

**Selected Acts of the 2008
Virginia General Assembly
Relating to the
*Virginia Crimes Against Minors and Sex Offender Registry***



*Compiled by
The Virginia Department of State Police*

This volume of Selected Acts is in addition to the Selected Acts 2008 criminal and traffic laws volume and contains legislation passed by the 2008 Session of the Virginia General Assembly that is relevant to the administration and enforcement of the Virginia *Crimes Against Minors and Sex Offender Registry*, Chapter 900 of Title 9.1 of the *Code of Virginia*. Additionally, summaries of less relevant, but important legislation are found in the back of this volume. These summaries will not be covered in class, but are there for your personal study.

EXPLANATIONS WHICH MAY BE HELPFUL IN STUDYING THESE ACTS:

1. Underlined words indicate new language.
2. ~~Lined through~~ words indicate language that has been removed.
3. Emergency Acts - All Acts with an emergency clause were effective when signed by the Governor. Generally the emergency clause appears as the last sentence of the Act.
4. Effective date - All Acts, other than those containing an emergency clause or those specifying a delayed effective date, become law as of the first moment of July 1, 2006. Different portions of a bill may carry different effective dates.
5. A brief summary outlining changes appears at the beginning of the bill. You are cautioned that the summary is not intended to be complete; it is merely an overview of the bill. Before taking enforcement action, carefully read the entire bill. The bill summaries were provided by the Division of Legislative Services.
6. The table of contents contains a bill description which is not necessarily the same as the short title.
7. Questions regarding information contained in this book may be directed to Lieutenant Colonel Robert Kemmler (804) 674-4606 or Legal Specialist Thomas Lambert (804) 674-2212.
8. Legislation information may be found at: <http://legis.state.va.us/> and the Virginia State Police website may be found at: <http://www.vsp.state.va.us/>

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VIRGINIA SEX OFFENDER AND CRIMES AGAINST MINORS REGISTRY

Offense Coverage effective **1 July 2008**

"**Offense for which registration is required**" means a violation of, attempted violation of, or conspiracy to violate:

- **18.2-31**, Murder where the victim is (i) under 15 years of age or (ii) where the victim is at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.
- **18.2-32**, Murder where the victim is (i) under 15 years of age or (ii) where the victim is at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.
- **18.2-63**, Carnal knowledge – victim age 13 or 14 – **unless** perpetrator is more than five years older than victim (use actual dates of birth) See violent below.
- **18.2-64.1**, Carnal knowledge – minor victim 15 and older, Supervisory relationship
- Former **18.2-67.2:1**, Marital sexual assault (Repealed in 2005)
- **18.2-90**, Burglary with the intent to commit rape
- **18.2-370.6**, Penetration of mouth of child under 13 by tongue with lascivious intent
- **18.2-374.1:1 (B) or (C)**, Possess/Reproduce/Distribute – Child Pornography
- Former **18.2-374.1:1 (D)**, Possession of child pornography, second offense. (as it was in effect between July 1, 1994 and June 30, 2007)
- **18.2-374.3 (B),(C), or (D)**, Use of communication system to solicit a person under 15 years or who the defendant believes is less than 15 years, with lascivious intent, to commit specified acts.
- Former **18.2-374.3 (B)(iv)**, Use of communication system to solicit a person under 15 years or who the defendant believes is less than 15 years, with lascivious intent, to commit specified acts (as it was in effect on Jun 30, 2007)

- a third or subsequent conviction of § **18.2-67.4**, Sexual battery
- a third or subsequent conviction of § **18.2-67.4:2**, Sexual abuse victim 13 or 14 years of age
- a third or subsequent conviction of § **18.2-67.5(C)**, Attempted Sexual Battery
- a third or subsequent conviction of § **18.2-386.1**, Unlawful filming, videotaping or photographing of another

OR

If the offense is committed **on or after July1, 2006**

- **18.2-67.5:1**, conviction of third misdemeanor offense **of** 18.2-67.4 (sexual battery), 18.2-67.5 (C) (attempted sexual battery), 18.2-371 (contributing to delinquency of a minor involving consensual intercourse, 18.2-387 (indecent exposure), or 18.2-130 (peeping). Must be convicted under 18.2-67.5:1 to qualify.

- **18.2-91**, burglary with the intent to commit any felony offense listed in this section
- **18.2-374.1:1 (A)**, possession of child pornography

OR

2. Where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10:

- **18.2-47(A)**, Abduction
- **18.2-48 (i)** Abduction with intent to Extort
- **18.2-67.4**, Sexual battery
- **18.2-67.5 (C)**, Attempted sexual battery
- **18.2-361**, Crimes against nature (sodomy)
- **18.2-366**, Incest

OR

- ***Any criminal homicide*** in conjunction with a violation of clause (i) of § **18.2-371** (Contributing to the delinquency) or § **18.2-371.1** (abuse and neglect of children) when the offenses arise out of the same incident

OR

Any offense for which registration in a sex offender and crimes against minor registry is required under the laws of the jurisdiction where the offender was convicted which would not otherwise require registration under this Act.

