 29 the prohibition on the right to purchase firearms imposed on any person as a result of an adjudication for certain felonious acts as a juvenile.

**Recommendation 3:** Amend §16.2-299 to require local law enforcement agencies to collect fingerprints of juveniles within the purview of this statute and forward copies to the Juvenile and Domestic Relations Court of jurisdiction, to be forwarded with the disposition to the Central Criminal Records Exchange upon a finding of guilt by the court.

**Recommendation 4:** Amend §16.1-306, the juvenile record expungement law, to allow an exception to expungement, and keep active until age 29 the records of those juveniles found guilty of the felonious offenses enumerated in §16.1-299 for the purpose of prohibiting the purchase of a firearm.

**Recommendation 5:** Amend §§18.2-308.2 and 18.2-308.2:1 to include persons prohibited from purchasing firearms due to a juvenile record of a felony.

During the 1993 General Assembly session, Delegate Howard Copeland amended his carry-over legislation from 1992, House Bill 593, to substitute the proposed legislation from the Crime Commission's HJR 131 study. The bill received technical amendments, and was approved by the House and Senate. HB 593 was enrolled and sent to the Governor for signing during the 1993 legislation session.

HB 593 amends §§16.1-299, 16.1-306, 18.2-308.2, 18.2-308.2:1, 19.2-388 and 19.2-390 of the Code of Virginia. The amendments prohibit an adult from purchasing a firearm if he had been found guilty of a felonious offense while a juvenile.

The Code sections are amended as follows:

1. **§16.1-299:** Requires law enforcement officers to take fingerprints and photographs of juveniles age 15 and older who are charged with a delinquent act that would be a felony if committed by an adult.

Requires all court clerks, including Juvenile and Domestic Relations Court clerks, to forward to the Central Criminal Records Exchange (CCRE) the dispositional records, fingerprints and photographs of juveniles 15 and older adjudicated delinquent on the basis of an offense which would be a felony if committed by an adult.

2. **§16.1-306:** A juvenile found guilty of a felonious act will not be allowed to petition for expungement of his juvenile record until he has reached the age of 29. This will allow a background check conducted for the purchase of a firearm to reveal that the adult is prohibited from purchasing a firearm until the age of 29.

3. **§18.2-308.2:** Prohibits the possession or transportation of a firearm by a



person under the age of 29, if he was found guilty of a felonious act as a juvenile fifteen years of age or older. However, the person may petition the circuit court for the restoration of his right to carry a firearm, which the court may grant for good cause shown.

4. **§18.2-308.2:1:** Prohibits the selling of a firearm to an ineligible person, including a person adjudicated delinquent within the amendments to §16.1-299. This section also makes allowances for someone issued a special permit by the court, pardoned or who has had his political disabilities restored by the court.

5. **§19.2-388:** The Central Criminal Records Exchange must maintain juvenile records separate from adult records, and must destroy juvenile records kept pursuant to §16.1-299 when the person has reached the age of 29.

6. **§19.2-390:** Requires the district and circuit court clerks to report to the Central Criminal Records Exchange (CCRE) any adjudication of delinquency based upon an act which would be a felony if committed by an adult. Also requires the court clerks to report amendments to, or reversals of, any such disposition to CCRE.

#### **IV. Study Goals/Objectives**

Based upon the requirements of HJR 131, the following issues and objectives were presented to the Subcommittee for consideration:

- Determine what laws and regulations govern the purchase and transport of firearms in Virginia;
- Determine how information from confidential juvenile court records presently is accessed and released;
- Determine whether present law in Virginia should be changed to allow for access to juvenile court records to facilitate background checks in adult firearms purchases;
- Determine which juvenile convictions should prohibit an adult firearms purchase; and
- Determine when or whether juvenile records of crimes that would prohibit an adult from purchasing and transporting a firearm should be expunged.

The Commission pursued the following activities in furtherance of the above-mentioned objectives:

- Researched state and federal laws governing firearms transactions;

- Researched laws governing access to juvenile court records in Virginia;
- Met with officials of the Department of Youth and Family Services, the Department of State Police and the Virginia Supreme Court to determine how juvenile court records information could be transferred from the court system to the Central Criminal Records Exchange; and
- Developed administrative and legislative recommendations to allow felony convictions in Juvenile and Domestic Relations Courts to be communicated to the Central Criminal Records Exchange for the purpose of backgrounds checks in adult firearms purchase transactions.

## V. Background

The resolution directed the Virginia State Crime Commission, in cooperation with the Virginia Commission on Youth, to look at the issue of access to juvenile court records for consideration in firearms purchases, which are regulated by both federal and state laws. The study did not address restricting access to firearms by juveniles. Presently, juveniles are prohibited by law from purchasing firearms before the age of 21, with the exception of rifles and shotguns, which can be purchased after the age of 18. The study was directed at those adult firearms purchasers who committed felonious offenses as juveniles, and are adjudicated in juvenile court. Because of certain reporting and expungement laws, these persons are allowed to purchase firearms as adults because the firearms background check would not reveal the juvenile record of felonious offenses.

Code of Virginia §19.2-390 requires circuit and district courts to “make a report to the Central Criminal Records Exchange (CCRE) of any conviction of any person charged with a felony.” Juvenile and domestic relations courts do not report routinely to the CCRE.

The Virginia State Police operate the CCRE to facilitate background checks on adult gun purchasers in accordance with state and federal laws. If Juvenile and Domestic Relations Courts reported convictions or adjudications of felonious offenses to CCRE, then adults with such serious offenses on their juvenile records could be prohibited from purchasing most firearms.

The practical issue of how to get this information to CCRE was difficult but not impossible to solve. The more critical issue was one of policy: should these juvenile court records, which have a confidential status that cloaks them from public view, be accessed by the CCRE and the Virginia State Police to carry out the intent of the federal and state firearms purchases laws? Firearms transaction laws

do not distinguish between whether the felonious offense that prohibits purchase of a gun occurred as a juvenile or as an adult. Additionally, a felony conviction in circuit or federal court will prohibit an adult from purchasing a firearm until such time as he or she successfully appeals to a circuit court judge for a restoration of civil rights.

Since the expungement law in Code of Virginia §16.2-306 calls for a juvenile's juvenile court record to be wiped clean at a certain age, then reporting juvenile court records to the CCRE would not trigger the gun purchase prohibition as the law dictates. In other words, the juvenile's record would be expunged before or soon after he becomes eligible to purchase a firearm. Therefore, to facilitate the intent of HJR 131, the Virginia General Assembly would have to agree to carve out another exception to the expungement law. Not only would the law have to be changed to require Juvenile and Domestic Relations Courts to report to the CCRE any adjudications for felonious offenses by a juvenile, the expungement law also would have to be changed to allow the felonious offense adjudication to remain active in the CCRE to prohibit a firearm purchase by this person once he becomes an adult. Such recommendations for changes in the law had to be balanced against Virginia's present policy of pursuing more rehabilitative than punitive approaches for juveniles dealt with through the juvenile court system. On the other hand, the federal and state firearms transactions laws, which prohibit the purchase of a firearm by anyone who has been convicted of a crime punishable by a year's incarceration, must be respected and enforced.

The study was done in cooperation with the Virginia Commission on Youth. A final report and recommendations were presented to the Commission on Youth and the Crime Commission in November, 1992.

## **VI. Discussion of Federal Law and Code of Virginia Sections**

### **The Federal Gun Control Act of 1968:**

Federal regulation of guns is the responsibility of the U. S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (BATF). BATF administers the federal Gun Control Act of 1986.

Title I of this Act prohibits mail-order sales of firearms and ammunition, confines the purchase of firearms to the buyer's state of residence and prohibits persons from purchasing, receiving or transporting firearms or ammunition in interstate commerce who:

- a. have been convicted, or are under indictment or information, in any court for a crime punishable by imprisonment for a term exceeding one

- year;
- b. are fugitives;
- c. have been adjudicated a mental defective or committed to a mental institution; or
- d. are addicted, or unlawfully use marijuana, stimulants, depressants or narcotics.

Additionally, illegal aliens, renounced U.S. citizens and persons dishonorably discharged from the Armed Forces are prohibited from purchasing most firearms.

Title I also requires persons engaged in the business of dealing in firearms to be federally licensed. Dealers must require from all firearms purchasers proof of identity and residence, and buyers must sign under penalty of perjury a statement certifying eligibility to purchase. Dealers also must keep records of all sales, refuse sale to persons under 21 for a handgun and under 18 for a rifle or shotgun, and refuse to sell in violation of state or local laws.

A person wishing to purchase a handgun must fill out BATF Form 4473, which requires the purchaser to give identifying information about himself and reveal whether he is prohibited by law from purchasing a firearm. The dealer also completes a section on the form, identifying the buyer and the weapon or weapons being purchased.

Gun dealers retain the original BATF 4473 forms for ten years, but are not required to report information to BATF about the types of guns purchased in Virginia or any other state. However, BATF does require dealers to send a letter to the local BATF office when someone purchases two or more guns within five dealer working days.

#### Virginia Firearms Purchase Laws:

Articles 4 through 7 of Chapter 7 of Title 18.2 of the Code of Virginia contain the laws of Virginia which pertain to the ownership and use of firearms and other dangerous weapons. Code of Virginia §18.2-308.2:2 specifically requires that a criminal history record information check by the State Police be conducted before a dealer can sell, rent, trade or transfer firearms, except antique firearms, in Virginia. Antique firearms, purchased primarily by collectors, are those firearms manufactured in or before 1898. Virginia law prohibits the same classes of persons from purchasing firearms as does the federal law.

The Virginia Firearms Transaction Program, administered by the State Police, requires dealers to fill out a state form that virtually is identical to the federal form. The dealer must call the Department of State Police with information about the prospective purchaser. The State Police then conduct a background check on the

purchaser by checking state and federal files that reveal outstanding warrants or status as a convicted felon, either of which is grounds for sale disapproval. The average time of a typical background check is less than two minutes. The Department of Criminal Justice Services promulgates the regulations for the operation of the program, known as the "Regulations Governing the Privacy and Security of Criminal History Record Information Checks for Firearm Purchases."

Unlike federal law, Virginia law does not specifically deny gun ownership to persons who have been charged with a felony offense. Virginia does, however, deny gun ownership if the prospective purchaser fails to qualify under either state or federal law. Therefore, if a prospective purchaser has been charged with a felony offense by either a state or federal court, then federal law would prohibit that person from purchasing a firearm, and Virginia authorities will deny the purchase due to the violation of the federal firearms transaction law.

Neither the federal nor the state firearms transaction laws exempt the prospective purchaser who may have been convicted of a felony offense as a juvenile, but whose juvenile record is expunged when the juvenile becomes an adult. But, the court record of a minor who commits a felonious offense and is adjudicated in juvenile court is expunged soon after he becomes an adult. Because the record of the felony offense is not communicated to the Central Criminal Records Exchange, and because this record is expunged after a certain time, the person in this example will be allowed to purchase any firearm as an adult.

#### Virginia Juvenile Courts and Juvenile Court Records Laws:

The Juvenile and Domestic Relations District Courts have jurisdiction over custody, visitation, support, abuse and neglect, status offenses, delinquency and traffic offenses concerning persons under the age of eighteen. There are 35 court districts and 75 full-time J&DR District Court judges. The courts are staffed by Department of Youth and Family Services employees who perform intake, diversion, probationary and aftercare services. The laws governing the Juvenile and Domestic Relations Court were enacted in 1974 and substantively revised in 1977. As a result of the 1977 revisions, the following goals were adopted to guide the juvenile court system:

- The maintenance and support of the family is the court's paramount goal.
- If the child must be removed from the family, then a stable environment must be provided for the child.
- Parental involvement is necessary through all phases of court activity.
- Diversion from court processes is the initial goal of the juvenile justice system.
- Community-based services should be developed to meet the juvenile client's needs.

The policy of the Commonwealth, as stated in Code of Virginia §16.1-308, is that the Juvenile and Domestic Relations District Court should not impose penalties on juveniles which are comparable to those of adults convicted of a crime. The mandated destruction of juvenile court records established in Code of Virginia §16.1-306 was founded on the belief that the state could intervene in the lives of children and change their behavior. Virginia's policy dictates that the consequences of adjudication should not follow the juvenile into adulthood.

The Code addresses the issue of the exchange and expungement of the materials contained in juvenile records and includes separate provisions for law enforcement agencies, Juvenile and Domestic Relations Courts and the Department of Youth and Family Services. The relevant Code sections are as follows:

- **§16.1-284:** Allows a child age 15 or older who commits a felonious offense to be tried and sentenced as an adult at the discretion of the court.

