

PROCEDURE

Search Warrant

§ 19.2-70.3(K) – Officer must have a search warrant to use any device to obtain electronic communications or collect real-time location data from an electronic device.

Search Warrant: Computer

§ 19.2-53:

"B. Any search warrant issued for the search and seizure of a computer, computer network, or other device containing electronic or digital information shall be deemed to include the search and seizure of the physical components and the electronic or digital information contained in any such computer, computer network, or other device.

C. Any search, including the search of the contents of any computer, computer network, or other device conducted pursuant to subsection B, may be conducted in any location and is not limited to the location where the evidence was seized."

Search Warrant: Drones

§ 19.2-60.1

"B. No state or local government department, agency, or instrumentality having jurisdiction over criminal law enforcement or regulatory violations, including but not limited to the Department of State Police, and no department of law enforcement as defined in § 15.2-836 of any county, city, or town shall utilize an unmanned aircraft system except during the execution of a search warrant issued pursuant to this chapter or an administrative or inspection warrant issued pursuant to law.

C. Notwithstanding the prohibition in this section, an unmanned aircraft system may be deployed without a warrant (i) when an Amber Alert is activated pursuant to § 52-34.3, (ii) when a Senior Alert is activated pursuant to § 52-34.6, (iii) when a Blue Alert is activated pursuant to § 52-34.9, (iv) where use of an unmanned aircraft system is determined to be necessary to alleviate an immediate danger to any person, (v) for training exercises related to such uses, or (vi) if a person with legal authority consents to the warrantless search.

...

E. Evidence obtained through the utilization of an unmanned aircraft system in

violation of this section is not admissible in any criminal or civil proceeding."

Venue: Unknown Location

§ 19.2-244(B) - "If an offense has been committed within the Commonwealth and it cannot readily be determined within which county or city the offense was committed, venue for the prosecution of the offense may be had in the county or city (i) in which the defendant resides or (ii) if the defendant is not a resident of the Commonwealth, in which the defendant is apprehended."

Misdemeanor Conviction, DNA Sample:

§ 19.2-310.2(A) - §§ 16.1-253.2 [**violating protective order**], 18.2-60.3 [**stalking**], 18.2-60.4 [**violating protective order**], 18.2-67.4 [**sexual battery**], 18.2-67.4:1 [**infected sexual battery**], 18.2-67.4:2 [**sexual abuse 13-14 year old**], 18.2-67.5 [**attempted rape/penetration/sexual battery**], 18.2-102 [**unauthorized use of a vehicle**], 18.2-121 [**entering realty to damage**], 18.2-130 [**peeping**], 18.2-370.6 [**penetrating mouth of child under 13 with tongue**], 18.2-387 [**indecent exposure**], 18.2-387.1 [**masturbation in public**], or 18.2-479.1 [**resisting arrest**].

Bail – Writ of Actual Innocence

§ 17.1-513 – Circuit Court has jurisdiction to hear joint bond hearing in a writ of actual innocence.

§§ 19.2-327.2:1 & 19.2-327.10:1 – When the Attorney General joins in a petition for a writ of actual innocence a circuit court can set bond.

Arrested Bondsman

§ 9.1-185.8(J) - "A licensed bail bondsman who has been arrested for a felony offense shall not issue any new bonds pending the outcome of the investigation by the Department."

Grand Jury: Prostitution

§ 18.2-356(1)(u) - Multi-Jurisdictional grand jury can investigate prostitution.

Missing Person

§ 15.2-1718.2. Receipt of critically missing adult reports.

A. No police or sheriff's department shall establish or maintain any policy that requires the observance of any waiting period before accepting a critically missing adult report. Upon receipt of a critically missing adult report by any police or sheriff's department, the department shall immediately, but in all cases within two hours of receiving the report, enter identifying and descriptive data about the critically missing adult into the Virginia Criminal Information Network and the National Crime Information Center Systems, forward the report to the Department of State Police, notify all other law-enforcement agencies in the area, and initiate an investigation of the case.

B. For purposes of this section:

"Critically missing adult" means any missing adult 21 years of age or older whose disappearance indicates a credible threat to the health and safety of the adult as determined by a law-enforcement agency and under such other circumstances as deemed appropriate after consideration of all known circumstances.

"Critically missing adult report" means a report prepared in a format prescribed by the Superintendent of State Police for use by law-enforcement agencies to report critically missing adult information, including a photograph, to the Department of State Police.

Habeas

§ 8.01-658. How writ served; dismissal of habeas petition without prejudice.

A. The writ shall be served on the person to whom it is directed, or, in his absence from the place where the petitioner is confined, on the person having the immediate "or potential" custody of him.

