



2013

Virginia Juvenile Law Handbook for School Administrators



Co-Sponsored by the
Virginia Department of Criminal Justice Services and the Office of the Attorney General

Virginia Juvenile Law Handbook For School Administrators

TABLE OF CONTENTS

	Page
I. INTRODUCTION.....	1
II. JUVENILE JUSTICE IN VIRGINIA	1
What is juvenile law?.....	1
How is the juvenile justice system organized in Virginia?	1
What is the procedure for re-enrollment of students who have been in juvenile correctional facilities?	3
How does the juvenile justice process operate in Virginia?	4
What is a juvenile court intake officer?.....	5
What is detention?	6
When can someone be detained?.....	6
What is a detention center?	6
What is an adjudicatory hearing?.....	6
What is a dispositional hearing?.....	6
What is restitution?	7
What does probation mean?.....	7
If someone is found to be delinquent, what can happen?.....	7
What is a juvenile correctional center?.....	7
Are there other consequences for committing a crime?.....	8
Can someone’s juvenile court record be sealed or destroyed?	8
Under what circumstances can a juvenile be tried as an adult?	8
What do the terms “Child in Need of Services” and “Child in Need of Supervision” mean?	9
III. SCHOOL SAFETY	9
A. Search and Seizure.....	9
Under what circumstances can a student be searched?.....	9
What are blanket and random administrative searches?	10
What are best practices in conducting blanket and random searches?.....	10
What is a warrantless or reasonable suspicion search?.....	11
What is a consent search?	12
When can a school resource officer (SRO) search a student?.....	12
When can a school security officer (SSO) search a student?.....	12
Are school personnel protected in any way from liability when conducting searches?	13
Is student drug testing permissible?.....	13
B. School Safety Audits	13
What is a school safety audit?.....	13
What responsibilities do schools have for school safety audits?	14
What is the difference between a school safety audit and a school safety assessment?.....	14
C. Crisis Management/Emergency Response	15
What are schools required by law to do related to crisis planning and response?.....	15
School Board Requirements	15
Why should a school conduct emergency drills?.....	16
What resources are available to assist schools in planning for and responding to emergencies?	16

D. School Resource Officers (SROs) and School Security Officers (SSOs)	16
What is a school resource officer?	16
What do school resource officers do?	17
What is a school security officer?	17
What do school security officers do?	17
How do the roles of SROs and SSOs compare?	18
E. Threat Assessment	18
What is a student threat assessment?	18
Why should a school establish a process for threat assessment?	19
What does a student “threat assessment” involve?	19
IV. OFFENSES	21
A. Crime and Schools	21
What offenses must schools report to law enforcement?	21
B. Offenses against Persons	23
What are “crimes against persons?”	23
What is assault and battery?	23
What is bullying?	24
What is cyberbullying?	25
What authority do schools have to limit cell phone use?	26
What about calls that aren’t threatening but are annoying?	26
What is extortion?	26
What is harassment?	27
What is hazing?	27
Do schools have any special responsibilities related to hazing?	28
What is intimidation?	28
What is robbery?	28
What is stalking?	29
What is a threat?	29
C. Property Offenses	30
What are crimes against property?	30
What is arson?	30
What is larceny?	31
What is the difference between petty larceny and grand larceny?	31
What are laws about buying or receiving stolen goods?	32
What is trespass?	32
What is vandalism?	33
Can students who vandalize a school be made to repair the damage or pay for repairs?	34
Are parents liable for damages caused by their children?	34
D. Disorderly Conduct	35
What is disorderly conduct?	35
Is cursing against the law?	36
What if a student activates a fire alarm when there is no fire?	36
What is a riot?	37

E. Gang-related Offenses	37
What is a gang?.....	37
Which other laws address gangs?	37
What kinds of crimes do gang members commit?	38
What authority/responsibilities do schools have related to gangs?	38
What resources are available to help schools deal with gangs?	39
What is tagging?	39
F. Alcohol and Drug-related Offenses	40
What is an alcoholic beverage?	40
At what age is alcohol use allowed?.....	40
What is the penalty for someone under 21 possessing or purchasing alcohol?	40
What other penalties may apply for alcohol-related offenses?	40
What are schools required to do related to student alcohol possession or use?	41
What resources are available to address underage alcohol use?	42
What Virginia laws are related to drugs and schools?	42
Is student drug testing permissible?.....	42
What types of disciplinary action can be taken with a student who brings drugs to school?.....	43
What are Virginia laws related to tobacco?	45
G. Weapons-related Offenses.....	45
What is considered a weapon?.....	45
Under what circumstances can a weapon be brought onto school property?	46
What types of disciplinary action can be taken with a student who brings a weapon to school?.....	46
What weapons fall under the Gun-Free Schools Act of 1994?	46
H. Computer and Internet-related Offenses.....	48
What computer/Internet use policies are schools required to have in place?	48
What are Virginia laws related to computer-/Internet-related crimes?	49
What resources are available to schools to prevent/reduce computer and Internet-related offenses?.....	51
What authority do schools have to limit cell phone use?	52
What about calls that aren't threatening but are annoying?	52
I. Sex-related Offenses	52
What is sexual assault?	52
What assistance is available for victims of sexual assault?	53
Where can I find out about sexual assault services in my community?	53
What should a school do if a student reports being sexually assaulted?	53
What constitutes sexual harassment?.....	55
What is sexting?.....	55
How common is sexting?.....	55
What resources are available for schools to address sexting?	56
What are laws related to sex offenders and schools?	56
J. Traffic/Driving Offenses.....	56
Is there parental oversight of minors' licenses?.....	56
What restrictions are there on driving for persons under 18 years of age?	56
Can a juvenile lose his driving privileges for things other than traffic violations?	57

K. Status Offenses	57
What is a status offense?.....	57
What does Virginia law say about school attendance?	57
What does Virginia law say about unexcused absences and driving?.....	58
What does Virginia law say about attendance and religious holidays?	58
What does Virginia law say about notifying social services of non-attendance?.....	58
How is truancy defined in Virginia law?	59
What disciplinary action can be taken for truancy?	59
Can school resource officers enforce compulsory attendance laws?	59
Can any action be taken against adults who allow truants to “hang out” during school hours?.....	60
L. Other Types of Offenses.....	60
What is a bomb threat?.....	60
Is telling a law enforcement officer false information against the law?	61
What is the legal definition of gambling?.....	61
What kinds of behaviors constitute contributing to the delinquency of a minor?	61
V. ISSUES AND TOPICS	62
A. Student Conduct.....	62
What responsibilities do schools have for student conduct?.....	62
What are discipline procedures when the student is in special education?	62
Are school personnel protected in any way from liability when enforcing the student code of conduct?	63
Can a student be spanked at school for misbehaving?	63
Under what circumstances can a teacher remove a student from a classroom?	63
Which offenses can result in expulsion?	63
What action can a school take when a student violates student conduct policy but claims he acted in self defense?	64
B. Parental Responsibilities Related to School.....	65
What responsibilities do parents have related to school?	65
C. Child Abuse Reporting	65
What is considered child abuse or neglect?	65
What responsibilities do schools have for reporting suspected child abuse or neglect?.....	66
What protections do school personnel have from being sued by a parent for reporting child abuse or neglect?	66
What resources are available to schools to assist them in proper reporting of suspected abuse or neglect?	66
D. Student Records and Information Sharing	66
What responsibilities do schools have for student scholastic records?	66
What information can schools share with the school resource officer?.....	67
What acts of students are required to be reported to the school division superintendent?	67
Records of Information disclosed	68
When transferring records to another school, what information is to be included?.....	68
E. Student Victims	68
Who are victims?	68
What are victims' rights?	68
How can I find out about victim or witness services in my community?	69
Which specific rights do victims have?	69
What is a victim impact statement?	70
What resources are available for students who are victims of crime?	70

F. Other Issues	70
What limits can schools place on students' freedom of speech/expression?	70
Is prayer allowed in public schools in Virginia?	71
Can schools require students to wear uniforms?	71
Are schools required to take action if a student is thought to be possibly suicidal?	71
What resources are available to educators to help them recognize and assist students who may be suicidal?	71
VI. COMMUNITY RESOURCES	72
Virginia Center for School Safety	72
Virginia Department of Social Services	72
Virginia Department of Behavioral Health and Developmental Services	72
Virginia Department of Juvenile Justice	72
VII. RELATED TERMS	73

I. INTRODUCTION

The Virginia Juvenile Law Handbook for School Administrators is intended to serve as a resource for school administrators and other school personnel who are responsible for not only the education of youth, but also for their safety and welfare.

The online format (available at: <http://www.virginiarules.com/juvenile-law-handbook/>) features links to the *Code of Virginia* (<http://leg1.state.va.us/000/src.htm>) and to key publications and resources.

In the Offenses section, offenses that are required to be reported to law enforcement carry the icon:



Offenses are also cross-referenced with Virginia Department of Education Discipline, Crime, and Violence (DCV) codes and definitions and carry the following icon:



Resources carry the following icon:



II. JUVENILE JUSTICE IN VIRGINIA

What is juvenile law?

Juvenile law is criminal law pertaining to persons not considered old enough to be held responsible for criminal acts they commit. In Virginia, as in most other states, the age for criminal accountability is set at 18 years; anyone less than 18 years of age is defined as a “juvenile.” Most laws governing juveniles are contained in *Code of Virginia*, Title 16.1.

(<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC1601000>).

It is important to understand that the main goal of the juvenile justice system is rehabilitation rather than punishment.

How is the juvenile justice system organized in Virginia?

The Juvenile Justice system in Virginia includes not only Juvenile and Domestic Relations Court (J&D) in each District, but law enforcement agencies, detention centers, juvenile offenders programs, and juvenile correctional facilities.

 RESOURCES

More in-depth information about J&DR Courts is available in a fact sheet from the Virginia Supreme Court (www.courts.state.va.us/courts/jdr/jdrinfo.pdf). Links to the web pages of local J&DR courts throughout Virginia can be found on the Virginia Supreme Court web site. (www.courts.state.va.us/courts/jdr.html)

At the state level, the Virginia Department of Juvenile Justice (DJJ) has primary responsibility for Virginia's system of juvenile justice services. Additional information on DJJ programs and services is available on their website at www.djj.virginia.gov.