- **§16.1-299:** Allows a law enforcement agency to fingerprint and photograph a juvenile age 15 or older who is charged with a delinquent act which would be a felony if committed by an adult. Juveniles age 13 and older may be fingerprinted and photographed by law enforcement agencies when charged with certain offenses, particularly rape, forcible sodomy, arson, murder, bodily wounding, use of a firearm, attempted poisoning, extortion, grand larceny or burglary. If a child is found not guilty or a petition is not filed, then all copies of the fingerprints and photographs taken by the law enforcement agency must be destroyed. Copies of the juvenile's fingerprints must be forwarded to the Central Criminal Records Exchange if the child is found guilty by a circuit court or adjudicated delinquent by the juvenile court for the above-described offenses. This section does not allow for the public release of the identity of juveniles charged with felonies, or charged with delinquent acts that would be felonies if committed by an adult.

- **§16.1-300:** Requires that Department of Youth and Family Services records of children be confidential, and released for inspection only to those agencies and persons specifically listed in the section. The Department maintains social, medical, psychiatric and psychological records of children committed to the Department. Absent a court order, only judges, prosecuting attorneys, probation officers, court professional staff, professional treatment specialists, the child's parents or legal guardian, the child's attorney, the child himself and any state agencies providing funds to the Department that are required by the federal government to monitor the Department's programs may inspect the Department's records on juveniles. However, if a person or agency can show a legitimate interest in the child's case, the judge may issue an order to allow the person or agency to have access to the child's records. The Department is authorized by law, when the court concurs, to withhold any portion of a child's records from inspection by the child's parents or guardian when the Department determines that "disclosure of such information would be

detrimental to the child.”

- **§16.1-301:** Requires that law enforcement records concerning children be kept confidential, and allows such records to be inspected only by the persons and agencies specifically listed in the section. Police chiefs and county sheriffs must keep juvenile delinquency records separate from adult criminal records. Law enforcement agencies may open their records to the courts, juvenile correctional agencies and officers and to certain agencies that may supervise the child after his release. A law enforcement agency may release information from a juvenile’s record to another law enforcement agency, the child’s parents, guardian or attorney, or to an individual or agency with a legitimate interest in the child’s case, but only by order of the court. However, a police chief or county sheriff may share limited juvenile arrest information (name, address, physical description, date of arrest and the charges) with each other or with state and federal law enforcement officials. The receiving agency only can use the information in the course of a current investigation, and cannot create new files or records on individual juveniles based on the information received from another agency.

- **§16.1-303:** Any information collected on a juvenile by court officials and employees is confidential and may be shared only with the judge absent a court order. However, if the information received by the court official or employee is that a juvenile has committed a crime which would be a felony if committed by an adult, then that official or employee must report the information to the Commonwealth’s attorney or the police in the county, city or town where the offense occurred.

- **§16.1-305:** Requires that court records of juvenile delinquents are confidential, and may be inspected only by the courts, parents or guardians, child’s attorney and certain service agencies that supervise the child or have custody of the child. Juvenile court records, just like juvenile law enforcement records, must be kept separate from adult records. Persons who can show a legitimate interest in the child’s case may inspect the court records upon order of the judge.

- **§16.1-306:** Once the juvenile has reached the age of 19, and after a five year period has elapsed since the last hearing in any case, all records are expunged by the court clerk. Exceptions to these expungement guidelines are made for those juveniles found guilty of a delinquent act which would be a felony if committed by an adult. In this case, the record is expunged when the individual reaches the age of 29. Misdemeanors, traffic infractions and civil actions resulting in a judgment can be expunged after ten years have elapsed and when a motion is filed with the court requesting such action.

- **§16.1-307:** When a child is certified to circuit court on criminal charges, the child’s circuit court records are open to public inspection only in accordance with the provisions of §16.1-305. The records of a child certified to circuit court must be

kept separate from all other records and files of the circuit court.

- **§16.1-308:** A juvenile who is found guilty of delinquency shall not have imposed upon him the disabilities ordinarily imposed for the conviction of a crime. In contrast, Article II, Section 1 of the Constitution of Virginia states that a person convicted of a felony shall not be qualified to vote unless his civil rights have been restored. Additionally, § 18.2-308.2:2 prohibits a convicted felon from purchasing a firearm.

- **§16.1-309.1:** Allows a judge to make the name, address and nature of the offense committed by a child to be made public when the judge determines that it is in the public's interest to release such information. The act committed by the child must have been one which would have been a Class 1, 2 or 3 felony, forcible rape or robbery if committed by an adult, or in any case where a child is sentenced as an adult in accordance with §16.1-284. If a child charged with a delinquent act that, for an adult, would be a Class 1, 2 or 3 felony, forcible rape or robbery, becomes a fugitive from justice, then the Commonwealth's attorney may petition the court to release identifying information about the juvenile to expedite his apprehension. This information then can be made public by order of the court.



## VII. Findings and Recommendations

### Findings:

Federal and state firearms transaction laws clearly indicate the intent of federal and state lawmakers to restrict certain persons who are found guilty of committing felonious offenses from purchasing firearms. However, this prohibition is not absolute, since Article V, Section 12 of the Constitution of Virginia allows a person to have his civil rights restored through executive clemency. Additionally, Virginia's firearms transaction statutes expressly recognize that the court may be petitioned and may grant, for good cause shown, the right of person to purchase a firearm to be restored.

However, Virginia's laws pertaining to the adjudication of juveniles are laced with the predominant policy that juveniles are to be rehabilitated rather than penalized, in order to afford wayward juveniles the opportunity to mature into productive, law-abiding adult citizens. Juvenile offenders whose records follow them into adulthood are not granted this right. However, Virginia law already allows a juvenile's court record to remain active into adulthood to prohibit him from obtaining a driver's license for a certain time. To allow a juvenile's record of certain felonious offenses to follow him for a time into adulthood to prohibit the purchase of a firearm does not appear to be a significant shift in current policy.

Extensive criminal justice research, both at the national and state levels, indicates that the peak of criminality for most persons is around the age of 29. If the court record of a juvenile who is found guilty of certain felonious offenses remains active for ten years past the age of 19, and is reported to the Central Criminal Records Exchange, then this juvenile would not be allowed to purchase a firearm until the age of 29. Statistically, by age 29 persons are less inclined to become or remain criminally involved. In contrast, an adult who is convicted of a felony is prohibited forever from purchasing a firearm, unless he is able to have his civil rights restored through one of several available avenues of appeal or petition.

If the intent of House Joint Resolution 131 is to take firearms out of the hands of young adults who have committed felonious offenses as juveniles, then the recommendations that follow would achieve that intent. The compromise approach taken in these recommendations attempts to meet the intent of federal and state firearms transaction laws without abrogating entirely the statutory rights of juveniles to not be treated as adults.

**Recommendation 1:** Amend §19.2-390 to require the clerks of court of the Juvenile and Domestic Relations District Courts to forward to the Central Criminal Records Exchange the adjudications of those juveniles found guilty of the felonious offenses enumerated in §16.1-299. (NOTE: During the 1993

General Assembly session, HB 593 as introduced required that the records of 15-year-old or older juveniles who were adjudicated for felonious offenses would be forwarded to the Central Criminal Records Exchange. The bill was not introduced to include 13- or 14-year-old juveniles who were adjudicated for one of the enumerated offenses in §16.1-299.)

**Recommendation 2:** Create a new Code section requiring the Virginia State Police Central Criminal Records Exchange to lift automatically at age 29 the prohibition on the right to purchase firearms imposed on any person as a result of an adjudication for certain felonious acts as a juvenile.

**Recommendation 3:** Amend §16.2-299 to require local law enforcement agencies to collect fingerprints of juveniles within the purview of this statute and forward copies to the Juvenile and Domestic Relations Court of jurisdiction, to be forwarded with the disposition to the Central Criminal Records Exchange upon a finding of guilty by the court.

**Recommendation 4:** Amend §16.1-306, the juvenile record expungement law, to allow an exception to expungement, and keep active until age 29 the records of those juveniles found guilty of the felonious offenses enumerated in §16.1-299 for the purpose of prohibiting the purchase of a firearm.

**Recommendation 5:** Amend §§18.2-308.2 and 18.2-308.2:1 to include persons prohibited from purchasing firearms due to a juvenile record of a felony offense.

## **VIII. Acknowledgements**

The members extend special thanks to the following agencies and individuals for their cooperation and invaluable assistance to this study effort:

Delegate Howard Copeland of Norfolk

Virginia Commission on Youth

Senator R. Edward Houck, Chairman  
Delegate Jerrauld C. Jones, Vice Chairman  
Senator Robert L. Calhoun  
Delegate L. Karen Darner  
Delegate R. Creigh Deeds  
Delegate Arthur R. Giesen, Jr.  
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Ken Mittendorf, Director, Management Information Systems

U.S. Dept. of the Treasury/Bureau of Alcohol, Tobacco and Firearms

Daniel Phelps, Agent, Richmond Office

## **Appendix A**

1992 SESSION  
ENGROSSED

HP4218164

HOUSE JOINT RESOLUTION NO. 131

House Amendments in [ ] - February 9, 1992

Requesting the Crime Commission [ , in cooperation with the Youth Services Commission,  
] to study access to juvenile records for firearms purchases.

Patron—Copeland

Referred to the Committee on Rules

WHEREAS, in Virginia, court records concerning juvenile activity, which, if committed by an adult would be a crime, are confidential; and

WHEREAS, juvenile involvement with firearms appears to be increasing in Virginia and nationally; and

WHEREAS, certain convicted felons are prohibited from purchasing or transporting firearms in Virginia; and

WHEREAS, there is currently no mechanism for determining whether a prospective purchaser of a firearm committed an act while a juvenile, which, if committed while he was an adult, would preclude him from obtaining a firearm; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission [ is , in cooperation with the Youth Services Commission, be] requested to study methods for obtaining meaningful access to the juvenile record of an individual attempting to purchase a firearm in the Commonwealth.

The Commission shall complete its work in time to submit its recommendations to the Governor and the 1993 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Official Use By Clerks

Agreed to By  
The House of Delegates  
without amendment   
with amendment   
substitute   
substitute w/amdt

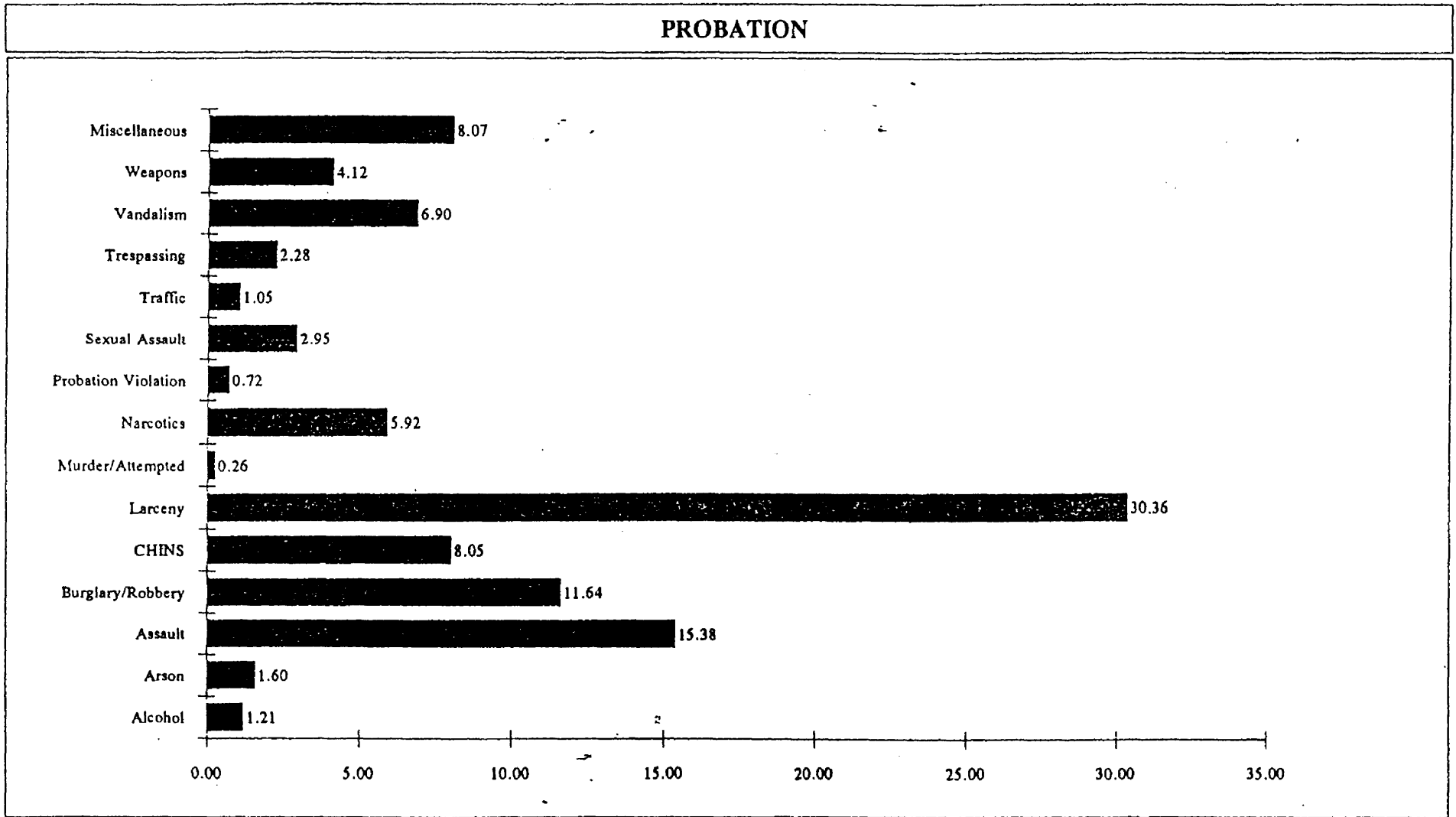
Agreed to By The Senate  
without amendment   
with amendment   
substitute   
substitute w/amdt