"Sexually violent offense" means a violation of, attempted violation of, or conspiracy to violate:

- **18.2-48(ii) or (iii)**, Abduction with (ii) intent to defile, (iii) of Vic under 16 for prostitution
- **18.2-61**, Rape
- **18.2-63**, Carnal knowledge – victim age 13 or 14 where perpetrator is more than five years older than victim (use actual dates of birth).
- **18.2-67.1**, Forcible sodomy
- **18.2-67.2**, Object sexual penetration
- **18.2-67.3**, Aggravated sexual battery
- **18.2-67.4**, Sexual battery where the perpetrator is 18 years of age or older and the victim is under the age of six

- **18.2-67.5 (A) or (B)**, Attempted rape and aggravated sexual battery
- **18.2-370**, Indecent liberties with minor
- **18.2-370.1**, Indecent liberties with minor, Supervisory relationship
- **18.2-374.1**, Production, distribution, financing etc. of Child Pornography

OR

- any person convicted under Chapter 17 (**18 U.S. Code §§ 2421 – 2428**)
- any person convicted for Sex trafficking (**18 U.S. Code § 1591**)

OR

A second or subsequent conviction, where the individual was a liberty between such convictions, of the following

- **18.2-63**, Carnal knowledge – victim age 13 or 14
- **18.2-64.1**, Carnal knowledge – minor victim 15 years or older, Supervisory relationship
- Former **18.2-67.2:1**, Marital sexual assault (Repealed in 2005)
- **18.2-90** Burglary with the intent to commit rape

A second or subsequent conviction, where the individual was a liberty between such convictions, and where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, a violation or attempted violation of:

- **18.2-47(A)**, Abduction
- **18.2-67.4**, Sexual Battery
- **18.2-67.5(C)**, Attempted sexual battery
- **18.2-48 (i)** Abduction with intent to extort
- **18.2-361**, Crimes against nature (sodomy)
- **18.2-366**, Incest
- **18.2-374.1:1 (C)**, Possession of Child Pornography subsequent offense

If the offense was committed **on or after July 1, 2006, and** if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications:

- **18.2-91**, burglary with the intent to commit any felony offense listed in this section.

"Offense for which registration is required" *includes*:

- Any offense similar to those listed in subdivisions 1 through 4 of § 9.1-902 under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof; **and**

- Any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

**HB 1044
Chapter 592**

**SB 114
Chapter 747**

Sex Offender Registry registration requirements. Makes it clear that persons convicted under certain Code sections that were amended by the 2007 General Assembly must register even though the sections have been rewritten. The bill requires the registration of any conviction of crimes involving use of a communications system to facilitate certain offenses involving children rather than current law which requires registration only when the victim is a minor or is physically helpless. The bill also revises definitions to make it clear that an out-of-state conviction for a registerable offense has the same status as a Virginia conviction. (Identical Bills)

CHAPTER 747

An Act to amend and reenact § [9.1-902](#) of the Code of Virginia, relating to the Sex Offender and Crimes Against Minors Registry; penalties.

[S 114]

Approved March 27, 2008

CHAPTER 592

An Act to amend and reenact § [9.1-902](#) of the Code of Virginia, relating to the Sex Offender and Crimes Against Minors Registry; penalties.

[H 1044]

Approved March 12, 2008

Be it enacted by the General Assembly of Virginia:

1. That § [9.1-902](#) of the Code of Virginia is amended and reenacted as follows:

§ [9.1-902](#). Offenses requiring registration.

A. For purposes of this chapter:

"Offense for which registration is required" includes:

1. Any offense listed in subsection B;
2. Criminal homicide;
3. Murder; ~~and~~
4. A sexually violent offense;

5. Any offense similar to those listed in subdivisions 1 through 4 under the laws of any foreign country or any political subdivision thereof, the United States or any political

subdivision thereof; and

6. Any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

B. The offenses included under this subsection include any violation of, attempted violation of, or conspiracy to violate:

1. § [18.2-63](#), § [18.2-64.1](#), former § [18.2-67.2:1](#), § [18.2-90](#) with the intent to commit rape, ~~or~~ subsection B or C of § [18.2-374.1:1](#), former subsection D of § [18.2-374.1:1](#) as it was in effect from July 1, 1994, through June 30, 2007, former clause (iv) of subsection B of § [18.2-374.3](#) as it was in effect on June 30, 2007, or subsection C of § [18.2-374.3](#); or a third or subsequent conviction of (i) § [18.2-67.4](#), (ii) § [18.2-67.4:2](#), (iii) subsection C of § [18.2-67.5](#) or (iv) § [18.2-386.1](#);

If the offense was committed on or after July 1, 2006, (i) § [18.2-91](#) with the intent to commit any felony offense listed in this section; (ii) subsection A of § [18.2-374.1:1](#); or (iii) a felony under § [18.2-67.5:1](#).