"1. If the petitioner is in jail, prison, or other actual physical restraint due to the conviction or sentence he is attacking, the named respondent shall be (i) the Director of the Department of Corrections or the warden or superintendent of the state correctional facility where the petitioner is detained if the sentence is one year or more or (ii) the sheriff or superintendent of a local or regional jail facility if the sentence is less than one year.

2. If the petitioner is on probation or parole due to the conviction or sentence he is attacking, the named respondent shall be the probation or parole officer responsible for supervising the applicant or the official in charge of the parole or probation agency.

3. If a petitioner has a suspended sentence and is not under supervision by a probation or parole officer, the respondent shall be (i) the local sheriff if the judgment of conviction the petitioner challenges has a suspended sentence of less than one year or (ii) the Director of the Department of Corrections if the judgment of conviction the petitioner challenges has a suspended sentence of one year or more.

B. The petitioner shall name a proper party respondent, and if he fails to do so, the court shall allow amendment of the petition. If the petitioner fails to amend the petition by naming a proper party respondent in the time provided by the court, the court in which the petition is filed shall dismiss the habeas petition without prejudice."

Supplemental Sex Offender Registry

§ 9.1-923 - Establishes a "Supplemental Registry" which will list sex offenders with offenses between 1980-1995.

Paying Attorneys

§ 19.2-152.12 (Protective Order Respondents)

"Notwithstanding any other provision of law, when, in a proceeding pursuant to this chapter, representation of a respondent by counsel is required under the Servicemembers Civil Relief Act (50 U.S.C. App. § 501 et seq.) or a guardian ad litem is required by law and there is no other provision for the compensation of counsel or a guardian ad litem, the court may order such counsel or guardian ad litem to be compensated for services pursuant to § 19.2-163."

SUBSTANCE

VIOLENT CRIMES

A&B Law Enforcement

§ 18.2-57(C) - Expands the scope of this section of the statute to "anywhere in the Commonwealth" that the officer is performing his duties.

Presumption Against Bond

§ 46.2-804(B)(14) - There is a presumption against bond if the charge is strangulation (§ 18.2-51.6) and the alleged victim is a family member.

Enticing to Enter House to be Criminally Acted On

§ 18.2-50.3. Enticing, etc., another into a dwelling house with intent to commit certain felonies; penalty.

Any person who commits a violation of § 18.2-31 (capital murder), 18.2-32 (1st & 2d degree murder), 18.2-32.1 (murder of a pregnant woman), 18.2-48(abduction), 18.2-51.2 (aggravated malicious wounding), 18.2-58 (robbery), 18.2-61 (rape), 18.2-67.1 (forcible sodomy), or 18.2-67.2 (object sexual penetration) within a dwelling house and who, with the intent to commit a felony listed in this section, enticed, solicited, requested, or otherwise caused the victim to enter such dwelling house is guilty of a Class 6 felony. A violation of this section is a separate and distinct felony."

Minor Causes Death

§ 16.1-284.1(A) - "However, if the single offense or multiple offenses, which if committed by an adult would be punishable as a felony or a Class 1 misdemeanor, caused the death of any person, then the court may order the juvenile confined in a detention home or other secure facility for juveniles for a period not to exceed 12 months from the date the order is entered."

Capital Murder: Retardation

§ 19.2-264.3:1.1(B)(1) - The standardized test score must show the range of possible scores considering the margin of error.

SEX CRIMES

Child Porn

§ 18.2-374.1:1 - (1) Changes the intent of possessing / distributing / displaying to "knowingly." (2) Removes the requirement that displaying be "with lascivious intent."

§ 19.2-249.2 - Venue for prosecuting § 18.2-386.1 (illegally creating a nude/sexual picture of another) is (a) where any act in furtherance of the crime occurred, (b) where the defendant has a business, (c) where the defendant has proceeds or records, (d) where a computer accessed it, (e) where the defendant lives, and (f) where a computer involved in the violation is located.

Minor in Brothel

§ 18.2-355 - Anyone who encourages a minor to enter a bawdy place for prostitution is guilty of a class 3 felony (5-20 years).

Commercial Sex Trafficking

§ 18.2-357.1

"A. Any person who, with the intent to receive money or other valuable thing or to assist another in receiving money or other valuable thing from the earnings of a person from prostitution or unlawful sexual intercourse in violation of subsection A of § 18.2-346, solicits, invites, recruits, encourages, or otherwise causes or attempts to cause a person to violate subsection A of § 18.2-346 is guilty of a Class 5 felony.

B. Any person who violates subsection A through the use of force, intimidation, or deception is guilty of a Class 4 felony.

C. Any adult who violates subsection A with a person under the age of 18 is guilty of a Class 3 felony."

§ 18.2-359 - Jurisdiction for a violation of § 18.2-357.1 is any city or county through which the party was transported. Venue is where the event occurred or, with the concurrence of the Commonwealth where it occurred, any county through which the party was transported.