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **Appendix B**

**Virginia Department of Youth and Family Services**  
**FY 92 Offense Distributions (Percentages) Based on Monthly Averages \***



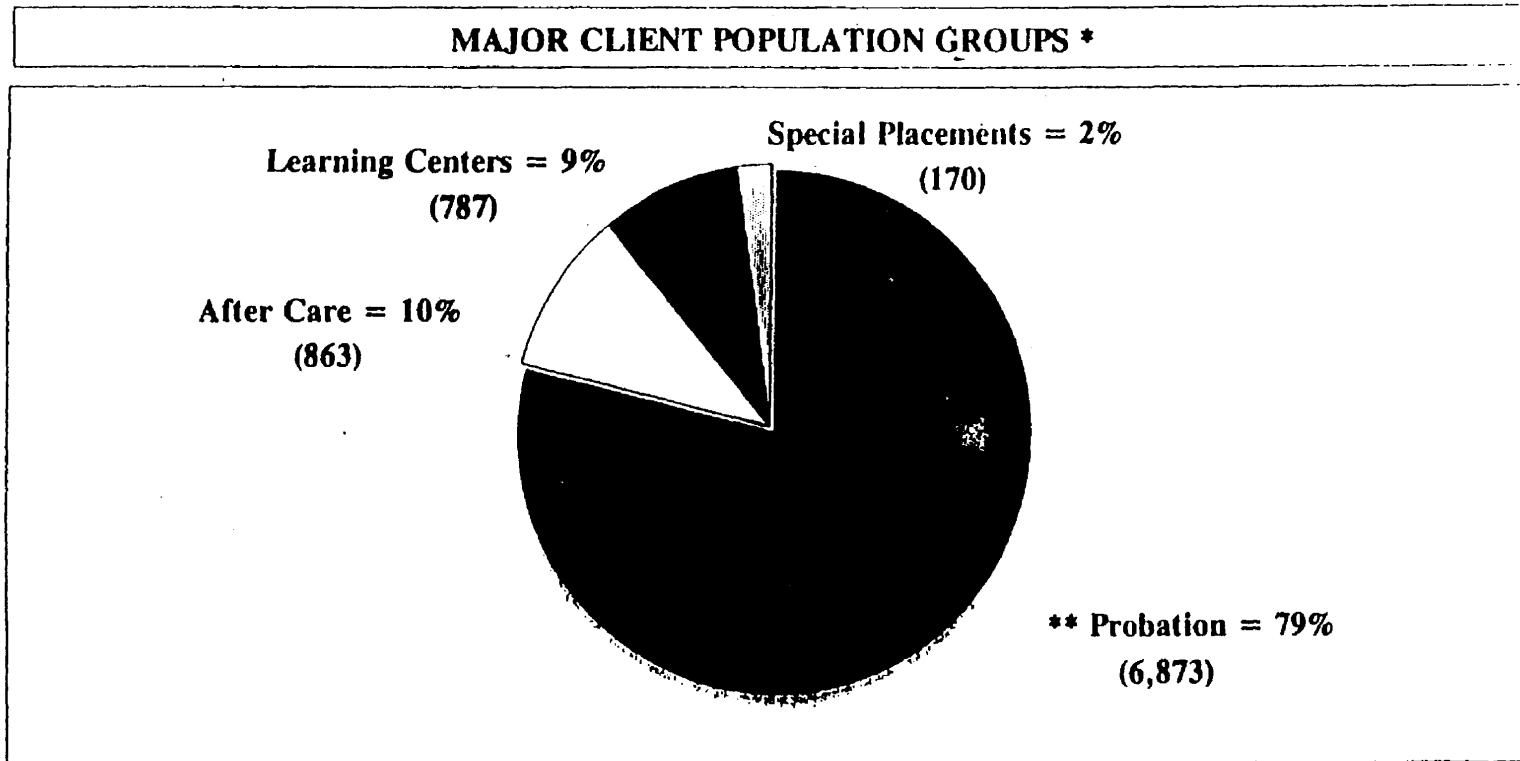
P-1

\* Figures are from preliminary data.

# Virginia Department of Youth and Family Services

DYFS - AUGUST 13, 1992

B-2



\* Client population data is based on monthly averages for FY 1992 (Total = 8,693).

\*\* Includes only active supervision cases.



# Virginia Department of Youth and Family Services

## Client Profile Data

### Youth Staffed in Fiscal Years 1989 - 1992 \*

<u>Offense Category</u>	<u>FY 1989</u>		<u>FY 1990</u>		<u>FY 1991</u>		<u>FY 1992</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
Murder	3	0.23	0	0.00	4	0.32	17	1.32
Manslaughter	2	0.15	0	0.00	0	0.00	2	0.16
Forcible Rape	10	0.75	8	0.57	14	1.11	24	1.87
Robbery	29	2.19	32	2.27	38	3.01	37	2.88
Aggravated Assault	25	1.89	38	2.69	32	2.54	43	3.35
Burglary	119	8.97	107	7.58	102	8.09	112	8.72
Larceny	247	18.63	215	15.23	179	14.20	173	13.47
Motor Vehicle Theft	106	7.99	114	8.07	111	8.80	88	6.85
Arson	16	1.21	8	0.57	2	0.16	3	0.23
Other Assaults	95	7.16	124	8.78	112	8.88	119	9.27
Forgery, Fraud & Counterfeiting	10	0.75	9	0.64	6	0.48	6	0.47
Stolen Property	11	0.83	15	1.06	25	1.98	10	0.78
Vandalism	67	5.05	60	4.25	51	4.04	54	4.21
Weapons	32	2.41	32	2.27	28	2.22	40	3.12
Sex Offenses	19	1.43	14	0.99	15	1.19	15	1.17
Narcotics: Sale	7	0.53	18	1.27	12	0.95	4	0.31
Narcotics: Possess	58	4.37	94	6.66	83	6.58	88	6.85
DUI	1	0.08	0	0.00	0	0.00	2	0.16
Disorderly Conduct	12	0.90	30	2.12	18	1.43	21	1.64
Traffic	6	0.45	6	0.42	3	0.24	9	0.70
Violation of Probation	396	29.86	432	30.59	384	30.45	381	29.67
Other **	55	4.15	56	3.97	42	3.33	36	2.80
<b>TOTAL</b>	<b>1,326</b>	<b>100.00</b>	<b>1,412</b>	<b>100.00</b>	<b>1,261</b>	<b>100.00</b>	<b>*** 1,284</b>	<b>100.00</b>

\* Information based on youth evaluated at the Reception and Diagnostic Center. (FY 92 figures from preliminary data.)

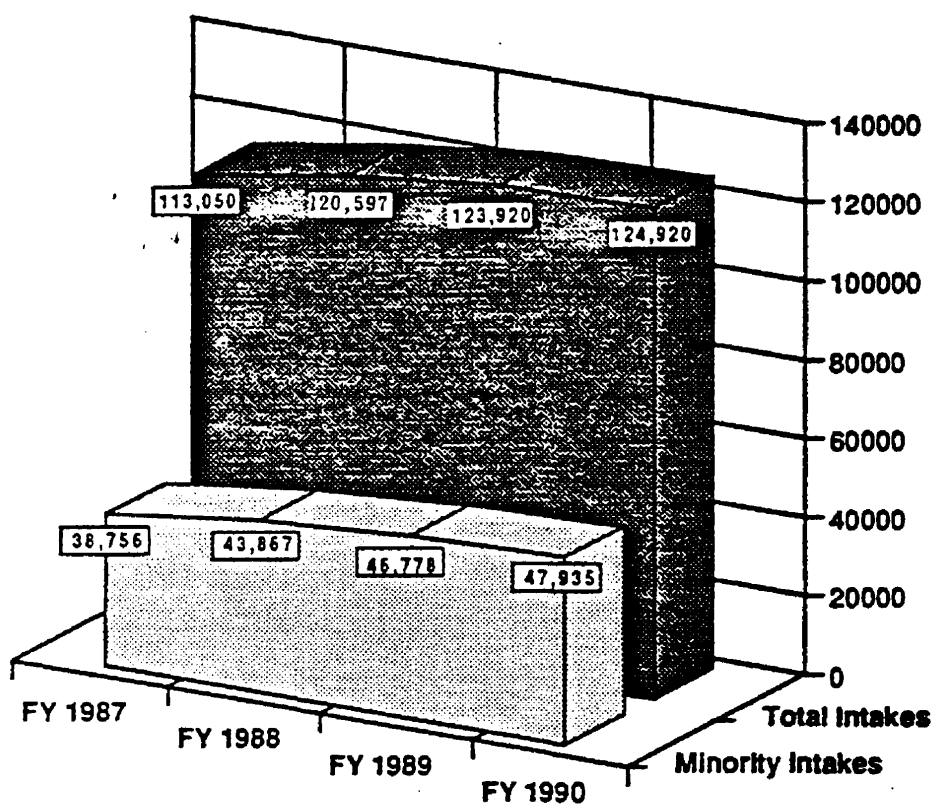
\*\* Other includes Contempt of Court, Resisting Arrest, False Information and Failure to Appear.

\*\*\* 30 cases out of 1314 are missing offense data.

Illustration 1

# Statewide Growth in Court Intakes

*Fiscal Years 1987 - 1990*



## **Appendix C**

FEDERAL FIREARMS LAWS

TITLE I OF THE GUN CONTROL ACT OF 1968

As Amended By:

- Public Law No. 99-308, 100 Stat. 449, Approved May 19, 1986;
- Public Law No. 99-360, 100 Stat. 766, Approved July 8, 1986;
- Public Law No. 99-408, 100 Stat. 920, Approved August 28, 1986;
- and,
- Public Law No. 99-570, 100 Stat. 3207, Approved October 27, 1986.

[References to the Internal Revenue Code of 1954 within this Act or amendments thereto refer to the Internal Revenue Code of 1986. (Sec 2, Public Law 99-514, 100 Stat. 2085, October 22, 1986.)]

Public Law 90-618

AN ACT To amend title 18, United States Code, to provide for better control of the interstate traffic in firearms.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Gun Control Act of 1968".

TITLE I—STATE FIREARMS CONTROL ASSISTANCE

PURPOSE

Sec. 101. The Congress hereby declares that the purpose of this title is to provide support to Federal, State, and local law enforcement officials in their fight against crime and violence, and it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity, and that this title is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes, or provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this title.

Public Law 99-308

An Act to amend chapter 44 (relating to firearms) of title 18, United States Code, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND CONGRESSIONAL FINDINGS.

(a) SHORT TITLE.- This Act may be cited as the "Firearms Owners' Protection Act".

CHAPTER 44—FIREARMS

Sec.

- 921. Definitions.
- 922. Unlawful acts.
- 923. Licensing.
- 924. Penalties.
- 925. Exceptions: Relief from disabilities.
- 926. Rules and regulations.
- 926A. Interstate transportation of firearms.
- 927. Effect on State law.
- 928. Separability clause.
- 929. Use of restricted ammunition.

§ 921. Definitions

(a) As used in this chapter—

(1) The term "person" and the term "whoever" include any individual, corporation, company, association, firm, partnership, society, or joint stock company.

(2) The term "interstate or foreign commerce" includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

(3) The term "firearm" means

(A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;

(B) the frame or receiver of any such weapon;

(C) any firearm muffler or firearm silencer; or

(D) any destructive device. Such term does not include an antique firearm.

(4) The term "destructive device" means—

(A) any explosive, incendiary, or poison gas—

(i) bomb,

(ii) grenade,

(iii) rocket having a propellant charge of more than four ounces,

(iv) missile having an explosive or incendiary charge of more than one-quarter ounce,

(v) mine, or

(vi) device similar to any of the devices described in the preceding clauses;

(B) any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.