2. ~~Subsection C of § [18.2-374.3](#) or where~~ Where the victim is a minor or is physically helpless or mentally incapacitated as defined in § [18.2-67.10](#), subsection A of § [18.2-47](#), clause (i) or (iii) of § [18.2-48](#), § [18.2-67.4](#), subsection C of § [18.2-67.5](#), § [18.2-361](#), or [18.2-366](#).

C. "Criminal homicide" means a homicide in conjunction with a violation of, attempted violation of, or conspiracy to violate clause (i) of § [18.2-371](#) or § [18.2-371.1](#), when the offenses arise out of the same incident.

D. "Murder" means a violation of, attempted violation of, or conspiracy to violate § [18.2-31](#) or § [18.2-32](#) where the victim is (i) under 15 years of age or (ii) where the victim is at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.

E. "Sexually violent offense" means a violation of, attempted violation of, or conspiracy to violate:

1. Clause (ii) of § [18.2-48](#), § [18.2-61](#), § [18.2-67.1](#), § [18.2-67.2](#), § [18.2-67.3](#), § [18.2-67.4](#) where the perpetrator is 18 years of age or older and the victim is under the age of six, subsections A and B of § [18.2-67.5](#), § [18.2-370](#), or § [18.2-370.1](#) or § [18.2-374.1](#); or

2. § [18.2-63](#), § [18.2-64.1](#), former § [18.2-67.2:1](#), § [18.2-90](#) with the intent to commit rape or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § [18.2-67.10](#), subsection A of § [18.2-47](#), § [18.2-67.4](#), subsection C of § [18.2-67.5](#), clause (i) or (iii) of § [18.2-48](#), § [18.2-361](#), § [18.2-366](#) or subsection C of § [18.2-374.1:1](#). An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications;

3. If the offense was committed on or after July 1, 2006, § [18.2-91](#) with the intent to

commit any felony offense listed in this section. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that the person had been at liberty between such convictions or adjudications; or

4. Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code or sex trafficking (as described in § 1591 of Title 18, U.S.C.).

F. ~~"Offense for which registration is required"~~ *"Any offense listed in subsection B," "criminal homicide" as defined in this section, "murder" as defined in this section, and "sexually violent offense" as defined in this section* includes (i) any similar offense under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof or (ii) any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

G. Juveniles adjudicated delinquent shall not be required to register; however, where the offender is a juvenile over the age of 13 at the time of the offense who is tried as a juvenile and is adjudicated delinquent on or after July 1, 2005, of any offense for which registration is required, the court may, in its discretion and upon motion of the attorney for the Commonwealth, find that the circumstances of the offense require offender registration. In making its determination, the court shall consider all of the following factors that are relevant to the case: (i) the degree to which the delinquent act was committed with the use of force, threat or intimidation, (ii) the age and maturity of the complaining witness, (iii) the age and maturity of the offender, (iv) the difference in the ages of the complaining witness and the offender, (v) the nature of the relationship between the complaining witness and the offender, (vi) the offender's prior criminal history, and (vii) any other aggravating or mitigating factors relevant to the case.

HB 34
Chapter 772

Sexual offenses against children; person over 18 guilty of Class 1 misdemeanor with child under 13. Creates a new section 18.2-370.6 which provides that it is a Class 1 misdemeanor for any person 18 years of age or older to, with lascivious intent, kiss a child under the age of 13 on the mouth while knowingly and intentionally penetrating the mouth of such child with his tongue. A convicted offender must register on the sex offender registry.

CHAPTER 772

An Act to amend and reenact § [9.1-902](#) of the Code of Virginia and to amend the Code of Virginia by adding a section numbered [18.2-370.6](#), relating to offenses against children; penalty.

[H 34]

Approved April 2, 2008

Be it enacted by the General Assembly of Virginia:

1. That § [9.1-902](#) of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered [18.2-370.6](#) as follows:

§ [9.1-902](#). Offenses requiring registration.

A. For purposes of this chapter:

"Offense for which registration is required" includes:

1. Any offense listed in subsection B;
2. Criminal homicide;
3. Murder; and
4. A sexually violent offense.

B. The offenses included under this subsection include any violation of, attempted violation of, or conspiracy to violate:

1. § [18.2-63](#), § [18.2-64.1](#), former § [18.2-67.2:1](#), § [18.2-90](#) with the intent to commit rape, or subsection B or C of § [18.2-374.1:1](#); or a third or subsequent conviction of (i) § [18.2-67.4](#), (ii) § [18.2-67.4:2](#), (iii) subsection C of § [18.2-67.5](#) or (iv) § [18.2-386.1](#);

If the offense was committed on or after July 1, 2006, (i) § [18.2-91](#) with the intent to commit any felony offense listed in this section; (ii) subsection A of § [18.2-374.1:1](#); or (iii) a felony under § [18.2-67.5:1](#).