At the local level, contact with the juvenile justice system typically is through the local court service unit (CSU), sometimes called juvenile probation departments. Thirty-five CSUs serve the Judicial Districts throughout Virginia. Descriptions and contact information for each of the 35 CSUs can be found on the DJJ website. www.djj.virginia.gov/Community_Programs/Field_Operations/CSUlisting.aspx

Essential functions of the CSU throughout the Commonwealth include:

Juvenile Intake – Intake services are provided 24 hours a day at each of the 35 court service units CSUs across the state. The intake officer on duty, or on call after business hours, has the authority to receive, review, and process complaints. Based on the information gathered, a determination is made whether a petition should be filed with the juvenile court and, if so, whether the juvenile should be released to the parents or detained pending a court hearing. The CSU provides diversion and referral to other community resources to first-time offenders.

Investigations and Reports – Social histories make up the majority of the reports that CSU personnel complete. These court-ordered investigations describe the social adjustment of the youth before the court and provide timely, relevant, and accurate data. This information helps the court select the most appropriate disposition for the case and provides the basis for the CSU to develop appropriate services for the juvenile and the family. Other reports and investigations completed by CSU personnel include case summaries to the Family Assessment and Planning Teams, commitment packets for the Reception and Diagnostic Center, interstate compact reports, transfer reports, parole transition reports, ongoing case documentation, and transitional services referral packets.

Domestic Relations – In addition to handling delinquency and Child in Need of Service (CHINS)/Supervision complaints, CSUs provide intake services for domestic relations complaints. These complaints include non-support, family abuse, adjudication of custody (permanent and temporary), abuse and neglect, termination of parental rights, visitation rights, paternity, and emancipation. In some CSUs, services such as treatment referral, supervision, and counseling are provided in adult cases of domestic violence.

Custody Investigations – Although the majority of custody investigations for the court are performed by the local Department of Social Services' staff, some CSUs also perform investigations to provide recommendations to the court on parental custody and visitation based on the best interests of the youth and defined criteria in the *Virginia Code*. This investigation includes an extensive review of the home environment, examining the background, role, and relationship of the youth's parent(s) or caretaker(s) along with any individuals living in the home,

Probational Supervision – The most frequently used sentence for juveniles adjudicated as guilty of a charge filed against them is probational supervision. Virginia juvenile probation department strives

to achieve a balanced approach. This approach focuses on the principles of community protection (public safety), accountability, and competency development.

Parole Services – Upon release from a juvenile correction center (JCCs) or private placement setting, releases are provided parole services to assist in the transition back to the community. Parole officers are assigned to offenders to provide case management services, broker appropriate transitional services, and monitor the offender's adjustment to the communities. These individuals may receive family and individual counseling, referral to other community services, vocational services, or specialized educational services.

What is the procedure for re-enrollment of students who have been in juvenile correctional facilities?

The *Code of Virginia* through §22.1-17.1 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-17.1>) establishes the responsibility of the Board of Education, in cooperation with the Department of Juvenile Justice to publicize regulations for the re-enrollment in the public schools of youth who have been in the custody of the Department of Juvenile Justice. These regulations for re-enrollment provide a procedure for re-enrollment of students when they have been in the custody of the juvenile justice system and receiving instruction through local and regional detention homes and the Department of Juvenile Justice. The regulations promote the exchange of educational information concerning students among the Departments of Juvenile Justice and Correctional Education (DCE), local and regional detention homes, and local education agencies (LEAs).

The regulations are intended to:

- Create a positive impact on the students, their family, court services, the school divisions, and the correctional centers for those seeking to continue the student’s education upon his or her release from a juvenile correction center.
- Provide for coordinated transfer of information by court services, school divisions, detention homes, and correctional centers in order to afford the student a timely involvement in appropriate educational programs.
- Enhance communication, cooperation, and coordination of services among the public systems required to provide for the educational needs of juvenile parolees.

The procedures for re-enrollment process, its timelines, and FAQs for various audiences are set forth on Virginia Department of Education’s website (www.doe.virginia.gov/support/student_family/re-enrollment/) in the following documents:

 **RESOURCES**

Procedures for Reenrollment of Students (www.doe.virginia.gov/support/student_family/reenrollment/procedures_released_custody.pdf)

Re-enrollment FAQs for School Personnel (www.doe.virginia.gov/support/student_family/re-enrollment/faq_school-personnel.pdf)

Re-enrollment Timeline DJJ to Schools (www.doe.virginia.gov/support/student_family/re-enrollment/commitment_juvenile_justice_re-enroll_local.pdf)

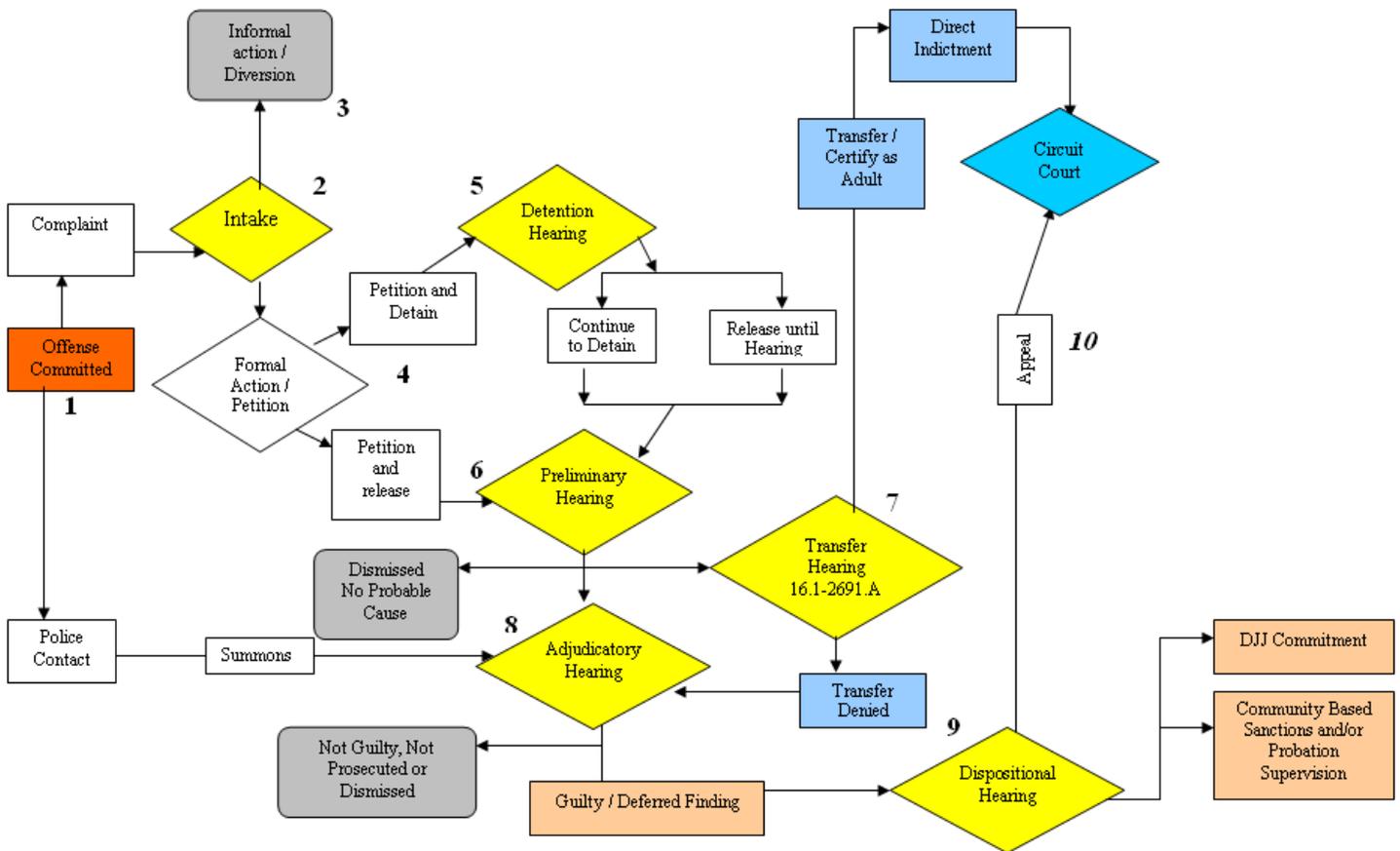
Re-enrollment Timeline Detention to Schools (www.doe.virginia.gov/support/student_family/re-enrollment/commitment_detention_re-enroll_local.pdf)

Re-enrollment FAQs for Parents and Students (www.doe.virginia.gov/support/student_family/re-enrollment/faq_students_parents.pdf)

Re-enrollment FAQs for Probation Officers, DJJ staff, and Detention Home staff (www.doe.virginia.gov/support/student_family/re-enrollment/faq_probation_officers.pdf)

How does the juvenile justice process operate in Virginia?

The flowchart below shows the juvenile justice process in Virginia:



Steps in the juvenile justice process in Virginia:

1. The juvenile enters the system when an offense is committed and reported by a parent, citizen, agency, or the police. For some offenses, such as minor traffic violations, law enforcement officers may issue a summons to court rather than going through the intake process.
2. At juvenile court intake, the intake officer is authorized to (a) take informal action, or (b) take formal action and file a petition.