(5) The term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth

bore either a number of ball shot or a single projectile for each single pull of the trigger.

(6) The term "short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than twenty-six inches.

(7) The term "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(8) The term "short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.

(9) The term "importer" means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term "licensed importer" means any such person licensed under the provisions of this chapter.

(10) The term "manufacturer" means any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution; and the term "licensed manufacturer" means any such person licensed under the provisions of this chapter.

(11) The term "dealer" means

(A) any person engaged in the business of selling firearms at wholesale or retail,

(B) any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or

(C) any person who is a pawnbroker.

The term "licensed dealer" means any dealer who is licensed under the provisions of this chapter.

(12) The term "pawnbroker" means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the payment or repayment of money.

(13) The term "collector" means any person who acquires, holds, or disposes of firearms as curios or relics, as the Secretary shall by regulation define, and the term "licensed collector" means any such person licensed under the provisions of this chapter.

(14) The term "indictment" includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

(15) The term "fugitive from justice" means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

(16) The term "antique firearm" means—

(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

(B) any replica of any firearm described in subparagraph (A) if such replica—

(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

(17)(A) The term "ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

(B) The term "armor piercing ammunition" means a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. Such term does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.

(18) The term "Secretary" or "Secretary of the Treasury" means the Secretary of the Treasury or his delegate.

(19) The term "published ordinance" means a published law of any political subdivision of a State which the Secretary determines to be relevant to the enforcement of this chapter and which is contained on a list compiled by the Secretary, which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this chapter.

(20) The term "crime punishable by imprisonment for a term exceeding one year" does not include—

(A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or

(B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a

person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(21) The term "engaged in the business" means—

(A) As applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured;

(B) as applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured;

(C) as applied to a dealer in firearms, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;

(D) as applied to a dealer in firearms, as defined in section 921(a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit, but such term shall not include a person who makes occasional repairs of firearms, or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms;

(E) as applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported; and

(F) as applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

(22) The term "with the principal objective of livelihood and profit" means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection.

Provided, That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposi-

tion of firearms for criminal purposes or terrorism.

For purposes of this paragraph, the term "terrorism" means activity, directed against United States persons, which—

(A) is committed by an individual who is not a national or permanent resident alien of the United States;

(B) involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and

(C) is intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping.

(23) The term "machinegun" has the meaning given such term in section 5845(b) of the National Firearms Act (26 U.S.C. 5845(b)).

(24) The terms "firearm silencer" and "firearm muffler" means any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

(b) For the purposes of this chapter, a member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located.

(Added Pub.L. 90-351, Title IV, § 902, June 19, 1968, 82 Stat. 226, and amendment Pub.L. 90-618, Title I, § 102, Oct. 22, 1968, 82 Stat. 1214; Pub.L. 93-639, § 102, Jan. 4, 1975, 88 Stat. 2217; Pub.L. 99-308, § 101, May 19, 1986, 100 Stat. 449; Pub.L. 99-360, § 1(b), July 8, 1986, 100 Stat. 766; Pub.L. 99-408, § 1, Aug. 28, 1986, 100 Stat. 920.)

## § 922. Unlawful acts

(a) It shall be unlawful—

(1) for any person—

(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or

(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;

(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that—

(A) this paragraph and subsection (b)(3) shall not be held to preclude a licensed importer, licensed manufacturer,

licensed dealer, or licensed collector from returning a firearm or replacement firearm of the same kind and type to a person from whom it was received; and this paragraph shall not be held to preclude an individual from mailing a firearm owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector;

(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of this title, is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty; and

(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States;

(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph

(A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State,

(B) shall not apply to the transportation or receipt of a firearm obtained in conformity with subsection (b)(3) of this section, and

(C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;

(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary consistent with public safety and necessity;

(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe resides in any State other than that in which the trans-

feror resides (or other than that in which its place of business is located if the transferor is a corporation or other business entity); except that this paragraph shall not apply to

(A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and

(B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter;

(7) for any person to manufacture or import armor piercing ammunition, except that this paragraph shall not apply to—

(A) the manufacture or importation of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof;

(B) the manufacture of such ammunition for the purpose of exportation; and

(C) any manufacture or importation for the purposes of testing or experimentation authorized by the Secretary; and

(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, except that this paragraph shall not apply to—

(A) the sale or delivery by a manufacturer or importer of such ammunition for use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof;

(B) the sale or delivery by a manufacturer or importer of such ammunition for the purpose of exportation;

(C) the sale or delivery by a manufacturer or importer of such ammunition for the purposes of testing or experimenting authorized by the Secretary.

(b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver—

(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age;

(2) any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;

(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph

(A) shall not apply to the sale or delivery of any rifle or shotgun to a resident of a State other than a State in which the licensee's place of business is located if the transferee meets in person with the transferor to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States (and any licensed manufacturer, importer or dealer shall be presumed, for purposes of this subparagraph, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States), and

(B) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(4) to any person any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary consistent with public safety and necessity; and

(5) any firearm or armor-piercing ammunition to any person unless the licensee notes in his records, required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph (4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Secretary.

(c) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if—

(1) the transferee submits to the transferor a sworn statement in the following form:

"Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or

that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are

Signature \_\_\_\_\_  
Date \_\_\_\_\_

and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance:

(2) the transferor has, prior to the shipment or delivery of the firearm, forwarded by registered or certified mail (return receipt requested) a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Secretary, to the chief law enforcement officer of the transferee's place of residence, and has received a return receipt evidencing delivery of the statement or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; and

(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 923(g).

(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) has been adjudicated as a mental defective or has been committed to any mental institution;

(5) who, being an alien, is illegally or unlawfully in the United States;

(6) who has been discharged from the Armed Forces under dishonorable conditions; or

(7) who, having been a citizen of the United States, has renounced his citizenship.

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.

(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter.

(f) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of the provisions of this chapter.

(g) It shall be unlawful for any person—

(1) who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) [who] is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien, is illegally or unlawfully in the United States;

(6) who has been discharged from the Armed Forces under dishonorable conditions; or

(7) who, having been a citizen of the United States, has renounced his citizenship; to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment—

(1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or

(2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(j) It shall be unlawful for any person to receive, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, or which constitutes, interstate or foreign commerce, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered.

(l) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.

(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(o)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

(2) This subsection does not apply with respect to—

(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or

(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.

(Added Pub. L. 90-351, Title IV, § 902, June 19, 1968, 82 Stat. 228, and amended Pub. L. 90-618, Title I, § 102, Oct. 22, 1968, 82 Stat. 1216; Pub. L. 97-377, Title I, § 165(a), Dec. 21, 1982, 96 Stat. 1923; Pub. L. 99-300, § 102, May 19, 1986.



Virginia State Law  
Code of VA

**TITLE 15.1. COUNTIES, CITIES, AND TOWNS.**

**15.1-29.15. Control of firearms.** — From and after January 1, 1987, no county, city or town shall adopt any ordinance to govern the purchase, possession, transfer, ownership, carrying or transporting of firearms, ammunition, or components or combination thereof other than those expressly authorized by statute.

**15.1-523. Pistols and revolvers: license tax on dealers.** — The governing body of any county may impose a license tax of not more than twenty-five dollars on persons engaged in the business of selling pistols and revolvers to the public.

**15.1-524. Same; reports of sales.** — The governing body of any county may require sellers of pistols and revolvers to furnish the clerk of the circuit court of the county, within ten days after sale of any such weapon, with the name and address of the purchaser, the date of purchase, and the number, make and calibre of the weapon sold. The clerk shall keep a record of the reports.

**15.1-525. Same; in certain counties.** — Chapter 297 of the Acts of 1944, approved March twenty-nine, nineteen hundred forty-four requiring permits to sell or purchase pistols or revolvers in any county having a density of population of more than one thousand a square mile, is continued in effect.

**TITLE 18.2. CRIMES AND OFFENSES GENERALLY.**

**18.2-85. Manufacture, possession, use, etc., of fire bombs or explosive materials or devices.** —

(a)(i) For the purpose of this section, "fire bomb" means a container containing gasoline, kerosene, fuel oil, derivative thereof, or other flammable material, having a wick or other substance or device which, if set or ignited, is capable of igniting such gasoline, kerosene, fuel oil, derivative thereof or other flammable material; provided that no similar device commercially manufactured and used solely for the purpose of illumination shall be deemed to be a fire bomb.

(ii) For the purpose of this section, "explosive material" means any chemical compound, mechanical mixture or device that is commonly used or can be used for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packaging that an ignition by fire, by friction, by concussion, by percussion, by detonator or by any part of the compound or mixture may cause a sudden generation of highly heated gases. These materials include, but are not limited to, gunpowder, powders for blasting, high explosives, blasting materials, fuses (other than electric circuit breakers), detonators, and other detonating agents and smokeless powder.

(iii) For the purpose of this section, "device" means any instrument, apparatus or contrivance, including its component parts, that is capable of producing an explosion.

(b) It shall be unlawful for any person to possess materials with which fire bombs or

explosive materials or devices can be made with the intent to manufacture fire bombs or explosive materials or devices.

(c) It shall be unlawful to manufacture, transport, distribute, possess or use a fire bomb or explosive materials or devices.

(d) Violators of this section shall be guilty of a Class 5 felony.

(e) Nothing in this section shall prohibit the authorized manufacture, transportation, distribution, use or possession of any material, substance, or device by a member of the armed forces of the United States, fire fighters or law-enforcement officers; nor shall it prohibit the manufacture, transportation, distribution, use or possession of any material, substance or device to be used solely for scientific research, educational purposes or for any lawful purpose.

**18.2-284. Selling or giving toy firearms.** — No person shall sell, barter, exchange, furnish, or dispose of by purchase, gift or in any other manner any toy gun, pistol, rifle or other toy firearm, if the same shall, by means of powder or other explosive, discharge blank or ball charges. Any person violating the provisions of this section shall be guilty of a Class 4 misdemeanor. Each sale of any of the articles hereinbefore specified to any person shall constitute a separate offense. Nothing in this section shall be construed as preventing the sale of what are commonly known as cap pistols.

**18.2-288. Definitions.** When used in this article: [Article 5]

(1) "Machine gun" applies to any weapon which shoots or is designed to shoot automatically more than one shot, without manual reloading, by a single function of the trigger.

(2) "Crime of violence" applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, kidnapping, rape, mayhem, assault with intent to maim, disable, disfigure or kill, robbery, burglary, housebreaking, breaking and entering and larceny.

(3) "Person" applies to and includes firm, partnership, association or corporation.

**18.2-289. Use of machine gun for crime of violence.** Possession or use of a machine gun in the perpetration or attempted perpetration of a crime of violence is hereby declared to be a Class 2 felony.

**18.2-290. Use of machine gun for aggressive purpose.** — Unlawful possession or use of a machine gun for an offensive or aggressive purpose is hereby declared to be a Class 4 felony.

**18.2-291. What constitutes aggressive purpose.** Possession or use of a machine gun shall be presumed to be for an offensive or aggressive purpose:

(1) When the machine gun is on premises not owned or rented for bona fide permanent residence or business occupancy by the person in whose possession the machine gun may be found;

(2) When the machine gun is in the possession of, or used by, a person who has been convicted of a crime of violence in any court of record, state or federal, of the United States of America, its territories or insular possessions;

(3) When the machine gun has not been registered as required in §18.2-295; or

(4) When empty or loaded shells which have been or are susceptible of use in the machine gun are found in the immediate vicinity thereof.

**18.2-292. Presence prima facie evidence of use.** The presence of a machine gun in any room, boat or vehicle shall be prima facie evidence of the possession or use of the machine gun by each person occupying the room, boat, or vehicle where the weapon is found.

**18.2-293. What article does not apply to.** The provisions of this article shall not be applicable to:

(1) The manufacture for, and sale of, machine guns to the armed forces or law enforcement officers of the United States or of any state or of any political subdivision thereof, or the transportation required for that purpose; and

(2) Machine guns and automatic arms issued to the national guard of Virginia by the United States or such arms used by the United States army or navy or in the hands of troops of the national guards of other states or territories of the United States passing through Virginia, or such arms as may be provided for the officers of the State Police or officers of penal institutions.

**18.2-293.1. What article does not prohibit.** Nothing contained in this article shall prohibit or interfere with:

(1) The possession of a machine gun for scientific purposes, or the possession of machine gun not usable as a weapon; possessed as a curiosity, ornament, keepsake; and

(2) The possession of a machine gun for a purpose manifestly not aggressive or offensive.

Provided, however, that possession of such machine guns shall be subject to the provisions of §18.2-295.