2. Subsection C of § [18.2-374.3](#) or where the victim is a minor or is physically helpless

or mentally incapacitated as defined in § [18.2-67.10](#), subsection A of § [18.2-47](#), clause (i) or (iii) of § [18.2-48](#), § [18.2-67.4](#), subsection C of § [18.2-67.5](#), § [18.2-361](#), or [18.2-366](#).

3. § [18.2-370.6](#).

C. "Criminal homicide" means a homicide in conjunction with a violation of, attempted violation of, or conspiracy to violate clause (i) of § [18.2-371](#) or § [18.2-371.1](#), when the offenses arise out of the same incident.

D. "Murder" means a violation of, attempted violation of, or conspiracy to violate § [18.2-31](#) or § [18.2-32](#) where the victim is (i) under 15 years of age or (ii) where the victim is at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.

E. "Sexually violent offense" means a violation of, attempted violation of, or conspiracy to violate:

1. Clause (ii) of § [18.2-48](#), § [18.2-61](#), § [18.2-67.1](#), § [18.2-67.2](#), § [18.2-67.3](#), § [18.2-67.4](#) where the perpetrator is 18 years of age or older and the victim is under the age of six, subsections A and B of § [18.2-67.5](#), § [18.2-370](#), or § [18.2-370.1](#) or § [18.2-374.1](#); or

2. § [18.2-63](#), § [18.2-64.1](#), former § [18.2-67.2:1](#), § [18.2-90](#) with the intent to commit rape or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § [18.2-67.10](#), subsection A of § [18.2-47](#), § [18.2-67.4](#), subsection C of § [18.2-67.5](#), clause (i) or (iii) of § [18.2-48](#), § [18.2-361](#), § [18.2-366](#) or subsection C of § [18.2-374.1:1](#). An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications;

3. If the offense was committed on or after July 1, 2006, § [18.2-91](#) with the intent to commit any felony offense listed in this section. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that the person had been at liberty between such convictions or adjudications; or

4. Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code or sex trafficking (as described in § 1591 of Title 18, U.S.C.).

F. "Offense for which registration is required" includes (i) any similar offense under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof or (ii) any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

G. Juveniles adjudicated delinquent shall not be required to register; however, where the offender is a juvenile over the age of 13 at the time of the offense who is tried as a juvenile and is adjudicated delinquent on or after July 1, 2005, of any offense for which registration is required, the court may, in its discretion and upon motion of the attorney for the Commonwealth, find that the circumstances of the offense require offender

registration. In making its determination, the court shall consider all of the following factors that are relevant to the case: (i) the degree to which the delinquent act was committed with the use of force, threat or intimidation, (ii) the age and maturity of the complaining witness, (iii) the age and maturity of the offender, (iv) the difference in the ages of the complaining witness and the offender, (v) the nature of the relationship between the complaining witness and the offender, (vi) the offender's prior criminal history, and (vii) any other aggravating or mitigating factors relevant to the case.

§ [18.2-370.6](#). *Penetration of mouth of child with lascivious intent; penalty.*

Any person 18 years of age or older who, with lascivious intent, kisses a child under the age of 13 on the mouth while knowingly and intentionally penetrating the mouth of such child with his tongue is guilty of a Class 1 misdemeanor.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

SB 590
Chapter 877

Sex offenders; registration; penalty. Makes various amendments addressing the Sex Offender and Crimes Against Minors Registry including which crimes require what level of registration and the length of registration (15 years prior to petition, 25 years prior to petition, or life) in order to ensure that Virginia law complies with the federal Adam Walsh Child Protection and Safety Act of 2006 (42 U.S.C. § 16901 et seq.). The bill also requires persons convicted of carnal knowledge of a child 13 or 14 years of age to register as a violent sex offender if the person convicted was more than five years older than the victim.

CHAPTER 877

An Act to amend and reenact §§ [9.1-902](#), [9.1-908](#), and [9.1-910](#) of the Code of Virginia, relating to sex offenders; registration; penalty.

[S 590]

Approved April 23, 2008

Be it enacted by the General Assembly of Virginia:

1. That §§ [9.1-902](#), [9.1-908](#), and [9.1-910](#) of the Code of Virginia are amended and reenacted as follows:

§ [9.1-902](#). Offenses requiring registration.