3. Informal actions an intake officer may take include referral to a crisis shelter, counseling, or other action to divert the case from the juvenile justice system. Divert means to turn aside by taking another route. Diversion is sometimes used for first offenses and may involve the juvenile and his or her parents attending an educational program offered through the court.
4. If the intake officer decides to take formal action and file a petition, the intake officer will also determine whether the juvenile should be detained or released to his or her parents or guardians. The decision is based on the juvenile's risk to self or community and risk of flight.
5. If the decision is made to detain the juvenile, a detention hearing is held within 72 hours in the J&DR District Court to determine the need for further detention.
6. A preliminary hearing is held to ensure the case has enough merit to continue. If no probable cause exists, the case is dismissed. If cause is determined, the case moves to the adjudicatory hearing.
7. Also during this preliminary phase, a transfer hearing may be held to decide whether a case should be transferred to Circuit Court for trial. Transfer may occur when a juvenile, 14 years of age or older, is alleged to have committed an especially serious crime and it is decided the juvenile should be tried as an adult.
8. At the adjudicatory hearing, witnesses and testimony are presented similar to an adult trial and the judge decides whether the juvenile is guilty. If the juvenile is found not guilty, the case is dismissed. If the juvenile is found guilty, a dispositional hearing is held. Frequently, judge's order a pre-disposition report to be prepared to assist in determining an appropriate disposition. The pre-disposition report contains extensive background information about the juvenile, his or her family and community environment, his or her school record, and services he or she may need.
9. At the dispositional hearing, the judge decides appropriate sanctions and services. Sanction means a penalty for not complying with a law or other rule. The judge may impose community sanctions such as warnings, restitution, or fines. The juvenile may also be placed on probation, required to participate in programs sponsored by the court or community agencies, or placed in post-dispositional detention.

Once the requirements have been met, the juvenile is released by the court. The judge may also decide to commit the juvenile to the Department of Juvenile Justice, where he or she will undergo psychological, educational, social, and medical evaluations and be placed in a residential facility or a juvenile correctional center. Juveniles who complete their commitment and return to their home communities are usually supervised by the court.

10. A case may be sent into the appeals process following the dispositional hearing. The Circuit Court may also receive a case through direct indictment.

What is a juvenile court intake officer?

A juvenile court intake officer receives and reviews complaints regarding a child's delinquent behavior to the juvenile court, and determines whether there are enough facts to file a petition. These officers have the authority to handle these cases informally or detain the juvenile when necessary bringing the petition before a judge.

What is detention?

Detention involves physically restraining or confining of an individual in a locked facility. In Virginia, a judge, intake officer, or magistrate may detain a juvenile for reasons prescribed by law. Detention is most often used to hold a juvenile pending a hearing. Juveniles are typically held in detention centers in Virginia.

When can someone be detained?

A judge, intake officer, or magistrate must find probable cause that the juvenile has either committed a serious crime, or violated conditions of his probation or parole, and there is clear and convincing evidence that:

- releasing the juvenile would be a clear and substantial threat to the person or property of others,
or
- releasing the juvenile presents a clear and substantial threat of serious harm to the juvenile's life or health,
or
- the juvenile has threatened to run away or has a record of failing to appear at court hearings
or
- the juvenile has escaped from a detention facility,
or
- the juvenile is a fugitive from another state.

What is a detention center?

Detention centers, sometimes called detention homes, are places in the community where delinquents are held temporarily in secure custody pending court hearings. While at a detention center, detainees participate in structured programs, including school and recreational activities. Detained juveniles also receive medical and mental health screenings and services, may participate in religious activities, and may have structured visits with parents or guardians. Detention is used to ensure juveniles are present for court without harming themselves or others while awaiting a court date.

Under certain circumstances, a judge may sentence a juvenile to a detention center for up to 180 days as a sanction after the juvenile is found guilty of an offense. Juveniles placed in post-dispositional detention programs are provided separate services for their rehabilitation. These services are designed to meet the individual juvenile's needs and may include mental health and social services.

What is an adjudicatory hearing?

The word adjudicate means to judge or pass judgment. In an adjudicatory hearing, the court hears the evidence in a case and determines whether the allegations contained in the complaint are supported by the evidence. In criminal cases, there is a determination of whether the defendant is guilty.

What is a dispositional hearing?

The word disposition means the manner in which a case is settled or resolved. In a dispositional hearing, the court considers and selects penalties and services appropriate for an offender. It is important to

remember that the juvenile justice system is concerned not only with punishment, but also with rehabilitation. For example, a court may not only place an offender on probation and order restitution, but also order him or her to participate in counseling or another program to address problems that contributed to his or her getting in trouble.

What is restitution?

Restitution describes the act of restoration. It means an offender is required to repay money to the victim or take other action to restore the victim to his or her status before the criminal act. For example, someone who destroys the property of another may be required to pay the cost of repair or replacement, such as when a school building has been vandalized. The basic purpose of restitution is to achieve fairness.

What does probation mean?

Probation means the offender is allowed a period of time to show he or she has learned from his or her mistakes and can behave. During this period, offenders are supervised by the court, obey rules of probation, and report to a probation officer who closely monitors conduct. If an offender abides by conditions, he or she is released from probation. If an offender does not abide by conditions, he or she may be brought before a judge, who may impose more severe penalties.

If someone is found to be delinquent, what can happen?

A very broad range of dispositions are authorized in Virginia law when a juvenile is found to be delinquent (*Code of Virginia* § 16.1-278.8., <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-278.8>). Depending on the circumstances, a juvenile court may:

- defer disposition and dismiss the charge if the juvenile behaves;
- impose conditions and limitations on the juvenile and his or her parents;
- order the juvenile and/or parents to participate in programs and/or treatment;
- place the juvenile in custody of the Department of Juvenile Justice to attend a boot camp or other juvenile correctional facility;
- place the juvenile in a local detention home;
- place the juvenile on probation under conditions prescribed by the court;
- impose a fine of up to \$500;
- suspend the juvenile's driver's license or delay issuing it;
- require the juvenile to make restitution for damages;
- require the juvenile to participate in community service; and/or
- transfer legal custody to a relative, a child welfare agency, or a local board of social services.

What is a juvenile correctional center?

A juvenile correctional center is a place where a juvenile committed to the Virginia Department of Juvenile Justice receives 24-hour supervision, education, treatment services, recreational services, and a variety of special programs.

Descriptions of each of Virginia's correctional centers can be found on the DJJ website (http://www.djj.virginia.gov/Residential_Programs/Default.aspx).

Are there other consequences for committing a crime?

There are many other consequences that are sometimes not recognized until later. In addition to penalties imposed by the court, juveniles who break the law may:

- embarrass their families and friends;
- have driving privileges suspended or delayed;
- be disqualified from receiving awards or scholarships;
- not be accepted at their colleges of choice;
- not be able to enlist in the armed services; and/or
- lose the opportunity to hold certain jobs.

Can someone's juvenile court record be sealed or destroyed?

In most cases, the records are automatically destroyed once the juvenile has turned 19 and five years have passed since the last hearing in his or her case. For crimes that would be felonies if committed by an adult, the records remain public just as an adult conviction would (*Code of Virginia* § 16.1-305B1, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-305>).

The term expungement means records of a case are destroyed. In cases where the juvenile is found not guilty or the case is otherwise dismissed, the person may ask to have the records of the case destroyed. The request must be granted unless the Commonwealth's Attorney shows good cause why the records should be retained.

Once records have been destroyed, "the violation of law shall be treated as if it never occurred." Virginia law requires the court and all law enforcement agencies, if asked, to say that there is no record and permits the person to say that he or she has no record. (*Code of Virginia* § 16.1-306, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-306>.)

Under what circumstances can a juvenile be tried as an adult?

If a juvenile is 14 years or older and charged with a felony offense, the Commonwealth may ask the juvenile court to transfer the case to the circuit court for trial as an adult. In most cases, the transfer decision is within the discretion of the court after considering the juvenile's age, the seriousness and number of offenses, his prior record with the court, whether he has previously escaped, any degree of mental impairment, his school record and his mental, emotional and physical maturity. If the court decides that the juvenile can best be treated in the juvenile system, it can deny the transfer.

The Commonwealth's Attorneys have the discretion to transfer juveniles charged with violations of certain gang offenses and repeat violations of certain drug offenses to the circuit court for trial as an adult. Also, juveniles charged with an offense defined as an act of violence, if previously adjudicated delinquent of an act of violence, are automatically transferred to the circuit court for trial as an adult.

However, if the charge is murder or aggravated malicious wounding, the court must transfer the case for trial as an adult. If the charge is one of several enumerated violent felonies, the discretion to transfer the case lies solely with the Commonwealth's Attorney.

Where a transfer is made, the juvenile court makes a determination of probable cause and if probable cause is found, the matter is certified to the grand jury for indictment.

See *Code of Virginia* § 16.1-269.1 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-269.1>).

What do the terms “Child in Need of Services” and “Child in Need of Supervision” mean?

A *Child in Need of Services*, is a child whose behavior, conduct, or condition poses a risk of harm to himself or another person. A child who is alleged to be abused or neglected is typically considered a child in need of services.

A *Child in Need of Supervision* (CHINS) , is a child who is habitually absent from school (truant) or who abandons his family or guardian (runaway) in a manner that requires intervention by the court to protect the child's welfare.

Legal definitions of these terms are found in *Code of Virginia* § 16.1-228 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-228>).

III. SCHOOL SAFETY

A. Search and Seizure

Under what circumstances can a student be searched?

It is important to recognize that all searches entail invasion of privacy. Whether a particular search is legally permissible involves a balancing of competing interests: the individual student's right to privacy and security against the school division's interests in maintaining order, discipline, and the security and safety of other students.

Best practice involves coherence in school division mission statement, student conduct policy, search policy, and procedures for implementing searches. The mission statement should clearly articulate the school division's commitment to provide a safe and disciplined school environment conducive to learning. Consistent with the mission statement, the student conduct policy should define expectations and rules, including privacy expectations. Virginia law requires written notice of the student conduct policy to students and their parents; best practice is to notify, or otherwise make available, the written school policy on student searches also. Search policies and procedures should carefully balance school division interest in safety and security and student privacy interests.

RESOURCES

For a basic overview of school searches, read Section I of the *Virginia School Search Resource Guide, School Searches: The Basics* (www.doe.virginia.gov/boe/guidance/safety/school_searches.pdf)

More in-depth guidelines for searches in Virginia schools are contained in the *Virginia School Search Resource Guide* (www.doe.virginia.gov/boe/guidance/safety/school_searches.pdf)

Searches can be categorized as follows:

1. blanket and random administrative searches;
2. warrantless or reasonable suspicion searches ;
3. consent searches; and
4. law enforcement searches based on probable cause.