**18.2-294. Manufacturer's and dealer's register; inspection of stock.** — Every manufacturer or dealer shall keep a register of all machine guns manufactured or handled by him. This register shall show the model and serial number, date of manufacture, sale, loan, gift, delivery or receipt of every machine gun, the name, address, and occupation of the person to whom the machine gun was sold, loaned, given or delivered, or from whom it was received. Upon demand every manufacturer or dealer shall permit any marshal, sheriff or police officer to inspect his entire stock of machine guns, parts, and supplies therefor, and shall produce the register, herein required, for inspection. A violation of any provisions of this section shall be punishable as a Class 3 misdemeanor.

**18.2-295. Registration of machine guns.** Every machine gun in this state shall be registered with the Department of State Police within twenty-four hours after its acquisition or, in the case of semi-automatic weapons which are converted, modified or otherwise altered to become machine guns, within twenty-four hours of the conversion, modification or alteration. Blanks for registration shall be prepared by the Superintendent of State Police, and furnished upon application.

To comply with this section the application as filed shall be notarized and shall show the model and serial number of the

gun, the name, address and occupation of the person in possession, and from whom and the purpose for which, the gun was acquired or altered. The Superintendent of State Police shall upon registration required in this section forthwith furnish the registrant with a certificate of registration, which shall be valid as long as the registrant remains the same. Certificates of registration shall be retained by registrant and produced by him upon demand by any peace officer. Failure to keep or produce such certificate for inspection shall be a Class 3 misdemeanor, and any peace officer, may without warrant, seize the machine gun and apply for its confiscation as provided in 18.2-296. Upon transferring a registered machine gun, the transferor shall forthwith notify the Superintendent in writing, setting forth the date of transfer and name and address of the transferee. Failure to give the required notification shall constitute a Class 3 misdemeanor. Registration data shall not be subject to inspection by the public. . . .

**18.2-297. How article construed.** — This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

**18.2-298. Short title of article.** — This article [Article 5] may be cited as the "Uniform Machine Gun Act."

**18.2-299. Definitions.** When used in this article: [Article 6]

(1) "Sawed-off shotgun" applies to any weapon, loaded or unloaded, originally designed as shoulder weapon, utilizing a self-contained cartridge from which a number of ball shot pellets or projectiles may be fired simultaneously from a smooth or rifled bore by a single function of the firing device and which has a barrel length of less than eighteen inches for smooth bore weapons and sixteen inches for rifled weapons. Weapons of less than .225 caliber shall not be included.

(2) "Crime of violence" applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, kidnapping, rape, mayhem, assault with intent to maim, disable, disfigure or kill, robbery, burglary, housebreaking, breaking and entering and larceny.

(3) "Person" applies to and includes firm, partnership, association or corporation.

**18.2-300. Possession or use of "sawed-off" shotgun.** —

A. Possession or use of a "sawed-off" shotgun in the perpetration or attempted perpetration of a crime of violence is a Class 2 felony.

B. Possession or use of a "sawed-off" shotgun for any other purpose, except as permitted by Sec. 18.2-303, is a Class 4 felony.

**18.2-303. What article does not apply to.** The provisions of this article shall not be applicable to:

(1) The manufacture for, and sale of, "sawed-off" shotguns to the armed forces or law-enforcement officers of the United States or of any state of any political subdivision thereof, or the transportation required for that purpose; and

(2) "Sawed-off" shotguns and automatic arms issued to the national guard of Virginia by the United States or such arms used by the United States army or navy or in the hands of troops of the national guards of other states or territories of the United States passing through Virginia, or such arms as may be provided for the officers of

the State Police or officers of penal institutions.

**18.2-303.1 What article does not prohibit.** Nothing contained in this article shall prohibit or interfere with the possession of a "sawed-off" shotgun for scientific purposes, or the possession of a "sawed-off" shotgun not usable as a firing weapon and possessed as a curiosity, ornament, or keepsake.

**18.2-304. Manufacturer's and dealer's register; inspection of stock.** — Every manufacturer or dealer shall keep a register of all "sawed-off" shotguns manufactured or handled by him. This register shall show the model and serial number, date of manufacture, sale, loan, gift, delivery or receipt of every "sawed-off" shotgun, the name, address, and occupation of the person to whom the "sawed-off" shotgun was sold, loaned, given or delivered, or from whom it was received. Upon demand every manufacturer or dealer shall permit any marshal, sheriff or police officer to inspect his entire stock of "sawed-off" shotguns, and "sawed-off" shotgun barrels, and shall produce the register, herein required, for inspection. A violation of any provision of this section shall be punishable as a Class 3 misdemeanor. . . .

**18.2-307. Short title of article.** — This article [Article 6] may be cited as the "Sawed-Off Shotgun Act." . . .

**18.2-308.2. Possession or transportation of handguns or concealed weapons by certain convicted felons; penalties** . . .

A. It shall be unlawful for any person who has been convicted of a Class 1, 2, 3 or 4 felony, rape, robbery, a felony violation of §§ 18.2-248, 18.2-248.1 or 18.2-256 for which the minimum prescribed punishment is a term of imprisonment of not less than five years, or a felony involving the use of a firearm under the laws of this Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, to knowingly and intentionally possess or transport any pistol, revolver or other handgun, or to knowingly and intentionally carry about his person, hid from common observation, any weapon described in §18.2-308A [i.e., any pistol, revolver, or other weapon designed or intended to propel a missile of any kind]. A violation of this section shall be punishable as a Class 6 felony. Any pistol, revolver or other handgun or any concealed weapon possessed, transported or carried in violation of this section shall be forfeited to the Commonwealth and disposed of . . .

B. The provisions of subsection A shall not apply to

(i) any person who possesses a firearm or other weapon while carrying out his duties as a member of the armed forces of the United States or of the National Guard of Virginia or of any other state,

(ii) any law-enforcement officer in the performance of his duties, or

(iii) any person who has been pardoned or whose political disabilities have been removed pursuant to Article V, Section 12 of the Constitution of Virginia provided the Governor, in the document granting the pardon or removing the person's political disabilities, may expressly place conditions upon the reinstatement of the person's right to ship, transport, possess or receive firearms. . . .

**18.2-308.2.1. Prohibiting the selling, etc., of firearms to certain felons.** — Any person who sells, barter, gives or furnishes,

or has in his possession or under his control with the intent of selling, bartering, giving or furnishing, any firearm to any person he knows to have been convicted of a Class 1, 2, 3 or 4 felony, rape, robbery, a felony violation of §§ 18.2-248, 18.2-248.1 or 18.2-256 for which the minimum prescribed punishment is a term of imprisonment of not less than five years or a felony involving the use of a firearm shall be guilty of a Class 1 misdemeanor. However, this prohibition shall not be applicable when such convicted felon has . . .

(ii) been pardoned or had his political disabilities removed in accordance with § 18.2-308.2.B . . .

Any firearm sold, bartered, given or furnished or possessed or controlled with intent to do so in violation of this section shall be forfeited to the Commonwealth and disposed of . . .

#### COMPLER'S NOTES:

1. Sections 18.2-308.2:2 and 52-4.4 were approved by the Governor April 5, 1989 and became effective November 1.

2. Sections 54.1-4200 through 54.1-4202 were approved by the Governor March 22, 1989 and became effective July 1.

. . . . .

**18.2-308.2:2. Criminal history record information check required for the transfer of certain firearms.** —

A. Any person purchasing from a dealer a firearm as herein defined [in subsection G] shall consent in writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal history record information.

B.1. No dealer shall sell, rent, trade or transfer from his inventory any such firearm [defined in subsection G, below] to any other person who is a resident of Virginia until he has:

(i) obtained written consent as specified in subsection A, and provided the Department of State Police with the name, birth date, gender, race, and social security and/or any other identification number and

(ii) requested and received criminal history record information by a telephone call to the State Police.

Upon receipt of the request for a criminal history record information check, the State Police shall:

(i) review its criminal history record information to determine if the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law,

(ii) inform the dealer if its record indicates that the buyer or transferee is so prohibited, and

(iii) provide the dealer with a unique reference number for that inquiry.

2. The State Police shall provide its response to the requesting dealer during the dealer's call, or by return call without delay.

If the criminal history record information check indicates the prospective purchaser or transferee has a criminal record, the State Police shall have until the end of the dealer's next business day to advise the dealer if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law. If not so advised by the end of the dealer's next business day, a dealer who has fulfilled the requirements of subsection B1 of this subsection may immediately complete the sale or transfer and shall not

be deemed in violation of this section with respect to such sale or transfer.

In case of electronic failure or other circumstances beyond the control of the State Police, the dealer shall be advised immediately of the reason for such delay and be given an estimate of the length of such delay. After such notification, the State Police shall, as soon as possible but in no event later than the end of the dealer's next business day, inform the requesting dealer if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law.

A dealer who fulfills the requirements of subsection B1 of this subsection and is told by the State Police that a response will not be available by the end of the dealer's next business day may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

3. Except as required by subsection D of § 9-912, the State Police shall not maintain records longer than thirty days from any dealer's request for a criminal history record information check pertaining to a buyer or transferee who is not found to be prohibited from possessing and transporting a firearm under state or federal law. However, the log on requests made may be maintained for a period of twelve months.

4. Within twenty-four hours following the sale or transfer of any firearm, the dealer shall mail or deliver the written consent form required by subsection A to the Department of State Police. The State Police shall immediately initiate a search of all available criminal history record information to determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the search discloses information indicating that the buyer or transferee is so prohibited from possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer in the jurisdiction where the sale or transfer occurred and the dealer without delay.

C. No dealer shall sell, rent, trade or transfer from his inventory any firearm to any person who is not a resident of Virginia unless he has first obtained from the Department of State Police a report indicating that a search of all available criminal history record information has not disclosed that the person is prohibited from possessing or transporting a firearm under state or federal law. The dealer shall obtain the required report by mailing or delivering the written consent form required under subsection A to the State Police within twenty-four hours of its execution. If the dealer has complied with the provisions of this subsection and has not received the required report from the State Police within ten days from the date the written consent form was mailed to the Department of State Police, he shall not be deemed in violation of this section for thereafter completing the sale or transfer.

D. Nothing herein shall prevent a resident of this Commonwealth, at his option, from buying, renting or receiving a firearm from a dealer by obtaining a criminal history record information check through the dealer as provided in subsection C.

E. If any buyer or transferee is denied the right to purchase a firearm under this section, he may exercise his right of access to and review and correction of criminal history information under § 9-192 or institute a civil action as provided in § 9-194, provided any such action is initiated within thirty days of such denial.

F. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized in this section shall be guilty of a Class 2 misdemeanor.

G. For purposes of this section, "antique handgun or pistol" means any handgun or pistol, including those with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898 and any replica or such a handgun or pistol if such replica:

(i) is not designed or redesigned for using rimfire or conventional center-fire fixed ammunition, or

(ii) uses rimfire or conventional center-fire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

"Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. § 921 et seq.

"Firearm" means any:

(i) handgun or pistol having a barrel length of less than five inches which expels a projectile by action of an explosion, or

(ii) semi-automatic center-fire rifle or pistol which expels a projectile by action of an explosion and is provided by the manufacturer with a magazine which will hold more than twenty rounds of ammunition or designed by the manufacturer to accommodate a silencer or bayonet or equipped with a bipod, flash suppressor or folding stock.

H. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity, confidentiality and security of all records and data provided by the Department of State Police pursuant to this section.

I. The provisions of this section shall not apply to:

(i) transactions between persons who are licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. § 921 et seq.,

(ii) purchases by or sales to any law-enforcement officer or agent of the United States, Commonwealth or any local government,

(iii) antique handguns or pistols, or

(iv) transactions in any county, city or town that has a local ordinance adopted prior to January 1, 1987, governing the purchase, possession, transfer, ownership, conveyance or transportation of firearms which is more stringent than this section.

J. All licensed firearms dealers shall collect a fee of two dollars for every transaction for which a criminal history record information check is required pursuant to this section, except that a fee of five dollars shall be collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the Treasurer of the Commonwealth on the twentieth day of the month following the sale for deposit in a special fund for use by the State Police to offset the cost of conducting criminal history record information checks under the provisions of this section.

K. Any person willfully and intentionally making a materially false statement on the consent form required in subsection B or C shall be guilty of a Class 5 felony.

L. Except as provided in § 18.2-308.2:1, any dealer who willfully and intentionally sells, rents, trades or transfers a firearm in violation of this section shall be guilty of a Class 1 misdemeanor.

52-4.4. Duties relating to criminal history record information checks required by licensed firearms dealers. — The Superintendent of the Department of State Police shall establish a toll-free telephone number which shall be operational seven days a week between the hours of 8:00 a.m. and 10:00 p.m. for purposes of responding to inquiries from licensed firearms dealers, as such term is defined in 18 U.S.C. § 921 et seq., pursuant to the provisions of § 18.2-308.2:2. The Department shall hire and train such personnel as are necessary to administer the provisions of this section.