A. For purposes of this chapter:

"Offense for which registration is required" includes:

1. Any offense listed in subsection B;
2. Criminal homicide;
3. Murder; and
4. A sexually violent offense.

B. The offenses included under this subsection include any violation of, attempted violation of, or conspiracy to violate:

1. § [18.2-63](#), unless registration is required pursuant to Subsection E. 1, § [18.2-64.1](#), former § [18.2-67.2:1](#), § [18.2-90](#) with the intent to commit rape, or subsection B or C of § [18.2-374.1:1](#); subsection B, C, or D of § [18.2-374.3](#), or a third or subsequent conviction of (i) § [18.2-67.4](#), (ii) § [18.2-67.4:2](#), (iii) subsection C of § [18.2-67.5](#) or (iv) § [18.2-386.1](#);

If the offense was committed on or after July 1, 2006, § [18.2-91](#) with the intent to commit any felony offense listed in this section; (ii) subsection A of § [18.2-374.1:1](#); or

(iii) a felony under § [18.2-67.5:1](#).

2. ~~Subsection C of § [18.2-374.3](#) or where~~ *Where* the victim is a minor or is physically helpless or mentally incapacitated as defined in § [18.2-67.10](#), subsection A of § [18.2-47](#), clause (i) ~~or (iii)~~ of § [18.2-48](#), § [18.2-67.4](#), subsection C of § [18.2-67.5](#), § [18.2-361](#), or [18.2-366](#).

C. "Criminal homicide" means a homicide in conjunction with a violation of, attempted violation of, or conspiracy to violate clause (i) of § [18.2-371](#) or § [18.2-371.1](#), when the offenses arise out of the same incident.

D. "Murder" means a violation of, attempted violation of, or conspiracy to violate § [18.2-31](#) or § [18.2-32](#) where the victim is (i) under 15 years of age or (ii) where the victim is at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.

E. "Sexually violent offense" means a violation of, attempted violation of, or conspiracy to violate:

1. Clause (ii) *and (iii)* of § [18.2-48](#), § [18.2-61](#), *subsection A of § [18.2-63](#) where the perpetrator is more than five years older than the victim*, § [18.2-67.1](#), § [18.2-67.2](#), § [18.2-67.3](#), § [18.2-67.4](#) where the perpetrator is 18 years of age or older and the victim is under the age of six, subsections A and B of § [18.2-67.5](#), § [18.2-370](#), or § [18.2-370.1](#) or § [18.2-374.1](#); or

2. § [18.2-63](#), § [18.2-64.1](#), former § [18.2-67.2:1](#), § [18.2-90](#) with the intent to commit rape or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § [18.2-67.10](#), subsection A of § [18.2-47](#), § [18.2-67.4](#), subsection C of § [18.2-67.5](#), clause (i) ~~or (iii)~~ of § [18.2-48](#), § [18.2-361](#), § [18.2-366](#) or subsection C of § [18.2-374.1:1](#). An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications;

3. If the offense was committed on or after July 1, 2006, § [18.2-91](#) with the intent to commit any felony offense listed in this section. An offense listed under this subdivision shall be deemed a sexually violent offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that the person had been at liberty between such convictions or adjudications; or

4. Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code or sex trafficking (as described in § 1591 of Title 18, U.S.C.).

F. "Offense for which registration is required" includes (i) any similar offense under the laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof or (ii) any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

G. Juveniles adjudicated delinquent shall not be required to register; however, where

the offender is a juvenile over the age of 13 at the time of the offense who is tried as a juvenile and is adjudicated delinquent on or after July 1, 2005, of any offense for which registration is required, the court may, in its discretion and upon motion of the attorney for the Commonwealth, find that the circumstances of the offense require offender registration. In making its determination, the court shall consider all of the following factors that are relevant to the case: (i) the degree to which the delinquent act was committed with the use of force, threat or intimidation, (ii) the age and maturity of the complaining witness, (iii) the age and maturity of the offender, (iv) the difference in the ages of the complaining witness and the offender, (v) the nature of the relationship between the complaining witness and the offender, (vi) the offender's prior criminal history, and (vii) any other aggravating or mitigating factors relevant to the case.

§ [9.1-908](#). Duration of registration requirement.

Any person required to register or reregister shall be required to register until the duty to register and reregister is terminated by a court order as set forth in § [9.1-910](#), except that any person who has been convicted of (i) any sexually violent offense, (ii) murder or (iii) former § [18.2-67.2:1](#) shall have a continuing duty to reregister for life.

Any period of confinement in a federal, state or local correctional facility, hospital or any other institution or facility during the otherwise applicable ~~40-year~~ period shall toll the registration period and the duty to reregister shall be extended. Persons confined in a federal, state, or local correctional facility shall not be required to reregister until released from custody.

§ [9.1-910](#). Removal of name and information from Registry.