What are blanket and random administrative searches?

Blanket and random administrative searches are typically conducted to serve as a deterrent in the interest of maintaining safe and drug-free schools. These random searches, including group searches, may be conducted only in accordance with formally adopted school board policies which include procedures to ensure that searches are conducted in a neutral fashion. Random locker searches, metal detector screenings, and use of drug-detection canines are examples of blanket searches.

What are best practices in conducting blanket and random searches?

Key best practices involve written notice to students (reducing expectations of privacy) and procedures which ensure that the searches are conducted in a random, systematic, nonselective manner in accordance with a pre-determined formula.

Type of Search	Best Practices
Locker searches	<p>Notice: Written policies and periodic notice to students (and their parents) which make it clear that the school retains ownership and control of the locker and that the student's use of the locker does not constitute exclusive possession.</p> <p>Neutral plan: Procedures/documentation which ensure a neutral blanket screening or random search.</p>
Use of metal detectors at school entrances	<p>Notice: Written policies and notice to students (and their parents), this makes it clear that persons entering the school are subject to metal detector screening. In addition, written warning notices should be posted conspicuously at the entrances of the school so as to provide notice to visitors that they will be subject to this form of inspection.</p> <p>Neutral plan: Procedures that carefully limit the discretion of school employees who operate metal detectors and that provides a very detailed script for these employees to follow as they search for weapons.</p>
Use of drug detection canines	<p>Notice: Periodic written notice that trained drug-detection canines may be used. Requires planning and sensitivity to limit direct contact with students.</p> <p>Neutral plan: Canine sniffs of student lockers in a sweeping fashion do not initially constitute a “search.” If however, the dog alerts to a specific locker, then individualized suspicion to search the specific locker exists. Likewise, using dogs to sniff around student automobiles in a sweep of the school parking lot does not ordinarily constitute a search. Educational policy considerations regarding the health and psychological well-being of students also come into play when police-trained dogs are brought near students in schools. Sound educational judgment should be used in deciding whether, when, and under what circumstances drug sniffing dogs will be used in schools.</p>

What is a warrantless or reasonable suspicion search?

A warrantless or reasonable suspicion search is based on suspicion of either a criminal offense or a violation of school rules and is conducted with a view to discovery of evidence of the offense or violation.

The search can be for contraband (e.g., drugs, alcohol, explosives or fireworks, and/or prohibited weapons); an instrumentality used to commit an offense or school rule violation (e.g., a weapon used to assault or threaten another or burglar tools); the fruits or spoils of an offense or school rule violation (e.g., the cash proceeds of a drug sale, gambling profits, or a stolen item) or other evidence of an offense or school rule violation (e.g., gambling slips, hate pamphlets, records of drug or illegal gambling debts, “crib” notes or other evidence of cheating or plagiarism, etc.).

Initiating searches

To initiate a lawful search, a school official must have reasonable grounds to believe that:

1. a law or school rule has been or is being broken;
2. a particular student(s) has committed the violation or infraction;
3. the suspected violation or infraction is of a kind for which there may be physical evidence (i.e., contraband, instrumentality, fruits or spoils, or other evidence); and,
4. the sought-after evidence would be found in a particular place associated with the student(s) suspected of committing the violation or infraction.

Reasonableness

In order for a search to be reasonable, a school official must satisfy two separate inquiries:

1. Was the search justified at its inception?
2. Was the search conducted in an appropriate manner, that is, was the actual search reasonable in its scope, duration, and intensity?

A search is constitutionally **permissible at its inception** where the school official has reasonable grounds based on the totality of the known circumstances for suspecting that the search will reveal evidence that the student has violated or is violating either the law or the rules of the school. Reasonable grounds are more than a mere hunch or unsubstantiated rumor.

A search will be **reasonable in its scope** and intensity where it is reasonably related to the objectives of the search and is not excessively intrusive in light of the age and sex of the student and the nature of the suspected infraction.



More in-depth guidelines for “reasonable suspicion” searches in Virginia schools are contained in the *Virginia School Search Resource Guide* (www.doe.virginia.gov/boe/guidance/safety/school_searches.pdf).

What is a consent search?

A consent search of a student exists when a student grants the school official permission to search. A student's consent is valid only if given willingly and with knowledge of the meaning of consent. School officials have the burden of proving that the search was voluntary and knowing and documenting all aspects of obtaining permission to search.

A school official may ask for permission to conduct a search, even if the official does not have reasonable grounds to believe that the search would reveal evidence of an offense/ infraction. A student's refusal to give permission may not be considered as evidence of guilt.

If the school official already has reasonable suspicion to believe that evidence of an offense/infraction will be found in a particular place, school officials need not rely on consent being given and may conduct a search of that location even over a student's objection.

★ RESOURCES

More in-depth guidelines for consent searches in Virginia schools are contained in the *Virginia School Search Resource Guide* (www.doe.virginia.gov/boe/guidance/safety/school_searches.pdf).

When can a school resource officer (SRO) search a student?

SROs are law enforcement officers and searches by SROs must be based on the higher standard of probable cause rather than the reasonable suspicion standard for school administrator searches.

Put simply, probable cause means a reasonable belief that a person has committed a crime.

As a matter of practice, the MOU between the school division and the local law enforcement agency should define and clarify the responsibilities of the school resource officer related to school searches. In general, the MOU should clarify:

- that any search by a the school resource officer shall be based upon probable cause and, when required, a search warrant will be obtained;
- that the school resource officer shall not become involved in administrative searches unless specifically requested by the school to provide security, protection, or for handling of contraband; and
- that at no time should the SRO request that an administrative search be conducted for law enforcement purposes or have the administrator act as his or her agent.

★ RESOURCES

More in-depth guidelines for law enforcement searches in Virginia schools are contained in the *Virginia School Search Resource Guide* (www.doe.virginia.gov/boe/guidance/safety/school_searches.pdf).

When can a school security officer (SSO) search a student?

SSOs are school employees who serve under the guidance of the principal. SSOs are not typically the persons designated by the principal to conduct student searches; however, the security employee is often the individual who first identifies the need to search. Because SSOs assist school officials in conducting

student searches, they should be trained in appropriate search procedures and knowledgeable of laws and policy that govern student searches.

Are school personnel protected in any way from liability when conducting searches?

Code of Virginia § 8.01-47 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-47>) grants immunity from civil liability to school personnel investigating or reporting activities of any student or any other person as they relate to conduct involving bomb threats, firebombs, explosive materials or other similar devices, or alcohol or drug use or abuse in or related to the school or school activity.

Is student drug testing permissible?

Code of Virginia § 22.1-279.6 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.6>) states that “a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education’s guidelines and model student conduct policies required by subsection A [§ 22.1-279.6] [<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.6>] and the Board’s guidelines for student searches required by § 22.1-279.7. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.7>).

The state statutory provisions do not require the adoption of drug testing programs by local school boards, but leave to local board discretion whether drug testing will be encouraged or required.

RESOURCES

Guidelines Concerning Student Drug Testing in Virginia Public Schools (www.doe.virginia.gov/boe/guidance/health/drug_testing_guidelines.pdf), approved by the Board of Education on June 23, 2004, provide legal background information and guidance on policies and procedures.

The *Guidelines* state, “The question of whether to test students for drugs involves myriad complex issues that must be fully understood and carefully weighted before testing begins. . . Before implementing a drug testing program, local school boards should consult with legal counsel familiar with the laws regarding student drug testing.”

B. School Safety Audits

What is a school safety audit?

Code of Virginia § 22.1-279.8. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.8>) establishes requirements for school safety audits and defines a school safety audit as:

“a written assessment of the safety conditions in each public school to (i) identify and, if necessary, develop solutions for physical safety concerns, including building security issues and (ii) identify and evaluate any patterns of student safety concerns occurring on school property or at school-sponsored events. Solutions and responses shall include recommendations for structural adjustments, changes in school safety procedures, and revisions to the school board's standards for student conduct.”

Virginia Center for School Safety (VCSS) in the Virginia Department of Criminal Justice Services (DCJS) has been designated to collect, analyze, and disseminate various Virginia school safety data including school safety audit information.

Each year, the Virginia Center for School Safety administers the web-based Virginia School Safety Survey to collect school safety audit information from all public schools, kindergarten through 12th grade. Principals are responsible for completing the surveys. The information collected allows VCSS and state policy makers to describe school safety policies, practices, and conditions in Virginia's public schools. The 2013 General Assembly added additional requirements to the safety audit legislation. Additional required elements pertain to vulnerability checklists and sharing information with first responders.

More in-depth information is available on the School Safety Survey web page. (www.dcjs.virginia.gov/surveysupport/schoolaudit/index.cfm).

What responsibilities do schools have for school safety audits?

Code of Virginia § 22.1-279.8.B. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.8>) requires the following:

“Each local school board shall require all schools under its supervisory control to annually conduct school safety audits as defined in this section and consistent with such list.”

The results of such school safety audits shall be made public within 90 days of completion. The local school board shall retain authority to withhold or limit the release of any security plans and specific vulnerability assessment components as provided in subdivision 7 of § [2.2-3705.2](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-3705.2). (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-3705.2>). Each school shall maintain a copy of the school safety audit, which may exclude such security plans and vulnerability assessment components, within the office of the school principal and shall make a copy of such report available for review upon written request.

Code of Virginia § 22.1-279.8.C. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.8>) authorizes, but does not require, local school boards to establish “a school safety audit committee to consist of representatives of parents, teachers, local law-enforcement agencies, judicial and public safety personnel, and the community at large. The school safety audit committee shall evaluate, in accordance with the directions of the local school board, the safety of each school and submit a plan for improving school safety at a public meeting of the local school board.”

What is the difference between a school safety audit and a school safety assessment?

School safety audits and school safety assessments are very closely related. One is defined in Virginia law and the other is not, but both involve assessing conditions and developing strategies to address problems identified.