#### TITLE 54.1, CHAPTER 42. DEALERS IN FIREARMS

54.1-4200. Definitions. — For the purpose of this chapter, unless the context requires a different meaning:

"Dealer in firearms" means:

(i) Any person, firm, partnership, or corporation engaged in the business of selling firearms at retail, or

(ii) Any person, firm, partnership, or corporation engaged in the business of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or

(iii) Any person firm, partnership, or corporation that is a pawnbroker.

"Engaged in business" means as applied to a dealer in firearms a person, firm, partnership, or corporation that devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through repetitive purchase or resale of firearms, but such term shall not involve a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms.

54.1-4201. Records to be kept: inspection of records. —

A. Every dealer in firearms shall keep at his place of business, for not less than a period of ten years, an accurate and legible record of each firearm sale involving handguns with barrel lengths less than five inches, semiautomatic center-fire rifle or pistol which expels a projectile by action of an explosion and is provided by the manufacturer with a magazine which will hold more than twenty rounds of ammunition or is designed by the manufacturer to accommodate a silencer or bayonet or equipped with a tripod, flash suppressor or folding stock. These records shall set forth the following:

1. A complete description of each firearm sold. The description shall include brand name, model name and number, caliber, barrel length and complete serial number;

2. The date;

3. The complete name, address, age, sex, race, date of birth and driver's license number or social security number of the purchaser;

4. The signature of the purchaser; and

5. The name of the individual or employee making the sale.

B. The information contained in subdivisions 1 through 5 of subsection A shall be recorded on a form that is a facsimile of the firearms transaction record Form 4473 of the Bureau of Alcohol, Tobacco and Firearms of the U.S. Department of the Treasury or a form prepared by the Virginia State Police which gathers only the identical information required by Form 4473.

C. Every dealer shall admit to his premises during regular business hours the chief

law-enforcement officer in the course of an ongoing criminal investigation, or his designee, of the jurisdiction in which the dealer is located, or any law-enforcement officer to examine all records required by this section, and to examine and copy any photograph contained in such records.

54.1-4202. Penalties for violation of the provisions of this chapter. — Any person convicted of a first offense for willfully violating the provisions of this chapter shall be guilty of a Class 2 misdemeanor. Any person convicted of a second or subsequent offense under the provisions of this chapter shall be guilty of a Class 1 misdemeanor.

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COMPILER'S NOTES:

Information From the Virginia State Police

1. It does not matter whether a Federal firearms licensee is licensed as a dealer, manufacturer, importer, or collector.

Any person who is engaged in business as a Federal firearms licensee in Virginia and who, during his or her business activity, proposes to sell or deliver to an unlicensed person any handgun, pistol or semiautomatic rifle or pistol which falls within the definition of "firearm" in subsection G of § 18.2-308.2:2, must follow the criminal history record information check requirements of subsections B or C, collect the fee set out in subsection J, and maintain the Virginia Commonwealth record required by § 54.1-4201.

2. Any licensee using the Virginia Firearms Transaction System must be registered with the Department of State Police and have received a Dealer's Identification Number (DIN), which is to be used for each transaction.

3. The following telephone number is intended for actual firearms transactions and to obtain registration packages, only: 1-804-674-2292.

4. The following address may be used for mailing the written consent form required by subsection C of § 18.2-308.2:2, and for inquiries or information:

Department of State Police  
Firearms Transaction Office  
P.O. Box C-32124  
Richmond, Virginia 23261

18.2-308.3. Use or attempted use of restricted ammunition in commission or attempted commission of certain crimes of violence prohibited; penalty. —

A. When used in this section: "Restricted firearm ammunition" applies to bullets, projectiles or other types of ammunition that are:

(i) coated with or contain, in whole or in part, polytetrafluoroethylene or similar product,

(ii) commonly known as "KTW" bullets or "French Arcanes," or

(iii) any cartridges containing bullets coated with a plastic substance with other than lead or lead alloy cores, jacketed bullets with other than lead or lead alloy cores, or cartridges of which the bullet itself is wholly comprised of a metal or metal alloy other than lead. This definition shall not be construed to include shotgun shells or solid plastic bullets.

B. It shall be unlawful for any person to knowingly use or attempt to use restricted firearm ammunition while committing or attempting to commit a crime. Violation of this section shall constitute a separate and distinct felony and any person found guilty thereof shall be guilty of a Class 5 felony.

18.2-308.4. Possession of firearms while in possession of certain controlled substances. —

A. Any person unlawfully in possession of

(i) a controlled substance classified in Schedule I of the Drug Control Act, Chapter 34 of Title 54.1, or

(ii) coca leaves and any salt, compound, derivative or preparation thereof as described in Schedule II of the Drug Control Act, Chapter 34 ( 54.1-3448) who simultaneously with knowledge and intent possess any firearm shall be guilty of a Class 6 felony.

B. Any firearm possessed in violation of this section shall be forfeited to the Commonwealth . . .

18.2-309. Furnishing certain weapons to minors. — If any person [shall] sell, barter, give or furnish, or cause to be sold, bartered, given or furnished to any minor a pistol, . . . having good cause to believe him to be a minor, such person shall be guilty of a Class 4 misdemeanor. . . .

18.2-311.1. Removing, altering, etc., serial number or other identification on firearm. — Any person, firm, association or corporation who or which intentionally removes, defaces, alters, changes, destroys or obliterates in any manner or way or who or which causes to be removed, defaced, altered, changed, destroyed or obliterated in any manner or way the name of the maker, model, manufacturer's or serial number, or any other mark or identification on any pistol, shotgun, rifle, machine gun or any other firearm shall be guilty of a Class 1 misdemeanor.

COMPILER'S NOTES:

1. The following jurisdictions prohibit the sale, possession, or receipt of any type of firearm to or by any of a particular class of persons (e.g., convicted felons, fugitives from justice, illegal aliens, mental incompetents, unlawful drug users and addicts) [An asterisk (\*) next to a name indicates another listing]

Alexandria*	Herndon*
Fairfax*	Norfolk*
Fairfax County*	Southampton County*
Falls Church*	Suffolk*
	Virginia Beach*

2. The following jurisdictions restrict the sale, possession, or receipt of firearms, such as destructive devices [i.e., (a) grenades (or other explosive or incendiary devices), or (b) fully automatic weapons, or (c) short-barreled rifles, or (d) short-barreled shotguns, or (e) silencers, or (f) other (specified)] [An asterisk (\*) next to a name indicates another listing]

Falls Church\* (b),(c)

3. The following jurisdictions require waiting periods or notifications to law enforcement officials before handguns may be delivered to purchasers [An asterisk (\*) next to a name indicates another listing]

Alexandria* (72 hrs.)
Brunswick County* (30 days)
Fairfax* :
Residents -3 yrs- of City: 72 hrs;
Residents -3 yrs- of State, not City: 5 days;
Nonresidents: 30 days
Falls Church* (72 hrs.)
Herndon* (72 hrs.)

4. A permit to purchase must be obtained before a firearm may be sold or delivered to a purchaser or recipient in the following jurisdictions [An asterisk (\*) next to a name indicates another listing]

Brunswick County*	Petersburg*
Chesapeake	Portsmouth*
Fairfax*	Prince Edward County
Fairfax County*	Richmond*
Greensville County	Southampton County*
Norfolk*	Suffolk*
	Virginia Beach*

5. The following jurisdictions restrict the age at which it is lawful for a person to purchase or receive a firearm [An asterisk (\*) next to a name indicates another listing]

Alexandria*	Petersburg*
Charlottesville*	Portsmouth*
Fairfax*	Richmond*
Fairfax County*	Roanoke
Falls Church*	Salem
Hampton	Southampton County*
Herndon*	Suffolk*
Newport News*	Virginia Beach*
Norfolk*	York County

6. The following jurisdictions restrict the sale of firearms [i.e., (a) requirement for a local license/permit to sell firearms, or (b) recordkeeping requirements imposed as a condition of lawful sale of firearms, or (c) other (specified)] [An asterisk (\*) next to a name indicates another listing]

Alexandria* (a),(b)	Falls Church* (a),(b)
Charlottesville* (a)	Henrico County (a)
Fairfax* (a),(b)	Herndon* (a),(b)
Fairfax County* (a)	Newport News* (b)
	Richmond* (a)

**§ 16.1-284. When child fifteen years of age or older may be sentenced as adult.** — Until June 30, 1986, if a child fifteen years of age or older is charged with an offense which if committed by an adult would be a felony and the court after receipt of a social history compiled pursuant to § 16.1-273 for this case or a prior case which was adjudicated within twelve months from the adjudication in this case finds that (i) such child is not, in the opinion of the court, amenable to treatment or rehabilitation as a juvenile through available facilities, considering such factors as the nature of the present offense or the nature of the child's prior delinquency record, the nature of the past treatment efforts and the nature of the child's response to past treatment efforts and (ii)

the interests of the community require that the child be placed under legal restraint or discipline, then the court, in such cases, may impose the penalties which are authorized to be imposed on adults for such violations, not to exceed twelve months in jail for a single offense or multiple offenses and subject to the provisions of § 16.1-249 B (i), (ii) and (iii). After June 30, 1986, such penalties may be imposed only in the case of an adult who has committed, before attaining the age of eighteen, an offense which would be a crime if committed by an adult. (Code 1950, § 16.1-177.1; 1956, c. 555; 1973, c. 440; 1977, c. 559; 1978, c. 142; 1980, c. 235; 1983, c. 336; 1985, c. 260.)

**§ 16.1-299. Fingerprints and photographs of children.** — A. Fingerprints and photographs of a child fifteen years of age or older who is charged with a delinquent act which would be a felony if committed by an adult may be taken and filed by law-enforcement officers. Fingerprints and photographs of a child thirteen years of age or older who is charged with bodily wounding as provided in § 18.2-51 or § 18.2-52, use of a firearm in committing a felony as provided in § 18.2-53.1, attempted poisoning as provided in § 18.2-54.1, extortion as provided in § 18.2-59, robbery, rape as provided in § 18.2-61, forcible sodomy as provided in § 18.2-67.1, inanimate object sexual penetration as provided in § 18.2-67.2, grand larceny as provided in § 18.2-95, burglary as provided in §§ 18.2-89 through 18.2-91, arson and related crimes as provided in §§ 18.2-77 through 18.2-88 or murder, or any attempt to commit the above mentioned felonies as provided in § 18.2-25 or § 18.2-26 may be taken and filed by law-enforcement officers.

B. A child may be fingerprinted and photographed regardless of age or offense if he has been taken into custody for and charged with a violation of law, and a law-enforcement officer has determined that there is probable cause to believe that latent fingerprints found during the investigation of an offense are those of such child.

C. The fingerprints and photographs authorized in subsections A and B shall be retained or disposed of as follows:

1. If a petition is not filed against a child whose fingerprints or photographs have been taken in connection with an alleged violation of law, the fingerprint card, all copies of the fingerprints and all photographs shall be destroyed.

2. If the juvenile court or the circuit court, pursuant to a transfer, waiver or appeal, finds a child not guilty of a charge of delinquency, the fingerprint card, all copies of the fingerprints and all photographs shall be destroyed. However, all fingerprints and photographs of a child who is less than thirteen years of age and who is found guilty of a delinquent act shall also be destroyed.

3. If the court finds that a child thirteen years of age or older has committed a delinquent act, the fingerprints and photographs may be retained in a local file pursuant to § 16.1-301 and the fingerprints may be entered into any police department's computer system by identification number or by any other method which insures the confidentiality of the juvenile's name.

4. If a child fifteen years of age or older is certified to the circuit court pursuant to § 16.1-269 and is found guilty as an adult of the offense charged, or if a child thirteen years of age or older is found guilty of any of the offenses specified in subsection A of this section or an attempt to commit any such offense in a juvenile court and is adjudicated delinquent, copies of his fingerprints shall be forwarded to the Central Criminal Records Exchange. (1977, c. 559; 1978, c. 383; 1979, c. 267; 1982, c. 514; 1985, c. 211; 1986, c. 264.)

**§ 16.1-306. Expungement of court records.** — A. Notwithstanding the provisions of § 16.1-69.55, the clerk of the juvenile and domestic relations district court shall, on January 2 of each year or on a date designated by the court, destroy its files, papers and records connected with any proceeding concerning a child in such court, if such child has attained the age of nineteen years and five years have elapsed since the date of the last hearing in any case of the juvenile which is subject to this section. However, if the child was found guilty of a delinquent act which would be a felony if committed by an adult, or an offense for which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles, the records shall be destroyed when the child has attained the age of twenty-nine.