A. Any person required to register, other than a person who has been convicted of any (i) sexually violent offense, (ii) two or more offenses for which registration is required, (iii) a violation of former § [18.2-67.2:1](#), or (iv) murder, may petition the circuit court in which he was convicted or the circuit court in the jurisdiction where he then resides for removal of his name and all identifying information from the Registry. A petition may not be filed earlier than ~~40~~ 15 years, or 25 years for violations of § [18.2-64.1](#), subsection C of § [18.2-374.1:1](#), or subsection C, D, or E of § [18.2-374.3](#), after the date of initial registration nor earlier than ~~40~~ 15 years, or 25 years for violations of § [18.2-64.1](#), subsection C of § [18.2-374.1:1](#), or subsection C, D, or E of § [18.2-374.3](#), from the date of his last conviction for ~~(i)~~ (a) a violation of § [18.2-472.1](#) or ~~(ii)~~ (b) any felony. A petition may not be filed until all court ordered treatment, counseling, and restitution has been completed. The court shall obtain a copy of the petitioner's complete criminal history and registration and reregistration history from the Registry and then hold a hearing on the petition at which the applicant and any interested persons may present witnesses and other evidence. The Commonwealth shall be made a party to any action under this section. If, after such hearing, the court is satisfied that such person no longer poses a risk to public safety, the court shall grant the petition. In the event the petition is not granted, the person shall wait at least 24 months from the date of the denial to file a new petition for removal from the Registry.

B. The State Police shall remove from the Registry the name of any person and all identifying information upon receipt of an order granting a petition pursuant to

subsection A.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

HB 902
Chapter 220

Registration procedures under the Sex Offender and Crimes Against Minors Act.
Specifies that the vehicle information currently required to be filed with the registration as a sex offender is motor vehicle, watercraft and aircraft information.

CHAPTER 220

An Act to amend and reenact § [9.1-903](#) of the Code of Virginia, relating to registration procedures under the Sex Offender and Crimes Against Minors Registry Act.

[H 902]

Approved March 3, 2008

Be it enacted by the General Assembly of Virginia:

1. That § [9.1-903](#) of the Code of Virginia is amended and reenacted as follows:

§ [9.1-903](#). Registration procedures.

A. Every person convicted, including juveniles tried and convicted in the circuit courts pursuant to § [16.1-269.1](#), whether sentenced as an adult or juvenile, of an offense for which registration is required and every juvenile found delinquent of an offense for which registration is required under subsection G of § [9.1-902](#) shall be required upon conviction to register and reregister with the Department of State Police. The court shall order the person to provide to the local law-enforcement agency of the county or city where he physically resides all information required by the State Police for inclusion in the Registry. The court shall immediately remand the person to the custody of the local law-enforcement agency for the purpose of obtaining the person's fingerprints and photographs of a type and kind specified by the State Police for inclusion in the Registry. Upon conviction, the local law-enforcement agency shall forthwith forward to the State Police all the necessary registration information.

B. Every person required to register shall register in person within three days of his release from confinement in a state, local or juvenile correctional facility, in a state civil commitment program for sexually violent predators or, if a sentence of confinement is not imposed, within three days of suspension of the sentence or in the case of a juvenile of disposition. A person required to register shall register, and as part of the registration shall submit to be photographed, submit to have a sample of his blood, saliva, or tissue taken for DNA (deoxyribonucleic acid) analysis *and submission to the DNA databank* to determine identification characteristics specific to the person, provide electronic mail address information, any instant message, chat or other Internet communication name or identity information that the person uses or intends to use, submit to have his fingerprints and palm prints taken, provide information regarding his place of employment, and provide *motor vehicle, watercraft and aircraft* registration information for all *motor vehicles, watercraft and aircraft* owned by him. The local law-enforcement agency shall obtain from the person who presents himself for registration or reregistration one set of fingerprints, electronic mail address information, any instant message, chat or other Internet communication name or identity information that the

person uses or intends to use, one set of palm prints, place of employment information, *motor vehicle, watercraft and aircraft* registration information for all *motor vehicles, watercraft and aircraft* owned by the registrant, proof of residency and a photograph of a type and kind specified by the State Police for inclusion in the Registry and advise the person of his duties regarding reregistration. The local law-enforcement agency shall obtain from the person who presents himself for registration a sample of his blood, saliva or tissue taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. If a sample has been previously taken from the person, as indicated by the Local Inmate Data System (LIDS), no additional sample shall be taken. The local law-enforcement agency shall forthwith forward to the State Police all necessary registration information.

C. To establish proof of residence in Virginia, a person shall present one photo-identification form issued by a governmental agency of the Commonwealth which contains the person's complete name, gender, date of birth and complete physical address. The local law-enforcement agency shall forthwith forward to the State Police a copy of the identification presented by the person required to register.