§ 9.1-902 - Violation of § 18.2-357.1 requires registration on sex offender list.

§ 18.2-356 - Anyone who causes or forces someone under 18 to be a prostitute is guilty of a class 3 felony. (class 4 if 18 or older)

THEFT CRIMES

NONE

WEAPONS CRIMES

Felon in Possession

§ 18.2-308.2(B)(iv) - Not illegal for "any person whose right to possess firearms or ammunition has been restored under the law of another state subject to conditions placed upon the reinstatement of the person's right to ship, transport, possess, or receive firearms by such state."

Possess Weapon on School Grounds

§ 18.2-308.1 - Changed from possess [no scienter required] to "knowingly" possess a weapon to be convicted.

DRUG CRIMES

Good Samaritan Overdose Report

§ 18.2-251.03 - Affirmative defense to illegal possession of alcohol or drugs or paraphernalia as well as DIP if defendant (1) reported an overdose, and (2) stayed at scene, and (3) ID's himself, and (4) aids the police investigation, and (5) the evidence upon which she was charged came from these actions. Does not apply if defendant makes the emergency call during a search or arrest.

THC Oil

§ 18.2-250.1(C) - THC-A oil: (1) Affirmative defense that (a) have intractable epilepsy, and (b) prescribed. (2) If certificate (per § 54.1-3408.3) is delivered to (a) court, and (b) Commonwealth at least 10 days prior to trial it is prima facie evidence of legal possession.

Hemp

§ 54.1-3401 - "Marijuana shall not include industrial hemp as defined in § 3.2-4112 that is possessed, cultivated, or manufactured by a grower licensed pursuant to § 3.2-4115."

Powder & Crystal Alcohol

§ 4.1-100 - Definition of "Alcoholic beverages" now includes "powder" and "crystal" that contains alcohol.

§ 4.1-302.2. Sale, purchase, use of powdered or crystalline alcohol prohibited; penalty.

A. No person shall purchase or possess, offer for sale or use, sell, or use any powdered or crystalline alcohol product.

B. As used in this section, "powdered or crystalline alcohol" means a product that is manufactured into a powdered or crystalline form and that contains any amount of alcohol.

C. A violation of this section is a Class 1 misdemeanor.

Prescription Monitoring Program

§ 54.1-2523 - Can be released:

"5. Information relevant to a specific investigation, supervision, or monitoring of a specific recipient for purposes of the administration of criminal justice pursuant to Chapter 1 (§ 9.1-100 et seq.) of Title 9.1 to a probation or parole officer as described in Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1 or a local community-based probation officer as described in § 9.1-176.1 who has completed the Virginia State Police Drug Diversion School designated by the Director of the Department of Corrections or his designee."

Liquid Nicotine

§ 2.2-3120(C) Selling liquid nicotine not in a childproof container is a class 4 misdemeanor.

New Schedule I Drugs

§ 54.1-3446 -

3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA).

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name: AB-CHMINACA)

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-AB-PINACA)

New Schedule IV Drugs

Alfaxalone (5[alpha]-pregnan-3[alpha]-ol-11,20-dione), previously spelled "alphaxalone," including its salts, isomers, and salts of isomers

Suvorexant ([[(7R)-4-(5-chloro-1,3-benzoxazol-2-yl)-7-methyl-1,4-diazepan-1-yl][5-methyl-2-(2H-1,2,3-triazol-2-yl)phenyl]methanone), including its salts, isomers, and salts of isomers

2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers, and salts of such isomers, including tramadol

VEHICLE CRIMES

Following Too Closely

§ 46.2-816 – Removed requirement that vehicle followed be motorized.

Implied Consent

§ 32.1-45.1(H) – Implied Consent (DUI): "If the person whose blood specimen is sought for testing is a minor, the parent, guardian, or person standing in loco parentis of such minor shall be notified prior to initiating such testing."

Sitting on Motorcycle

§ 46.2-909 - Must sit on motorcycle seat "unless safety dictates standing on both footpegs for no longer than is necessary."

Riding Towed Car

§ 46.2-118(C) - "No tow truck driver . . . shall knowingly permit another person to occupy a motor vehicle . . . while such motor vehicle is being towed."

Converting Off-Road Motorcycle to Road Use

§ 46.2-602.4

B. Each converter [or owner] shall certify in accordance with the requirements of subsection E that the off-road motorcycle converted to on-road use meets all applicable Federal Motor Vehicle Safety Standards for new motorcycles for the year in which it is converted.

...

E. No off-road motorcycle converted to on-road use shall be registered or operated on

the highways of the Commonwealth until the owner submits to the Department, upon a form approved and furnished by the Department, (i) certification that the motor vehicle has passed the motor vehicle safety inspection subsequent to the conversion; (ii) certification from the converter, or owner if the converter is unavailable or unknown, that the motor vehicle meets all applicable Federal Motor Vehicle Safety Standards; and (iii) certification that the motor vehicle has been labeled in accordance with subsection C.