B. In all files in which the court records concerning a juvenile contain a finding of guilty of a delinquent act which would be a felony if committed by an adult or an offense for which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles together with findings of not innocent of other acts, all of the records of such juvenile subject to this section shall be retained and available for inspection as provided in § 16.1-305.

C. A person who has been the subject of a delinquency or traffic proceeding and whose records fall within the provisions of subsection B hereof may, after ten years since the date of the last hearing in any case of the juvenile which is subject to this section, file a motion requesting the destruction of all records pertaining to his case. Notice of such motion shall be given to the attorney for the Commonwealth. After a hearing on the matter, if the court grants the motion, copies of the order shall be sent to offices or agencies that are repositories of such records, and all such offices and agencies shall comply with the order.

D. A person who has been the subject of a delinquency or traffic proceeding which does not allege an offense which would be a felony if committed by an adult and (i) has been found innocent thereof or (ii) such proceeding was otherwise dismissed, may file a motion requesting the destruction of all records pertaining to the charge of such an act of delinquency. Notice of such motion shall be given to the attorney for the Commonwealth. Unless good cause is shown why such records should not be destroyed, the court shall grant the motion, and shall send copies of the order to all officers or agencies that are repositories of such records, and all such officers and agencies shall comply with the order.

E. Each person shall be notified of his rights under subsections A, C and D of this section at the time of his dispositional hearing.

F. Upon destruction of the records of a proceeding as provided in subsections A, B, C and D, the violation of law shall be treated as if it never occurred. All index references shall be deleted and the court and law-enforcement officers and agencies shall reply and the person may reply to any inquiry that no record exists with respect to such person.

G. All docket sheets shall be destroyed in the sixth year after the last hearing date recorded on the docket sheet. (Code 1950, § 16.1-193; 1956, c. 555; 1977, c. 559; 1979, cc. 736, 737; 1989, c. 183; 1990, c. 258.)

**§ 16.1-307. Confidentiality of circuit court records.** — In proceedings against a child in the circuit court in which the circuit court deals with the child in the same manner as a case in the juvenile court, the clerk of the court shall preserve all records connected with the proceedings in files separate from other files and records of the court as provided in § 16.1-302. Such records shall be open for inspection only in accordance with the provisions of § 16.1-305 and shall be subject to the expungement provisions of § 16.1-306. (1977, c. 559; 1990, c. 258.)

**§ 16.1-308. Effect of adjudication on status of child.** — A finding of guilty on a petition charging delinquency under the provisions of this law shall not operate to impose any of the disabilities ordinarily imposed by conviction for a crime, nor shall any such finding operate to disqualify the child for employment by any state or local governmental agency. (Code 1950, § 16.1-179; 1956, c. 555; 1977, c. 559.)

**§ 16.1-309. Penalty.** — A. Except as provided in §§ 16.1-299, 16.1-300, 16.1-301, 16.1-305 and 16.1-307, any person who files a petition, receives a petition or has access to court records in an official capacity, participates in the investigation of allegations which form the basis of a petition, is interviewed concerning such allegations and whose information is derived solely from such interview or is present during any court proceeding who discloses or makes use of or knowingly permits the use of identifying information concerning a juvenile who is suspected of being or is the subject of a proceeding within the jurisdiction of the juvenile court pursuant to subdivisions 1 through 5 of subdivision A of § 16.1-241 or who is in the custody of the State Department of Youth and Family Services, which information is directly or indirectly derived from the records or files of a law-enforcement agency, court or the Department of Youth and Family Services or acquired in the course of official duties, shall be guilty of a Class 3 misdemeanor.

B. The provisions of this section shall not apply to any law-enforcement officer or school employee who discloses identifying information concerning a juvenile who is suspected of committing or has committed a delinquent act within the jurisdiction of the juvenile court pursuant to subdivision A 1 of § 16.1-241. However, this exemption shall be applicable only if the disclosure (i) is restricted to school personnel, (ii) concerns a delinquent act that has met applicable criteria of § 16.1-260 and is committed or alleged to have been committed on school property during a school sponsored activity or on the way to or from such activity and (iii) is solely for the purpose of enabling school personnel to take appropriate disciplinary action within the school setting against the juvenile. (1977, c. 559; 1978, c. 626; 1979, c. 481; 1989, cc. 520, 733.)

**§ 16.1-309.1. Exception as to confidentiality.** — Notwithstanding any other provision of this article, where consideration of public interest requires, the judge may make public the name and address of a child and the nature of the offense for which a child has been adjudicated delinquent (i) for an act which would be a Class 1, 2 or 3 felony, forcible rape or robbery if committed by an adult, and (ii) in any case where a child is sentenced as an adult in accordance with § 16.1-284.

Whenever a child, charged with a delinquent act which would be forcible rape, robbery or a Class 1, 2, or 3 felony if committed by an adult, becomes a fugitive from justice any time prior to final disposition of the charge, the Commonwealth's attorney may petition the court having jurisdiction of the offense to authorize public release of the child's name, age, physical description and photograph, the charge for which he is sought and any other information which may expedite his apprehension. Upon a showing that the

child is a fugitive and for good cause, the court shall order release of this information to the public.

Upon request, the judge or clerk may disclose if an order of emancipation of a juvenile pursuant to § 16.1-333 has been entered, provided (i) the order is not being appealed, (ii) the order has not been terminated, or (iii) there has not been a judicial determination that the order is void ab initio. (1979, c. 94; 1981, c. 307; 1986, c. 506; 1988, c. 749.)

§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace and clerks of court; Exchange may receive, etc., material submitted by other agencies. — A. Every state official or agency having the power to arrest, the sheriffs of counties, the police officials of cities and towns, and any other local law-enforcement officer or conservator of the peace having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange, on forms provided by it, of any arrest on any of the following charges:

1. Treason,
2. Any felony,
3. Any offense punishable as a misdemeanor under Title 54.1, or
4. Any misdemeanor punishable by confinement in jail under Title 18.2 or 19.2, except an arrest for a violation of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2, for violation of Article 2 (§ 18.2-415 et seq.) of Chapter 9 of Title 18.2, or § 18.2-119 or any similar ordinance of any county, city or town.

The reports shall contain such information as is required by the Exchange and shall be accompanied by fingerprints of the individual arrested. Fingerprint cards prepared by a law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the Exchange for transmittal to the appropriate bureau.

For persons arrested and released on summonses in accordance with § 19.2-74, such report shall not be required until (i) after a conviction is entered and no appeal is noted or if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal or (ii) the court dismisses the proceeding pursuant to § 18.2-251 or (iii) after a verdict of

acquittal by reason of insanity pursuant to § 19.2-181. Upon such conviction or acquittal, the court shall remand the individual to the custody of the office of the chief law-enforcement officer of the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be the arresting officer, to ensure that such report is completed after a determination of guilt or acquittal by reason of insanity. The court shall require the officer to complete the report immediately following his conviction or acquittal, and the individual shall be discharged from custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him committed to the custody of the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

B. The clerk of each circuit court and district court shall make a report to the Central Criminal Records Exchange of any dismissal, indefinite postponement or continuance, charge still pending due to mental incompetency, nolle prosequi, acquittal, or conviction of, or failure of a grand jury to return a true bill as to, any person charged with an offense listed in subsection A of this section. In the case of offenses not required to be reported to the Exchange by subsection A of this section, the reports of any of the foregoing dispositions shall be filed by the law-enforcement agency making the arrest with the arrest record required to be maintained by § 15.1-135.1. No such report of conviction in a district court shall be filed unless the period allowed for an appeal has elapsed and no appeal has been perfected. In the event that the records in the office of any clerk show that any conviction has been nullified in any manner, he shall also make a report of that fact, and each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court, shall report to the Exchange, or to the law-enforcement agency making the arrest in the case of offenses not required to be reported to the Exchange, on forms provided by the Exchange, any reversal or other amendment to a prior sentence reported to the Exchange. For each such report made by a clerk of a circuit court, he shall be allowed a fee of fifty cents to be paid from the appropriation for criminal charges.

C. In addition to those offenses enumerated in subsection A of this section, the Central Criminal Records Exchange may receive, classify and file any other fingerprints and records of arrest or confinement submitted to it by any law-enforcement agency or any correctional institution.

D. Corrections officials responsible for maintaining correctional status information, as required by the rules and regulations of the Department of Criminal Justice Services, with respect to individuals about whom reports have been made under the provisions of this chapter shall make reports of changes in correctional status information to the Central Criminal Records Exchange.



E. Officials responsible for reporting disposition of charges, and correctional changes of status of individuals under this section shall adopt procedures reasonably designed at a minimum (i) to ensure that such reports are accurately made as soon as feasible by the most expeditious means and in no instance later than thirty days after occurrence of the disposition or correctional change of status; and (ii) to report promptly any correction, deletion, or revision of the information.

F. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records Exchange shall notify all criminal justice agencies known to have previously received the information.

As used in this section, the term "chief law-enforcement officer" means the chief of police of cities and towns and sheriffs of counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall be controlling. (Code 1950, § 19.1-19.3; 1966, c. 669; 1968, c. 724; 1970, c. 191;

1971, Ex. Sess., c. 107; 1974, c. 575; 1975, cc. 495, 584; 1976, cc. 336, 572, 771; 1978, cc. 467, 825; 1979, c. 378; 1981, c. 529; 1982, cc. 33, 535; 1990, cc. 100, 692; 1992, c. 391.)

## **Appendix D**

**HOUSE BILL NO. 593**  
**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
 (Proposed by the House Committee for Courts of Justice  
 on January 19, 1993)

(Patron Prior to Substitute—Delegate Copeland)

*A BILL to amend and reenact §§ 16.1-299, 16.1-306, 18.2-308.2, 18.2-308.2:1, 19.2-388 and 19.2-390 of the Code of Virginia, relating to juvenile records; firearms; penalty.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-299, 16.1-306, 18.2-308.2, 18.2-308.2:1, 19.2-388 and 19.2-390 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-299. Fingerprints and photographs of children.—A. Fingerprints and photographs of a child fifteen years of age or older who is charged with a delinquent act which would be a felony if committed by an adult ~~may~~ *shall* be taken and filed *with the juvenile court* by law-enforcement officers *on forms provided by the Central Criminal Records Exchange*.

Fingerprints and photographs of a child thirteen years of age or older who is charged with bodily wounding as provided in § 18.2-51 or § 18.2-52, use of a firearm in committing a felony as provided in § 18.2-53.1, attempted poisoning as provided in § 18.2-54.1, extortion as provided in § 18.2-59, robbery, rape as provided in § 18.2-61, forcible sodomy as provided in § 18.2-67.1, inanimate object sexual penetration as provided in § 18.2-67.2, grand larceny as provided in § 18.2-95, burglary as provided in §§ 18.2-89 through 18.2-91, arson and related crimes as provided in §§ 18.2-77 through 18.2-88 or murder, or any attempt to commit the above mentioned felonies as provided in § 18.2-25 or § 18.2-26 may be taken and filed by law-enforcement officers on.

B. A child may be fingerprinted and photographed regardless of age or offense if he has been taken into custody for and charged with a violation of law, and a law-enforcement officer has determined that there is probable cause to believe that latent fingerprints found during the investigation of an offense are those of such child.

C. The fingerprints and photographs authorized in subsections A and B shall be retained or disposed of as follows:

1. If a petition is not filed against a child whose fingerprints or photographs have been taken in connection with an alleged violation of law, the fingerprint card, all copies of the fingerprints and all photographs shall be destroyed.

2. If the juvenile court or the circuit court, pursuant to a transfer, waiver or appeal, finds a child not guilty of a charge of delinquency, the fingerprint card, all copies of the fingerprints and all photographs shall be destroyed. However, all fingerprints and photographs of a child who is less than thirteen years of age and who is found guilty of a delinquent act shall also be destroyed.

3. If the court finds that a child thirteen years of age or older has committed a delinquent act, the fingerprints and photographs may be retained in a local file pursuant to § 16.1-301 and the fingerprints may be entered into any police department's computer system by identification number or by any other method which insures the confidentiality of the juvenile's name.

4. If a child fifteen years of age or older is (i) certified to the circuit court pursuant to § 16.1-269 and is found guilty as an adult of the offense charged *or is adjudicated delinquent or (ii) found guilty in juvenile court of any offense which would be a felony if committed by an adult*, or if a child thirteen years of age or older is found guilty of any of the offenses specified in subsection A of this section or an attempt to commit any such offense in a juvenile court and is adjudicated delinquent, copies of his fingerprints and a report of the disposition shall be forwarded to the Central Criminal Records Exchange by the clerk of the court which heard the case.