D. Any person required to register shall also reregister in person with the local law-enforcement agency following any change of name or any change of residence, whether within or without the Commonwealth. If his new residence is within the Commonwealth, the person shall register in person with the local law-enforcement agency where his new residence is located within three days following his change in residence. If the new residence is located outside of the Commonwealth, the person shall register in person with the local law-enforcement agency where he previously registered within 10 days prior to his change of residence. If a probation or parole officer becomes aware of a change of name or residence for any of his probationers or parolees required to register, the probation or parole officer shall notify the State Police forthwith of learning of the change. Whenever a person subject to registration changes residence to another state, the State Police shall notify the designated law-enforcement agency of that state.

E. Any person required to register shall reregister in person with the local law-enforcement agency where his residence is located within three days following any change of the place of employment, whether within or without the Commonwealth. If a probation or parole officer becomes aware of a change of the place of employment for any of his probationers or parolees required to register, the probation or parole officer shall notify the State Police forthwith upon learning of the change of the person's place of employment. Whenever a person subject to registration changes his place of employment to another state, the State Police shall notify the designated law-enforcement agency of that state.

F. Any person required to register shall reregister in person with the local law-enforcement agency where his residence is located within three days following any change of owned *motor vehicle, watercraft and aircraft* registration information, whether within or without the Commonwealth. If a probation or parole officer becomes aware of a change of owned *motor vehicle, watercraft and aircraft* registration information for any of his probationers or parolees required to register, the probation or parole officer shall notify the State Police forthwith upon learning of the change of the person's owned *motor vehicle, watercraft and aircraft* registration information. Whenever a person

required to register changes his owned *motor vehicle, watercraft and aircraft* registration information to another state, the State Police shall notify the designated law-enforcement agency of that state.

G. Any person required to register shall reregister either in person or electronically with the local law-enforcement agency where his residence is located within 30 minutes following any change of the electronic mail address information, any instant message, chat or other Internet communication name or identity information that the person uses or intends to use, whether within or without the Commonwealth. If a probation or parole officer becomes aware of a change of the electronic mail address information, any instant message, chat or other Internet communication name or identity information for any of his probationers or parolees required to register, the probation or parole officer shall notify the State Police forthwith upon learning of the change.

H. The registration shall be maintained in the Registry and shall include the person's name, all aliases that he has used or under which he may have been known, the date and locality of the conviction for which registration is required, his fingerprints and a photograph of a type and kind specified by the State Police, his date of birth, social security number, current physical and mailing address and a description of the offense or offenses for which he was convicted. The registration shall also include the locality of the conviction and a description of the offense or offenses for previous convictions for the offenses set forth in § [9.1-902](#).

I. The local law-enforcement agency shall forthwith forward to the State Police all necessary registration or reregistration information received by it. Upon receipt of registration or reregistration information the State Police shall forthwith notify the chief law-enforcement officer of the locality listed as the person's address on the registration and reregistration.

HB 830
Chapter 218

Affidavit as evidence of sex offender's failure to register; custodian of records.

Provides that a person accused of failing to register or reregister as a sex offender may call, in any hearing or trial where an affidavit from the State Police stating the failure to register or reregister is admitted into evidence, the custodian of records issuing the affidavit as a witness. The custodian of records will be considered to be an adverse witness and he shall be summoned and appear at the cost of the Commonwealth.

CHAPTER 218

An Act to amend and reenact § [18.2-472.1](#) of the Code of Virginia, relating to affidavit as evidence of failure of sex offender to register; custodian of records as witness.

[H 830]

Approved March 3, 2008

Be it enacted by the General Assembly of Virginia:

1. That § [18.2-472.1](#) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-472.1](#). Providing false information or failing to provide registration information; penalty; prima facie evidence.

A. Any person subject to Chapter 9 (§ [9.1-900](#) et seq.) of Title 9.1, other than a person convicted of a sexually violent offense or murder as defined in § [9.1-902](#), who knowingly fails to register or reregister, or who knowingly provides materially false information to the Sex Offender and Crimes Against Minors Registry is guilty of a Class 1 misdemeanor. A second or subsequent conviction for an offense under this subsection is a Class 6 felony.

B. Any person convicted of a sexually violent offense or murder, as defined in § [9.1-902](#), who knowingly fails to register or reregister, or who knowingly provides materially false information to the Sex Offender and Crimes Against Minors Registry is guilty of a Class 6 felony. A second or subsequent conviction for an offense under this subsection is a Class 5 felony.

C. A prosecution pursuant to this section shall be brought in the city or county where the offender can be found or where the offender last registered or reregistered or, if the offender failed to comply with the duty to register, where the offender was last convicted of an offense for which registration or reregistration is required.

D. At any trial pursuant to this section, an affidavit from the State Police issued as required in § [9.1-907](#) shall be admitted into evidence as prima facie evidence of the failure to comply with the duty to register or reregister and a copy of such affidavit shall be provided to the registrant or his counsel seven days prior to hearing or trial by the

attorney for the Commonwealth.