Code of Virginia § 22.1-279.8. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.8>) establishes requirements for school safety audits and defines school safety audit as:

“a written assessment of the safety conditions in each public school to (i) identify and, if necessary, develop solutions for physical safety concerns, including building security issues

and (ii) identify and evaluate any patterns of student safety concerns occurring on school property or at school-sponsored events. Solutions and responses shall include recommendations for structural adjustments, changes in school safety procedures, and revisions to the school board's standards for student conduct.”

School safety assessments are not defined in law, but typically involve identifying specific problems for the purpose of developing a plan for reducing the opportunity for crime, violence, and other disturbances.

C. Crisis Management/Emergency Response

What are schools required by law to do related to crisis planning and response?

The *Code of Virginia* § 22.1-279.8. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.8>) establishes requirements for school crisis, emergency management, and medical emergency response plans.

The *Code* defines what a plan is and what needs to be addressed in such plans:

“School crisis, emergency management, and medical emergency response plan” are defined as ‘essential procedures, operations, and assignments required to prevent, manage, and respond to a critical event or emergency, such as

- natural disasters involving fire, flood, tornadoes, or other severe weather;
- loss or disruption of power, water, communications or shelter;
- bus or other accidents;
- medical emergencies, including cardiac arrest and other life-threatening medical emergencies;
- student or staff member deaths;
- explosions;
- bomb threats;
- gun, knife or other weapons threats;
- spills or exposures to hazardous substances;
- the presence of unauthorized persons or trespassers;
- the loss, disappearance or kidnapping of a student;
- hostage situations;
- violence on school property or at school activities;
- incidents involving acts of terrorism; and
- other incidents posing a serious threat of harm to students, personnel, or facilities.’

School Board Requirements

Code of Virginia § 22.1-279.8., D. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.8>) requires local school boards to ensure that every school develops a written school crisis, emergency management, and medical emergency response plan, consistent with the definition provided in law. The local school board is required to review the school plans annually and certify the review in writing to the Virginia Center for School Safety no later than August 31 of each year. New legislation in 2013 requires the sharing of these plans with first responders.

More detailed information about the School Crisis Plan Review and Certification is available from the Virginia Center for School Safety at www.dcjs.virginia.gov/vcss/audit/crisis.cfm.

★ RESOURCES

Guidance in developing school crisis plans is contained in the Virginia Department of Education’s *Resource Guide on Crisis Management and Emergency Response in Virginia Schools* (www.doe.virginia.gov/support/safety_crisis_management/emergency_crisis_management/crisis_mgmt_emer-response_guide.pdf).

Why should a school conduct emergency drills?

Drills examine specific operations or functions of the emergency plan. The goal of a drill is to practice aspects of the response plan, prepare teams and participants for more extensive exercises in the future, and improve aspects if necessary. Schools generally conduct evacuation, shelter-in-place, or lockdown drills with students and staff to demonstrate the steps they should take in an emergency. The procedures as well as the responsibilities of all involved (i.e., students, teachers, staff, and emergency personnel) are addressed. These exercises may include local public safety agencies. New legislation in 2013 requires schools to conduct lock drills in September and January of each school year.

★ RESOURCES

Additional guidance on school emergencies can be found in *The Virginia Educator’s Guide for Planning and Conducting School Emergency Drills* (www.doe.virginia.gov/support/safety_crisis_management/emergency_crisis_management/emergency_drills/educators_guide_plan_conduct_drills.pdf).

What resources are available to assist schools in planning for and responding to emergencies?**★ RESOURCES**

Three key resources are: (1) The Virginia Department of Education’s *Resource Guide on Crisis Management and Emergency Response in Virginia Schools* (www.doe.virginia.gov/support/safety_crisis_management/emergency_crisis_management/crisis_mgmt_emer-response_guide.pdf), a comprehensive resource guide used by most schools in Virginia. The *Guide* is designed primarily as a resource for school administrators. (2) The U.S. Department of Education’s Readiness and Emergency Management for Schools Technical Assistance Center at <http://rems.ed.gov/>. (3) School Crisis Plan Generator.

D. School Resource Officers (SROs) and School Security Officers (SSOs)**What is a school resource officer?**

School resource officer (SRO) is defined in *Code of Virginia* § 9.1-101 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-101>) as follows:

“School resource officer means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.”

What do school resource officers do?

In accordance with the statutory definition, SROs provide law-enforcement and security services in Virginia public elementary and secondary schools. The specific duties and responsibilities, as well as basic operational procedures, are typically defined in a Memorandum of Understanding (MOU) or other written agreement between the school division and the local law enforcement agency.

The Virginia SRO program model identifies the primary role as law enforcement, which includes crime prevention and school safety activities. Additional recognized roles include law-related educator, community liaison (especially related to the juvenile justice system), and role model.

A study conducted in fall 2006 found that there were 574 SROs employed by 137 local law enforcement agencies throughout Virginia. SROs are assigned to about 95 percent of high schools and about 74 percent of middle schools.

Additional information about SRO programs can be obtained from the Virginia Center for School Safety at www.dcjs.virginia.gov/vcss/.

What is a school security officer?

School security officer (SSO) is defined in *Code of Virginia* § 9.1-101(<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-101>) as:

“School security officer means an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.”

What do school security officers do?

In accordance with the statutory definition, SSOs have a primary responsibility to maintain order and discipline. SSOs are employed by the school division and their specific duties and responsibilities are prescribed by the employer.

Examples of typical SSO tasks include patrolling school buildings and grounds to ensure compliance with school rules and regulations, greeting visitors to ensure compliance with established visitor procedures, reporting any out-of-the-ordinary incidents or conditions, reporting school conduct violations and crimes in accordance with school policies and state laws, taking authorized action to protect persons and property, and participating in school safety and crisis response planning and action.

SSOs must meet requirements for SSO Certification issued through the Virginia Department of Criminal Justice Services.

Additional information about the SSO Certification Program can be obtained from the Virginia Center for School Safety at www.dcjs.virginia.gov/vcss/.

How do the roles of SROs and SSOs compare?

School Resource Officer	School Security Officer
1. A law enforcement agency employee	1. A school employee
2. Complying with federal, state, and local statutes	2. Complying with and guided by local school policies and regulations
3. Functions under the direction of law enforcement command	3. Functions under the direction of local school principal or designee
4. Assigned to school and community activities	4. Primarily assigned to school campus activities
5. Responsible for enforcing state law	5. Responsible for enforcing school policy
6. Responsible for custody and arrest in conformance with law	6. Responsible for detaining individuals
7. Search must be in accordance with state and federal law; search typically requires probable cause.	7. Can search students and others based upon reasonable suspicion
8. Laws and custody requirement procedures apply	8. May detain and question students.
9. Act under the standards of law	9. Act in absence of parents (<i>in loco parentis</i>)
10. Use of force is permissible as guided by department policy	10. Use of force should be limited and only used in accordance with local school policy

E. Threat Assessment

What is a student threat assessment?

According to the Virginia Youth Violence Project at the University of Virginia, “Threat assessment is a process of evaluating the threat, and the circumstances surrounding the threat, in order to uncover any facts or evidence that indicate the threat is likely to be carried out.” Threat assessment is about whether a student *poses* a threat, not whether the student has *made* a threat, and includes efforts to prevent the threat from being carried out.

★ RESOURCES

For a brief description of threat assessment, see *The Virginia Model for Student Threat Assessment* (www.apa.org/about/gr/issues/violence/virginia-model.pdf). More in-depth information is available from the Virginia Youth Violence Project (<http://youthviolence.edschool.virginia.edu>).

Threat assessment is an approach to violence prevention originally developed by the U.S. Secret Service after a series of school shootings. In 2002, a **joint report** of the U.S. Secret Service and Department of Education entitled *The Final Report and Findings of the Safe School Initiative: Implications for the Prevention of School Attacks in the United States* (www.secretservice.gov/ntac/ssi_final_report.pdf) recommended that schools train threat assessment teams in order to respond to student threats of violence.

Why should a school establish a process for threat assessment?

The primary reasons for student threat assessment are to:

1. reduce risk of violence;
2. ensure a prepared response;
3. reduce liability exposure; and
4. instill public confidence that schools can keep students safe.

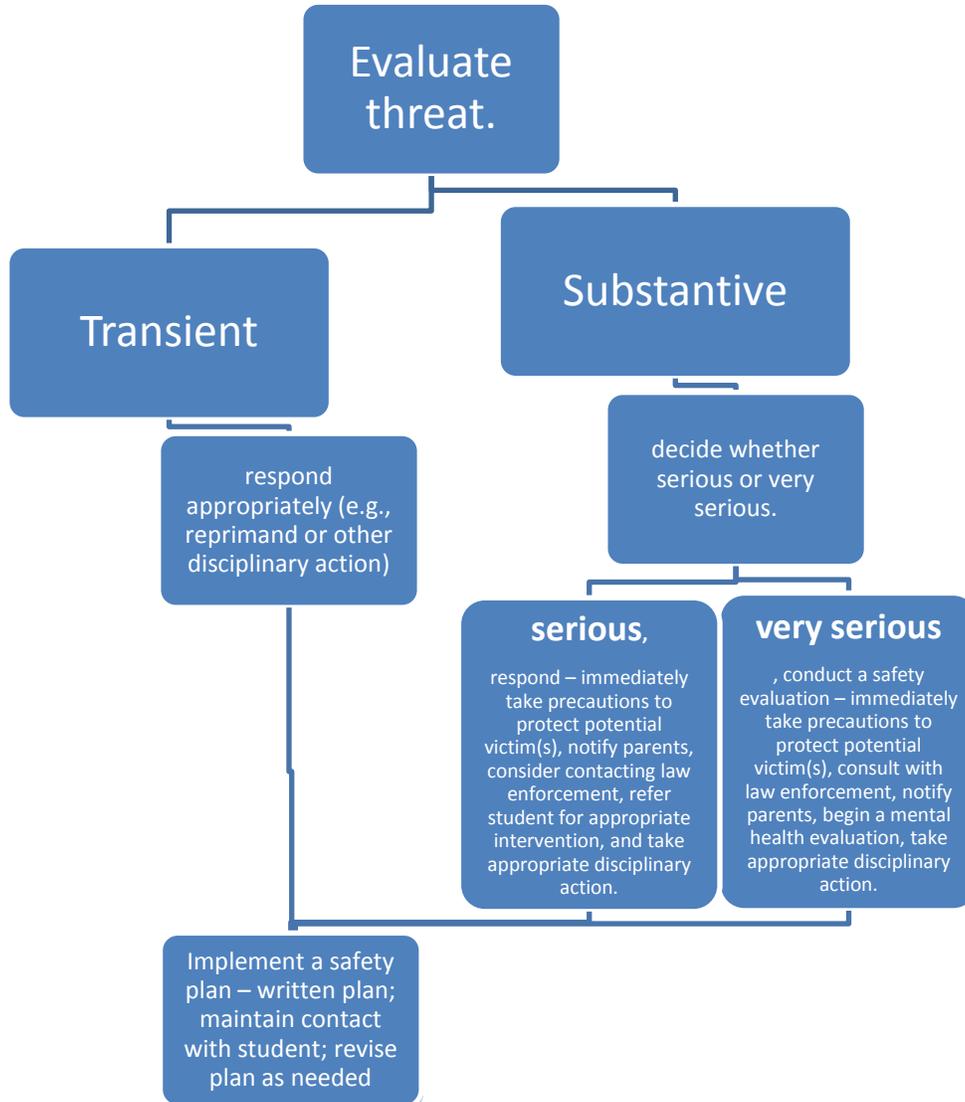
New legislation in 2013 mandates that the local school board establish a threat assessment team for each school in the division.