...

G. Notwithstanding §§ 46.2-105 and 46.2-605, any certification required by this section found to be knowingly given falsely is punishable as a Class 1 misdemeanor.

Cheating on a Driving Exam

§ 46.2-105.1(4) - Illegal to tell someone an answer during their driving exam (class 2 misdemeanor).

Crossing the solid line

§ 46.2-804(6) & (7) - It is legal to drive over a solid line "to pass a pedestrian or a device moved by human power, including a bicycle, skateboard, or foot-scooter, provided such movement can be made safely."

Restricted License (DUI From Another State)

§ 18.2-271.1(D) - "The court shall, as a condition of a restricted license, prohibit such person from operating a motor vehicle that is not equipped with a functioning certified ignition interlock system for a period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of interlock requirements."

Stopping a Boat

§§ 19.2-10.3 & 29.1-745 - Law enforcement must have reasonable suspicion to stop and inspect a boat except to check hunting/fishing licenses, bag limits, and for boat safety checkpoints.

OTHER

Communication Device in Jail/Prison/Detention

§ 18.2-431.1 - Class 5 felony for prisoner or juvenile detainee to have any "wireless telecommunications device" (expanded from just cell phone).

Perjury: Competent to Testify

§ 19.2-271 - A clerk of any court, magistrate, or other person having the power to issue warrants is competent to testify as to a perjury charge. - Exception to general rule of incompetency.

Abuse of Public Office

§ 2.2-3103(10) - A government officer or employee cannot

"Use his public position to retaliate or threaten to retaliate against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law, provided, however, that this subdivision shall not restrict the authority of any public employer to govern conduct of its employees, and to take disciplinary action, in accordance with applicable law, and provided further that this subdivision shall not limit the authority of a constitutional officer to discipline or discharge an employee with or without cause."

(Class 1 misdemeanor per § 2.2-3120)

Blue Catfish

§ 29.1-543.1 - Illegal to introduce blue catfish into Virginia waters (public or private).
Class 2 misdemeanor.

Electronic Hunting Licenses

§ 29.1-336(D) - Hunters can carry electronic versions of licenses except for bear, deer, and turkey licenses (must be paper).

Cruelty to Horses

§ 3.2-6570(B) & (D): Class 1 misdemeanor if a person "ropes, lassoes, or otherwise obstructs or interferes with one or more legs of an equine in order to intentionally cause it to trip or fall for the purpose of engagement in a rodeo, contest, exhibition, entertainment, or sport unless such actions are in the practice of accepted animal husbandry or for the purpose of allowing veterinary care."

Prohibited Sale of Dogs & Cats

§ 3.2-6508.1 - Class 4 Misdemeanor under catch-all, § 3.2-6587(A)(9)

"A. It is unlawful for any person to sell, exchange, trade, barter, lease, or display for a commercial purpose any dog or cat on or in any roadside, public right-of-way, parkway, median, park, or recreation area; flea market or other outdoor market; or commercial parking lot, regardless of whether such act is authorized by the landowner.

B. This section shall not apply to:

1. The display of dogs or cats by or the adoption of dogs or cats from a humane society or private or public animal shelter as those terms are defined in § 3.2-6500;
2. The display of dogs or cats as part of a state or county fair exhibition, 4-H program, or similar exhibition or educational program;
3. The sale, exchange, or trade of dogs that are sold primarily for use in commonly-accepted hunting or livestock farming activities; or
4. A prearranged sale between a dog breeder and a specific individual purchaser. Such prearranged sale shall not take place at a regularly-occurring event such as a flea market or other organized trade venue."

Pet Shops: Dogs

§ 3.2-6511.1 - Class 1 Misdemeanor

"A. A pet shop shall sell or offer for adoption a dog procured only from a humane society or private or public animal shelter as those terms are defined in § 3.2-6500 or from a person who has not received from the U.S. Department of Agriculture, pursuant to enforcement of the federal Animal Welfare Act (7 U.S.C. § 2131 et seq.) or regulations adopted thereunder, (i) a citation for a direct violation or citations for three or more indirect violations for at least two years prior to the procurement of the dog or

(ii) two consecutive citations for no access to the facility prior to the procurement of the dog.

B. It shall be unlawful for any commercial dog breeder who is not licensed by the U.S. Department of Agriculture pursuant to the federal Animal Welfare Act (7 U.S.C. § 2131 et seq.) or regulations adopted thereunder to sell any dog to a pet shop.

C. A pet shop shall retain records verifying compliance with this section for a minimum of two years after the disposition of any dog.

D. Any person violating any provision of this section is guilty of a Class 1 misdemeanor for each dog sold or offered for sale."