E. The accused in any hearing or trial in which an affidavit from the State Police issued as required in § [9.1-907](#) is admitted into evidence pursuant to this section shall have the right to call the custodian of records issuing the affidavit and examine him in the same manner as if he had been called as an adverse witness. Such witness shall be summoned and appear at the cost of the Commonwealth.

¶ *F. For the purposes of this section any conviction for a substantially similar offense under the laws of (i) any foreign country or any political subdivision thereof, or (ii) any state or territory of the United States or any political subdivision thereof, the District of Columbia, or the United States shall be considered a prior conviction.*

HB 567
Chapter 781

Sex offenses prohibiting entry onto school property; penalty. Provides that every adult who is convicted of a sexually violent offense, as defined in § 9.1-902, shall be prohibited from entering and being present upon any property he knows or has reason to know is a public or private elementary or secondary school or child day center property during school-related and school-sponsored activities. Currently, the prohibition only applies during school hours.

CHAPTER 781

An Act to amend and reenact § [18.2-370.5](#) of the Code of Virginia, relating to sex offenses prohibiting entry onto school property; penalty.

[H 567]

Approved April 2, 2008

Be it enacted by the General Assembly of Virginia:

1. That § [18.2-370.5](#) of the Code of Virginia is amended and reenacted as follows:

§ [18.2-370.5](#). Sex offenses prohibiting entry onto school property; penalty.

A. Every adult who is convicted of a sexually violent offense, as defined in § [9.1-902](#), shall be prohibited from entering and being present, during school hours *and during school-related and school-sponsored activities*, upon any property he knows or has reason to know is a public or private elementary or secondary school or child day center property, unless (i) he is a lawfully registered and qualified voter, and is coming upon such property solely for purposes of casting his vote; (ii) he is a student enrolled at the school; or (iii) he has obtained a court order allowing him to enter and be present upon such property, and is in compliance with terms and conditions of the order. A violation of this section is punishable as a Class 6 felony.

B. Every adult who is prohibited from entering upon school or child day center property pursuant to subsection A may after notice to the attorney for the Commonwealth and either (i) the proprietor of the child day center, (ii) the superintendent of public instruction of the school division in which the school is located, or (iii) the chief administrator of the school if such school is not a public school, petition the juvenile and domestic relations district court or the circuit court in the county or city where the school or child day center is located for permission to enter such property. For good cause shown, the court may issue an order permitting the petitioner to enter and be present on such property, subject to whatever restrictions of area, reasons for being present, or time limits the court deems appropriate.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § [30-19.1:4](#), the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

BILL SUMMARIES

Chapter 76 – HB 844

Chapter 338 – SB74

Sex Offender and Crimes Against Minors Registry; use of data by SAVIN.

Allows the State Police to provide the Statewide Automated Victim Notification (SAVIN) system with Registry data in an electronic format to the Compensation Board for verification of registrant status and notification of victims and law enforcement.

Chapter 487 – HB 534

Driver's license renewal; sex offenders. Provides that the Department of State Police transmit information about registered sex offenders to the Department of Motor Vehicles; and requires registered sex offenders to appear in person at the Department of Motor Vehicles for each driver's license renewal. **The driver's license of registered sex offenders will be valid for a period not to exceed five years. Registered sex offenders must have a new picture taken with each renewal.** This bill has a delayed effective date of January 1, 2009.

Chapter 579 – HB223

Offenses prohibiting proximity to children; penalty. Provides that any adult who is convicted of an offense prohibiting proximity to children, when the offense occurred on or after July 1, 2008, shall as part of his sentence be forever prohibited from going, for the purpose of having any contact whatsoever with children that are not in his custody, within 100 feet of the premises of any place owned or operated by a locality that he knows or should know is a playground, athletic field or facility, or gymnasium. A violation is a Class 6 felony.

Chapter 649 – SB 764

Address confidentiality for victims of domestic violence; program expanded; penalty. Expands the address confidentiality for victims of domestic violence program currently implemented in the County of Arlington to the Counties of Albemarle, Augusta, Dickenson, Fairfax, Henry, Lee, Rockbridge, Russell, Scott, Washington, and Wise as well as the Cities of Buena Vista, Charlottesville, Lexington, Martinsville, Norfolk, and Roanoke. The bill also provides that an applicant to the program may apply in person at a domestic violence program, which is defined as a public and not-for-profit agency the primary mission of which is to provide services to victims of sexual or domestic violence. Currently, such applications are made directly to the Office of the Attorney General. **Persons required to register as sex offenders are ineligible for the programs.**

Chapter 726 – HB 622

Sexual offender; prohibited from residing within 500 feet of public park in proximity to children. Prohibits an adult convicted of certain sex offenses from living within 500 feet of a public park that is owned and operated by a county, city or town, shares a boundary line with a primary, secondary or high school and is regularly used for school activities. A violation is a Class 6 felony and there is an exception if the public park was established subsequent to the offender's conviction.