What does a student “threat assessment” involve?

The basic threat assessment process steps are as follows:

It is important that **all** threats are treated seriously.

1. Evaluate threat.
2. Decide whether threat is clearly transient or substantive.
3. If threat is transient, respond appropriately (e.g., reprimand or other disciplinary action)
4. If substantive, decide whether serious or very serious.
5. If substantive and serious, respond – immediately take precautions to protect potential victim(s), notify parents, consider contacting law enforcement, refer student for appropriate intervention, and take appropriate disciplinary action.
6. If substantive and very serious, conduct a safety evaluation – immediately take precautions to protect potential victim(s), consult with law enforcement, notify parents, begin a mental health evaluation, take appropriate disciplinary action.
7. Implement a safety plan – written plan; maintain contact with student; revise plan as needed.



★ RESOURCES

Conducting a student threat assessment requires preparation and appropriate training. More in-depth information is available from the Virginia Youth Violence Project (<http://youthviolence.edschool.virginia.edu>).

IV. OFFENSES

A. Crime and Schools

What offenses must schools report to law enforcement?

Code of Virginia § 22.1-279.3:1.D. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.3:1>) requires principals to immediately report to the local law enforcement agency any act enumerated in clauses (ii) through (vii) of §22.1-279.3:1.A. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.3:1>) that may constitute a criminal offense.

Acts enumerated in §22.1-279.3:1.A. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.3:1>) are:

- (i) the assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity;
- (ii) the assault and battery that results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, or stalking of any person as described in § 18.2-60.3 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-60.3>), on a school bus, on school property, or at a school-sponsored activity;
- (iii) any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications;
- (iv) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity;
- (v) the illegal carrying of a firearm, as defined in § 22.1-277.07 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-277.07>), onto school property;
- (vi) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-85>), or explosive or incendiary devices, as defined in § 18.2-433.1 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-433.1>), or chemical bombs, as described in § 18.2-87.1 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-87.1>), on a school bus, on school property, or at a school-sponsored activity;
- (vii) any threats or false threats to bomb, as described in § 18.2-83 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-83>), made against school personnel or involving school property or school buses; or
- (viii) the arrest of any student for an incident occurring on a school bus, on school property, or at a school-sponsored activity, including the charge therefore.

A principal **may** report to the local law enforcement agency any incident described in clause (i) of subsection A. When there is injury, or the battery is against school personnel, reporting is mandatory.



Offenses Immediately Reported to Law Enforcement

DCV Codes and Offenses	DCV Codes and Offenses
<p><u>Alcohol (AL1)</u> AC1 – Alcohol use AC2 – Alcohol possession AC3 – Alcohol sale or distribution</p> <p><u>Assault/Battery</u> BA1 – Assault/battery with firearm or other weapon against staff BA2 – Assault/battery without any weapon against staff BA3 – Assault/battery with firearm or other weapon against student BA4 – Assault/battery without any weapon against student BA5 – Malicious wounding without a weapon</p> <p><u>Drug Violations – DR1, DR2, DR3, DR4, DR5</u> <u>DR1- Possession/Use Schedule I/II Drugs</u> DG1 – Schedule I & II use DG2 – Schedule I & II possession DG5 – Use or possession of synthetic marijuana DG7 – Marijuana use DG8 – Marijuana possession DG20 – Anabolic steroid use and possession <u>DR2- Possession/Use Inhalants</u> D17 – Substances represented as drug look alike <u>DR3- Theft of prescription medication</u> <u>DR4- Sale/Distribution Schedule I/II Drugs</u> DG3 – Schedule I & II sale or distribution DG6 – Sale and/or distribution of synthetic marijuana DG9 – Marijuana sale or distribution DG19 – Anabolic steroid sale or distribution <u>DR5- Sale/Distribution Paraphernalia</u> D10 – Other drug use/overdose D11 – Other drug/paraphernalia possession D12 – Other drug sale or distribution</p>	<p><u>Homicide</u> HO1 – Homicide of a staff member with a firearm HO2 – Homicide of a staff member with a weapon HO3 – Homicide of a student with a firearm HO4 – Homicide of a student with a weapon</p> <p><u>School Threat (BB1)</u> BO1 – Bomb threat BO2 – Chemical or biological threat BO3 – Terrorist threat BO4 – Setting off a false fire alarm</p> <p><u>Sexual Offenses</u> SB1 – Sexual battery against staff SB2 – Sexual battery against a student SX3 – Sexual assault of staff (rape) SX6 – Attempted sexual assault of student (rape) SX7 – Sexual offense with or without force/ Lewd behavior/indecent exposure SX4 – Sexual assault of student (rape) SX5 – Attempted sexual assault of staff (rape) SX8 – Aggravated sexual battery against student less than 15</p> <p><u>Stalking</u> ST1 – Stalking</p> <p><u>Threats/Verbal/Physical</u> TI1 – Threat/intimidation of staff/physical/verbal</p> <p><u>Weapons</u> WP0 – Pneumatic weapon (BB, pellet, or paint ball gun) WP1 – Weapon handgun/pistol WP2 – Weapon shotgun/rifle WP4 – Weapon that expels a projectile WP5 – Knife 3 inches or more WP6 – Possession of explosive device/ with live ammunition WP7 – Use of a bomb or explosive device WP8 – Zip, starter, flare gun WP9 – Other weapons</p>

 RESOURCES

The Virginia Department of Education requires that offenses of “discipline, crime, and violence (DCV)” be reported. Offenses are categorized by type and assigned DCV offense codes. (See DCV Definition Document, a printable reference from the *Comprehensive User Guide for DCV Data Collection and Submission, 2010-2011*

(http://www.doe.virginia.gov/info_management/data_collection/support/school_safety/discipline_crime_violence/2012_13/comprehensive_user_guide.pdf).

Additional guidance on reporting offenses to law enforcement is contained in Virginia Board of Education *Student Conduct Policy Guidelines*

(www.doe.virginia.gov/boe/guidance/safety/student_conduct.pdf).

For detailed information on Virginia’s DCV reporting see DCV Definition Document, a printable reference from the *Comprehensive User Guide for DCV Data Collection and Submission, 2009-2010* (www.virginiarules.org/juvenile-law-handbook/VDOE-DCV-Offense-Codes-Definitions-09-10.pdf).

B. Offenses against Persons

What are “crimes against persons?”

“Crimes against persons” are offenses that involve direct physical harm or force being applied to another person.

The most serious crime in this category is homicide, but other examples include rape, assault with a weapon, malicious wounding, robbery, assault and battery, child abuse, domestic violence, and threats.

What is assault and battery?

An *assault* is a willful attempt or threat to inflict injury upon another person, coupled with an apparent ability to do so, which causes the victim to fear immediate bodily harm. An assault may be committed without actually touching or harming the victim. (*Code of Virginia* §18.2-57 <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-57>)

Criminal penalties for assault and battery are more serious

- if a person intentionally selects the victim because of race, religious conviction, color or national origin. (§18.2-57.B <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-57>)
- when the person commits a battery against a person he knows to be a teacher, principal, or assistant principal (§18.2-57.D <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-57>)

 DCV DEFINITION

BA1 – Staff – Assault with a weapon

DCV Definition: An actual offensive, forceful and violent and intentional touching or striking of a staff member against his or her will, intentionally causing bodily harm through the use of a firearm or other weapon.



An assault of a staff member with a weapon should be immediately reported.

BA2 – Staff – Assault without a weapon

DCV Definition: An actual offensive and intentional touching or striking of a staff member against his or her will, intentionally causing bodily harm without the use of a firearm or weapon.



An assault of a staff member without a weapon should be immediately reported.

BA3 – Student – Assault with a weapon

DCV Definition: An actual offensive forceful and violent and intentional touching or striking of a student against his or her will, intentionally causing bodily harm with the use of a firearm or other weapon.



An assault of a student with a weapon should be immediately reported.

BA4 – Student – Assault without a weapon

DCV Definition: An actual offensive and intentional touching or striking of a student against his or her will, or mutual participation in a fight that intentionally causes bodily harm without the use of a firearm or weapon.



An assault of a student without a weapon should be immediately reported.

BA5 – Student – Assault/Battery Malicious Wounding no Weapon

DCV Definition: Maliciously causing bodily injury to a person (without a weapon) with the intent to maim, disfigure, disable, or kill.



Causing bodily injury with malicious intent should be immediately reported.

What is bullying?

Bullying is not specifically defined in the *Code of Virginia*. However, the behaviors associated with bullying may include, but are not limited to, the following criminal offenses:

- assault
- larceny
- battery
- robbery
- theft
- extortion
- threats
- false imprisonment
- sexual harassment
- hazing

School boards are required to include rules against bullying, hazing, and the use of profane or obscene language or conduct in their codes of student conduct (*Code of Virginia* § 22.1-279.6(B), <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.6>).