§ 16.1-306. Expungement of court records.—A. Notwithstanding the provisions of § 16.1-69.55, the clerk of the juvenile and domestic relations district court shall, on January 2 of each year or on a date designated by the court, destroy its files, papers and records connected with any proceeding concerning a child in such court, if such child has attained

1 the age of nineteen years and five years have elapsed since the date of the last hearing in  
2 any case of the juvenile which is subject to this section. However, if the child was found  
3 guilty of a delinquent act which would be a felony if committed by an adult, or an offense  
4 for which the clerk is required by § 46.2-383 to furnish an abstract to the Department of  
5 Motor Vehicles, the records shall be destroyed when the child has attained the age of  
6 twenty-nine.

7 B. In all files in which the court records concerning a juvenile contain a finding of  
8 guilty of a delinquent act which would be a felony if committed by an adult or an offense  
9 for which the clerk is required by § 46.2-383 to furnish an abstract to the Department of  
10 Motor Vehicles together with findings of not innocent of other acts, all of the records of  
11 such juvenile subject to this section shall be retained and available for inspection as  
12 provided in § 16.1-305.

13 C. *A Except in cases where a juvenile fifteen years of age or older at the time of the*  
14 *offense was found guilty of a delinquent act which would be a felony if committed by an*  
15 *adult, a person who has been the subject of a delinquency or traffic proceeding and whose*  
16 *records fall within the provisions of subsection B hereof may, after ten years since the*  
17 *date of the last hearing in any case of the juvenile which is subject to this section, file a*  
18 *motion requesting the destruction of all records pertaining to his case. Notice of such*  
19 *motion shall be given to the attorney for the Commonwealth. After a hearing on the*  
20 *matter, if the court grants the motion, copies of the order shall be sent to offices or*  
21 *agencies that are repositories of such records, and all such offices and agencies shall*  
22 *comply with the order.*

23 D. A person who has been the subject of a delinquency or traffic proceeding which  
24 does not allege an offense which would be a felony if committed by an adult and (i) has  
25 been found innocent thereof or (ii) such proceeding was otherwise dismissed, may file a  
26 motion requesting the destruction of all records pertaining to the charge of such an act of  
27 delinquency. Notice of such motion shall be given to the attorney for the Commonwealth.  
28 Unless good cause is shown why such records should not be destroyed, the court shall  
29 grant the motion, and shall send copies of the order to all officers or agencies that are  
30 repositories of such records, and all such officers and agencies shall comply with the  
31 order.

32 E. Each person shall be notified of his rights under subsections A, C and D of this  
33 section at the time of his dispositional hearing.

34 F. Upon destruction of the records of a proceeding as provided in subsections A, B, C  
35 and D, the violation of law shall be treated as if it never occurred. All index references  
36 shall be deleted and the court and law-enforcement officers and agencies shall reply and  
37 the person may reply to any inquiry that no record exists with respect to such person.

38 G. All docket sheets shall be destroyed in the sixth year after the last hearing date  
39 recorded on the docket sheet.

40 § 18.2-308.2. Possession or transportation of firearms or concealed weapons by convicted  
41 felons; penalties; petition for permit; when issued.—A. It shall be unlawful for (i) any  
42 person who has been convicted of a felony or (ii) any person under the age of twenty-nine  
43 who was found guilty as a juvenile fifteen years of age or older at the time of the offense  
44 of a delinquent act which would be a felony if committed by an adult, whether such  
45 conviction or adjudication occurred under the laws of this Commonwealth, or any other  
46 state, the District of Columbia, the United States or any territory thereof, to knowingly and  
47 intentionally possess or transport any firearm or to knowingly and intentionally carry about  
48 his person, hid from common observation, any weapon described in § 18.2-308 A. A  
49 violation of this section shall be punishable as a Class 6 felony. Any firearm or any  
50 concealed weapon possessed, transported or carried in violation of this section shall be  
51 forfeited to the Commonwealth and disposed of as provided in § 18.2-310.

52 B. The prohibitions of subsection A shall not apply to (i) any person who possesses a  
53 firearm or other weapon while carrying out his duties as a member of the armed forces of  
54 the United States or of the National Guard of Virginia or of any other state, (ii) any

1 law-enforcement officer in the performance of his duties, <sup>or</sup> ~~or~~ (iii) any person who has been  
 2 pardoned or whose political disabilities have been removed pursuant to Article V, Section  
 3 12 of the Constitution of Virginia provided the Governor, in the document granting the  
 4 pardon or removing the person's political disabilities, may expressly place conditions upon  
 5 the reinstatement of the person's right to ship, transport, possess or receive firearms. ~~or (iv)~~  
 6 ~~a person found guilty as a juvenile of an offense which would be a felony if committed by~~  
 7 ~~an adult, provided the person has not been convicted of a felony while he was between~~  
 8 ~~the ages of eighteen and twenty-nine.~~

9 C. Any person convicted of a felony under the laws of this Commonwealth or any other  
 10 state, the District of Columbia, the United States or any territory thereof, *prohibited from*  
 11 *possessing, transporting or carrying a firearm under subsection A* may petition the circuit  
 12 court of the jurisdiction in which he resides for a permit to possess or carry a firearm.  
 13 The court may, in its discretion and for good cause shown, grant such petition and issue a  
 14 permit. The provisions of this section shall not apply to any person who has been granted  
 15 a permit pursuant to this subsection.

16 § 18.2-308.2:1. Prohibiting the selling, etc., of firearms to certain felons.—Any person  
 17 who sells, barter, gives or furnishes, or has in his possession or under his control with the  
 18 intent of selling, bartering, giving or furnishing, any firearm to any person he knows is  
 19 prohibited from possessing or transporting a firearm pursuant to § 18.2-308.1:1 or §  
 20 18.2-308.2 shall be guilty of a Class 1 misdemeanor. However, this prohibition shall not be  
 21 applicable when the person convicted of the felony, *adjudicated delinquent* or acquitted by  
 22 reason of insanity has (i) been issued a permit pursuant to § 18.2-308.2 C or § 18.2-308.1:1  
 23 B, (ii) been pardoned or had his political disabilities removed in accordance with §  
 24 18.2-308.2 B or (iii) obtained a permit to ship, transport, possess or receive firearms  
 25 pursuant to the laws of the United States. Any firearm sold, bartered, given or furnished or  
 26 possessed or controlled with intent to do so in violation of this section shall be forfeited to  
 27 the Commonwealth and disposed of as provided in § 18.2-310.

28 § 19.2-388. Duties and authority of Exchange.—A. It shall be the duty of the Central  
 29 Criminal Records Exchange to receive, classify and file criminal history record information  
 30 as defined in § 9-169 and other records required to be reported to it by § 16.2-299 and  
 31 19.2-390. The Exchange is authorized to prepare and furnish to all state and local  
 32 law-enforcement officials and agencies, to clerks of circuit courts and all district courts,  
 33 ; and to corrections and penal officials, forms which shall be used for the making of such  
 34 reports.

35 B. *Juvenile records received pursuant to § 16.1-299 shall be maintained separately from*  
 36 *adult records and solely for the purpose of determining eligibility to purchase or possess a*  
 37 *firearm pursuant to § 18.2-308.2 or § 18.2-308.2:1. Records so maintained on juveniles shall*  
 38 *be destroyed when the person has attained the age of twenty-nine.*

39 § 19.2-390. Reports to be made by local law-enforcement officers, conservators of the  
 40 peace and clerks of court, Exchange may receive, etc., material submitted by other  
 41 agencies.—A. Every state official or agency having the power to arrest, the sheriffs of  
 42 counties, the police officials of cities and towns, and any other local law-enforcement  
 43 officer or conservator of the peace having the power to arrest for a felony shall make a  
 44 report to the Central Criminal Records Exchange, on forms provided by it, of any arrest on  
 45 any of the following charges:

- 46 1. Treason ; ;
- 47 2. Any felony ; ;
- 48 3. Any offense punishable as a misdemeanor under Title 54.1 ; ; or
- 49 4. Any misdemeanor punishable by confinement in jail under Title 18.2 or 19.2, except
- 50 an arrest for a violation of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2, for
- 51 violation of Article 2 (§ 18.2-415 et seq.) of Chapter 9 of Title 18.2, or § 18.2-119 or any
- 52 similar ordinance of any county, city or town.

53 The reports shall contain such information as is required by the Exchange and shall be  
 54 accompanied by fingerprints of the individual arrested. Fingerprint cards prepared by a

1 law-enforcement agency for inclusion in a national criminal justice file shall be forwarded  
2 to the Exchange for transmittal to the appropriate bureau.

3 For persons arrested and released on summonses in accordance with § 19.2-74, such  
4 report shall not be required until (i) after a conviction is entered and no appeal is noted  
5 or if an appeal is noted, the conviction is upheld upon appeal or the person convicted  
6 withdraws his appeal or ; (ii) the court dismisses the proceeding pursuant to § 18.2-251 ; or  
7 (iii) after a verdict of acquittal by reason of insanity pursuant to § 19.2-181. Upon such  
8 conviction or acquittal, the court shall remand the individual to the custody of the office of  
9 the chief law-enforcement officer of the county or city. It shall be the duty of the chief  
10 law-enforcement officer, or his designee who may be the arresting officer, to ensure that  
11 such report is completed after a determination of guilt or acquittal by reason of insanity.  
12 The court shall require the officer to complete the report immediately following his  
13 conviction or acquittal, and the individual shall be discharged from custody forthwith,  
14 unless the court has imposed a jail sentence to be served by him or ordered him  
15 committed to the custody of the Commissioner of the Department of Mental Health, Mental  
16 Retardation and Substance Abuse Services.

17 B. The clerk of each circuit court and district court shall make a report to the Central  
18 Criminal Records Exchange of (i) any dismissal, indefinite postponement or continuance,  
19 charge still pending due to mental incompetency, nolle prosequi, acquittal, or conviction of,  
20 or failure of a grand jury to return a true bill as to, any person charged with an offense  
21 listed in subsection A of this section or (ii) any adjudication of delinquency based upon an  
22 act which would be a felony if committed by an adult . In the case of offenses not  
23 required to be reported to the Exchange by subsection A of this section, the reports of any  
24 of the foregoing dispositions shall be filed by the law-enforcement agency making the  
25 arrest with the arrest record required to be maintained by § 15.1-135.1. No such report of  
26 conviction in a district court shall be filed unless the period allowed for an appeal has  
27 elapsed and no appeal has been perfected. In the event that the records in the office of  
28 any clerk show that any conviction or adjudication has been nullified in any manner, he  
29 shall also make a report of that fact, and each clerk of a circuit court, upon receipt of  
30 certification thereof from the Supreme Court, shall report to the Exchange, or to the  
31 law-enforcement agency making the arrest in the case of offenses not required to be  
32 reported to the Exchange, on forms provided by the Exchange, any reversal or other  
33 amendment to a prior sentence or disposition reported to the Exchange. For each such  
34 report made by a clerk of a circuit court, he shall be allowed a fee of fifty cents to be  
35 paid from the appropriation for criminal charges.

36 C. In addition to those offenses enumerated in subsection A of this section, the Central  
37 Criminal Records Exchange may receive, classify and file any other fingerprints and  
38 records of arrest or confinement submitted to it by any law-enforcement agency or any  
39 correctional institution.

40 D. Corrections officials responsible for maintaining correctional status information, as  
41 required by the rules and regulations of the Department of Criminal Justice Services, with  
42 respect to individuals about whom reports have been made under the provisions of this  
43 chapter shall make reports of changes in correctional status information to the Central  
44 Criminal Records Exchange.

45 E. Officials responsible for reporting disposition of charges, and correctional changes of  
46 status of individuals under this section shall adopt procedures reasonably designed at a  
47 minimum (i) to ensure that such reports are accurately made as soon as feasible by the  
48 most expeditious means and in no instance later than thirty days after occurrence of the  
49 disposition or correctional change of status; and (ii) to report promptly any correction,  
50 deletion, or revision of the information.

51 F. Upon receiving a correction, deletion, or revision of information, the Central  
52 Criminal Records Exchange shall notify all criminal justice agencies known to have  
53 previously received the information.

54 As used in this section, the term "chief law-enforcement officer" means the chief of

1 police of cities and towns and sheriffs of counties, unless a political subdivision has  
2 otherwise designated its chief law-enforcement officer by appropriate resolution or  
3 ordinance, in which case the local designation shall be controlling.

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NOTE: HB593 as substituted and amended passed the Senate  
on February 12, 1993, and was agreed to by the House on February 16, 1993.

<b>Official Use By Clerks</b>	
<b>Passed By</b>	
<b>The House of Delegates</b>	<b>Passed By The Senate</b>
without amendment <input type="checkbox"/>	without amendment <input type="checkbox"/>
with amendment <input type="checkbox"/>	with amendment <input type="checkbox"/>
substitute <input type="checkbox"/>	substitute <input type="checkbox"/>
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Date: _____	Date: _____
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Clerk of the House of Delegates	Clerk of the Senate