**BU1 – Bullying**

DCV Definition: Using repeated negative behaviors intended to frighten or cause harm. These may include, but are not limited to verbal or written threats or physical harm.

What is cyberbullying?

BU2- Cyber bullying – Using information and communication technologies with the intent to harm others.

Code of Virginia § 18.2-427 defines cyber bullying as using information and communication technologies, such as cell phone text messages and pictures and internet e-mail, social networking websites, and defamatory online personal polling websites to support deliberate, hostile, behavior intended to harm others. It is a term used to describe harassing, threatening, embarrassing, or humiliating communication via cyberspace, including the Internet and cell phones. Some examples of cyberbullying are:

- making fun of another user in an Internet chat room;
- harassing a user over an instant messaging session;
- circulating false rumors about someone on social networking websites;
- publishing lewd comments about another person on a personal blog;
- posting unflattering pictures of another user on the Web;
- spamming another user with unwanted e-mail messages;
- sending threatening or provocative e-mail;
- repeatedly calling another person's cell phone; and/or
- sending unsolicited text messages to another user.

Key elements of harassment of computer are:

- intent to coerce, intimidate, or harass; and
- using a computer or computer network:
 - to communicate obscene, vulgar, profane, lewd, lascivious, or indecent language or
 - to make any suggestion or proposal of an obscene nature, or
 - to threaten any illegal or immoral act.



The Virginia Department of Education's *Guidelines and Resources for Internet Safety in Schools* (www.doe.virginia.gov/support/safety_crisis_management/internet_safety/guidelines_resources.pdf) contains numerous Web-based Internet safety resources.

One resource for educators is *CyberSmart!* cyberbullying prevention lessons available free of charge from the National Cyber Security Association and CyberSmart. The package of resources is available at: <http://cybersmartcurriculum.org/cyberbullying/ncsa/>.

An overview of the curriculum for Grades 2 to 5, Grades 6 to 8, and Grades 9 to 12 is contained in *Cyberbullying Prevention Activities for Schools* (<http://cybersmartcurriculum.org/cyberbullying/prevention/>).

What authority do schools have to limit cell phone use?

Code of Virginia § 22.1-279.6.B. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.6>) authorizes local schools to regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and to establish related disciplinary procedures.

In general, schools should have a policy in place to address appropriate use of cell phones that addresses permitted and prohibited uses; the policy can be included in the school division's acceptable use policy (AUP) or student code of conduct. The policy needs to clearly delineate what is not acceptable and the consequences of violations of policy.

Training all staff in how to enforce the policy is important. They need to know what constitutes a violation, how to investigate incidents, when confiscating a cell phone is justified, the extent to which cell phones can be searched, and protocol for reporting incidents.

Also see Sexting under Sex-related Offenses.

What about calls that aren't threatening but are annoying?

Code of Virginia § 18.2-429 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-429>) makes it illegal to use a telephone or digital pager with intent to annoy another person. A person shall be guilty of a Class 3 misdemeanor.

Further, making calls or allowing calls to be made with intent to annoy, harass, hinder or delay emergency personnel is also illegal and carries a heavier penalty. (§ 18.2-429, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-429>) A person shall be guilty of a Class 1 misdemeanor.

What is extortion?

Extortion means obtaining money or property from another person by using or threatening to use violence or other criminal means to cause harm to a person, or by threatening harm to that person's reputation, or that person's property. Extortion is a **Class 5 Felony** (*Code of Virginia* § 18.2-59, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-59>).

Extortion can also involve threats to accuse someone of committing an offense, and thereby obtaining money or property from that person.

Note: **Blackmail** is the common name for extortion where the threat is not physical but relates to exposing some secret or true or alleged fact which would do harm to someone's circumstances or damage his or her reputation.



EX1 – Extortion

DCV Definition: Unlawfully obtaining or attempting to obtain something of value from another by compelling the other person to deliver it by the threat or eventual physical injury or other harm to that person or person's property

Sub-categories:

ET1 – Extortion

ET2 – Extortion attempted

What is harassment?

Harassment means to repeatedly annoy or attack a person or group in such a way as to cause anxiety or fear for safety. Several different types of harassment are against Virginia law.

- It is unlawful to publish a person's name or photograph with identifying information, such as social security number, driver's license number, personal identification number (PIN), credit or debit card number, or address, with the intent to coerce, intimidate, or harass another person (*Code of Virginia* § 18.2-186.4, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-186.4>). This offense is a **Class 1 Misdemeanor**.
- If the victim is a law enforcement officer, the offense is a **Class 6 Felony** and there is a mandatory minimum term of confinement of six months.
- Prank telephone calls are a form of harassment. If a person calls or pages another person with the intent to annoy that person, both the person making the call and any other person who allows use of his telephone are guilty of a **Class 3 Misdemeanor** (*Code of Virginia* § 18.2-429, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-429>). If the call is made to an emergency response telephone, such as police, fire, or emergency medical service, with intent to annoy, harass, hinder, or delay emergency personnel in performance of their duties, the person making the call and the person whose telephone is used are guilty of a **Class 1 Misdemeanor** (*Code of Virginia* § 18.2-429, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-429>).
- It is also illegal to harass someone using a computer or computer network. If a person has intent to coerce, intimidate, or harass and communicates obscene or indecent language or threatens an illegal or immoral act, the person is guilty of a **Class 1 Misdemeanor** (*Code of Virginia* § 18.2-152.7:1, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-152.7C1>).



HR1 – Non-Sexual Harassment

DCV Definition: Repeatedly annoying or attacking a student or a group of students or other personnel which creates an intimidating or hostile educational or work environment.

What is hazing?

Hazing is to endanger the health or safety of a student or students or to inflict bodily injury on a student or students, either recklessly or intentionally, in connection with or as part of initiation or admission into a club, organization, association, fraternity, sorority, or student body. It also applies to activities that act as a condition for continued membership in these organizations. It does not matter whether the student or students so endangered or injured participated voluntarily in the relevant activity. Someone found guilty of hazing is guilty of a **Class 1 Misdemeanor** (*Code of Virginia* § 18.2-56, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-56>).

In addition, someone who receives bodily injury from hazing has the right to sue the person or persons found guilty of hazing in civil court. In addition to criminal and civil penalties, any student who commits hazing is subject to disciplinary sanctions at his school, college, or university. The student may be expelled or subject to other disciplinary action (*Code of Virginia* § 18.2-56, www.virginiarules.com/virginia-rules/crimes-against-persons).

Furthermore, school boards are required to include rules against hazing in their codes of student conduct [*Code of Virginia* § 22.1-279.6(B), <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.6>].

Hazing of youth gang members is defined separately as “to recklessly or intentionally endanger the health or safety of a person or to inflict bodily injury on a person in connection with or for the purpose of initiation, admission into or affiliation with or as a condition for continued membership in a youth gang or criminal street gang regardless of whether the person so endangered or injured participated voluntarily in the relevant activity.” (*Code of Virginia* § 18.2-55.1., <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-55.1>)



H1Z – Hazing

DCV Definition: Committing an act or acts against a student or coercing a student to commit an act that creates risk of harm to a person in order to be initiated into a student organization or class.

Do schools have any special responsibilities related to hazing?

School boards are required to develop programs to prevent violence and crime on school property and at school-sponsored events, which are required to include prevention of hazing (*Code of Virginia* § 22.1-279.9, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.9>).

What is intimidation?

Intimidation means to make another person fearful of bodily harm using threatening words and/or other conduct.



T11 – Threat/intimidation

DCV Definition: Unlawfully placing a staff member in fear of bodily harm through physical, verbal, written, or electronic threats which immediately creates fear of harm without displaying a weapon or subjecting the person to actual physical attack. Consider age, developmentally appropriate behavior, and disability status before using this category.



Threat/intimidation **against staff** is required to be immediately reported.

What is robbery?

The crime of robbery in Virginia is not defined by statute but is found in the common law. Robbery in common law is defined as the taking, with intent to steal, of the personal property of another, from his person or in his presence, against his will, by violence or intimidation.



RO1 – Robbery

DCV Definition: Taking, or attempting to take, anything of value owned by another person or organization under confrontational circumstances by force or threat of force or violence and/or by putting the victim in fear.

Sub-categories:

RB1 – Actual Robbery

RB2 – Attempted Robbery

What is stalking?

Stalking is defined as engaging in conduct, on more than one occasion, directed at another person with the intent to place the person in fear of death, criminal sexual assault, or bodily injury to that other person or that person's family or household member (*Code of Virginia* § 18.2-60.3, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-60.3>). Stalking is a **Class 1 Misdemeanor**; if convicted three or more times within five years, it is a **Class 6 Felony**.



ST1 – Stalking

DCV Definition: Engaging in conduct directed at another person with the intent to place that person in reasonable fear of death, criminal sexual assault, or bodily injury.



Stalking is required to be immediately reported.

What is a threat?

In general, a threat is a communication that threatens to kill or do bodily injury to another person or any member of that person's family, when that communication places the other person in reasonable fear of death or bodily injury to himself or his family (*Code of Virginia* § 18.2-60, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-60>).

If the threat is written, the person is guilty of a **Class 6 Felony**, which can result in imprisonment of not less than one year nor more than five years or confinement in a jail for not more than 12 months and a possible fine of not more than \$2,500 (*Code of Virginia* § 18.2-60(A) (1), <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-60>).

If a written threat is made on school premises, at a school-sponsored event, or on a school bus, it is a **Class 6 Felony**, even if the person who is the target of the threat doesn't receive the threat (*Code of Virginia* § 18.2-60(A) (2), <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-60>).

Anyone who speaks threats to kill or do bodily injury to any school employee while on school property, at a school-sponsored activity, or while on a school bus is guilty of a **Class 1 Misdemeanor** (*Code of Virginia* § 18.2-60(B), <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-60>). A **Class 1 Misdemeanor** can result in confinement in jail for not more than 12 months and/or a fine of not more than \$2,500.

Spoken threats to non-school employees are simple assaults (*Code of Virginia* § 18.2-57(A), <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-57>).

Any spoken threats, or the use of obscene or indecent language with the intent to coerce, intimidate or harass another person, made using a telephone constitute a **Class 1 Misdemeanor** (*Code of Virginia* § 18.2-427, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-427>).

Persons making threats can be prosecuted either in the county, city, or town where the threatening communication was made, or where it was received.



TI1 – Threat/Intimidation Against Staff

DCV Definition: Unlawfully placing a staff member in fear of bodily harm through physical, verbal, written, or electronic threats which immediately creates fear of harm without displaying a weapon or subjecting the person to actual physical attack. Consider age, developmentally appropriate behavior, and disability status before using this category.



Threats/intimidation against staff is required to be immediately reported.

TI2 – Threat/Intimidation Against Student

DCV Definition: Unlawfully placing a student in fear of bodily harm through physical, verbal, written or electronic threats without displaying a weapon or subjecting the person to actual physical attack. Consider age, developmentally appropriate behavior, and disability status before using this category.

C. Property Offenses

What are crimes against property?

Crimes against property are offenses involving property and include both crimes in which property is destroyed and crimes in which property is stolen or taken against the owner's will.

A broad range of offenses are classified as crimes against property, including those having to do with taking property, with destroying property, and with wrongfully using or possessing property.

What is arson?

Arson means to unlawfully and intentionally damage, or attempt to damage, any real or personal property by fire or incendiary device.

Burning or destroying a meeting house or school constitutes a **Class 4 felony** if no person occupies the building and a **Class 3 felony** if at least one person occupies the building (*Code of Virginia* § 18.2-79, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-79>).



AR1 – Arson

DCV Definition: Unlawfully and intentionally damaging or attempting to damage any school or personal property by fire or incendiary device. Firecrackers, fireworks, and trashcan fires would be included in this category if they were contributing factors to a damaging fire.

Sub-categories:

AS1 – Arson; actual

AS2 – Arson, attempted

AS3 – Lighted firecrackers, cherry bombs or stink bombs that contribute to a damaging fire.

What is larceny?

Larceny or theft is defined generally as the unlawful taking or carrying away of someone else's personal property with the intent to deprive the owner of it permanently.

One form of larceny is **shoplifting**. Virginia law defines the offense as concealing or taking possession of goods, altering the price tag or other price marking, or assisting another with the intent of converting the merchandise to his own or another's use without having paid the full purchase price. If the merchandise is valued at less than \$200, it is **petit larceny**; if it is valued at \$200 or more, the offense is **grand larceny**. It is important to know that simply concealing the merchandise while on the premises is considered evidence of the intent to take it (*Code of Virginia* § 18.2-103, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-103>).

Burglary is defined as breaking and entering the dwelling of another in the nighttime with intent to commit a felony or any larceny. (*Code of Virginia* § 18.2-89, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-95>).



TH1 – Theft offenses – no force (except motor vehicle)

DCV Definition: Unlawfully taking, carrying, leading, or riding away property from the possession of another person. May include pocket picking, purse snatching, theft from building, theft of electronic data, theft from motor vehicle, or from coin-operated machines.

Sub-categories:

TF1 – Theft of School Property

TF2 – Theft of Staff Property

TF3 – Theft of Student Property

TF4 – Possession of Stolen Property

TH2 – Theft offenses – no force (motor vehicle)

DCV Definition: Unlawfully taking, carrying, leading, or riding away a motor vehicle or the attempted theft of a motor vehicle. This category includes theft of a car, truck, motorcycle, dune buggy, snowmobile, RV, or anything that is self-propelled.

Sub-categories:

TF6 – Attempted Theft of Motor Vehicle

What is the difference between petty larceny and grand larceny?

In Virginia, **petit larceny** is defined as larceny from a person of money or other thing valued at less than \$5 or larceny not from the person of goods valued at less than \$200.

(*Code of Virginia* § 18.2-96, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-96>).

Grand larceny is defined as larceny from a person of money or other things valued at \$5 or more, larceny not from the person of goods valued at \$200 or more, or larceny not from the person of any firearm. (*Code of Virginia* § 18.2-95, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-95>).

What are laws about buying or receiving stolen goods?

Code of Virginia § 18.2-108 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-108>) prohibits buying or receiving stolen goods. Anyone who buys or receives such goods, knowing them to be stolen, is guilty of larceny even if the person who stole the goods is not convicted.



TH1 – Theft offenses – no force (except motor vehicle)

DCV Definition: Unlawfully taking, carrying, leading, or riding away property from the possession of another person. May include pocket picking, purse snatching, theft from building, theft of electronic data, theft from motor vehicle, or from coin-operated machines.

Sub-categories:

TF1 – Theft of School Property

TF2 – Theft of Staff Property

TF3 – Theft of Student Property

TF4 – Possession of Stolen Property

TH2 – Theft offenses – no force (motor vehicle)

DCV Definition: Unlawfully taking, carrying, leading, or riding away a motor vehicle or the attempted theft of a motor vehicle. This category includes theft of a car, truck, motorcycle, dune buggy, snowmobile, RV, or anything that is self-propelled.

Sub-categories:

TF6 – Attempted Theft of Motor Vehicle

What is trespass?

Trespass is defined in several sections of the *Code of Virginia*:

§ 18.2-128 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-128>) prohibits trespass upon church or school property.

- Any person who, without the consent of some person authorized to give such consent, goes or enters upon, in the nighttime, the premises or property of any church or upon any school property for any purpose other than to attend a meeting or service held or conducted in such church or school property, shall be guilty of a **Class 3 Misdemeanor**.
- It shall be unlawful for any person, whether or not a church member or student, to enter upon or remain upon any church or school property in violation of:
 - any direction to vacate the property by a person authorized to give such direction, or
 - any posted notice which contains such information, posted at a place where it reasonably may be seen. Each time such person enters upon or remains on the posted premises or after such direction that person refuses to vacate such property; it shall constitute a separate offense.

A violation of this subsection shall be punishable as a **Class 1 Misdemeanor**, except that any person, other than a parent, who violates this subsection on school property with the intent to abduct a student, shall be guilty of a **Class 6 Felony**.

For purposes of this section:

- school property includes a school bus as defined in § 46.2-100 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-100>), and
- church means any place of worship and includes any educational building or community center owned or leased by a church.

Other sections of the *Code of Virginia* prohibit several types of trespass:

§ 18.2-134 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-134>) prohibits trespass on posted property.

§ 18.2-119 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-119>) prohibits going upon any property owned by another after having been forbidden to trespass there.

§ 18.2-125 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-125>) prohibits trespass in any cemetery at night.



TR1 – Trespassing

DCV Definition: Entering or remaining on a public school campus or school board facility without authorization or invitation and with no lawful purpose for entry, including students under suspension or expulsion and unauthorized persons who enter or remain on a campus or school board facility after being directed to leave.

What is vandalism?

Destruction or damage or vandalism of property is generally defined as willfully or maliciously destroying, damaging, defacing, or otherwise injuring real or personal property without the consent of the owner or the person having custody or control of it. Virginia law specifically prohibits damaging public buildings and materials in libraries and schools. *Code of Virginia* §18.2-138 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-138>) states:

Any person who willfully and maliciously:

- breaks any window or door of the Capitol, any courthouse, house of public worship, college, school house, city or town hall, or other public building or library,
- damages or defaces the Capitol or any other public building or any statuary in the Capitol, on the Capitol Square, or in or on any other public buildings or public grounds, or
- destroys any property in any of such buildings shall be guilty of a **Class 6 Felony** if damage to the property is \$1,000 or more or a **Class 1 Misdemeanor** if the damage is less than \$1,000.

Any person who willfully and unlawfully damages or defaces any book, newspaper, magazine, pamphlet, map, picture, manuscript, or other property located in any library, reading room, museum, or other educational institution shall be guilty of a **Class 6 Felony** if damage to the property is \$1,000 or more or a **Class 1 Misdemeanor** if the damage is less than \$1,000.

Graffiti or “tagging” falls within this definition.

Anyone who destroys or defaces any property, real or personal, not his own, shall be guilty of a **Class 1 Misdemeanor** if the damage to the property is less than \$1,000 or a **Class 6 Felony** if the value of or

damage is \$1,000 or more (*Code of Virginia* § 18.2-137, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-137>).

Anyone who destroys or defaces public property shall be guilty of a **Class 1 Misdemeanor** if the damage to the property is less than \$1,000 and a **Class 6 Felony** if the damage is \$1,000 or more (*Code of Virginia* § 18.2-138, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-138>). *Code of Virginia* § 8.01-43 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-43>) specifically addresses minors who are caught damaging public property and action that can be taken against the parents:

The Commonwealth, acting through the officers having charge of the public property involved, or the governing body of a county, city, town, or other political subdivision, or a school board may institute an action and recover from the parents or either of them of any minor living with such parents or either of them for damages suffered by reason of the willful or malicious destruction of, or damage to, public property by such minor. No more than \$2,500 may be recovered from such parents or either of them as a result of any incident or occurrence on which such action is based.

Code of Virginia § 22.1-280.4 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-280.4>) authorizes school boards to take action against a student or his parents:

A school board may take action against a pupil or the pupil's parent for any actual loss, breakage, or destruction of or failure to return property owned by or under the control of the school board, caused or committed by such pupil in pursuit of his studies. Such action may include seeking reimbursement from a pupil or the pupil's parent for any such loss, breakage, or destruction of or failure to return school property.



VA1 – Vandalism

DCV Definition: Willfully and/or maliciously destroying, damaging, or defacing public or private property without the consent of the owner or the person having custody or control of it. This category includes graffiti.

Can students who vandalize a school be made to repair the damage or pay for repairs?

Code of Virginia § 22.1-280.4 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-280.4>) authorizes school boards to take action against a student or his parents:

“A school board may take action against a pupil or the pupil's parent for any actual loss, breakage, or destruction of or failure to return property owned by or under the control of the school board, caused or committed by such pupil in pursuit of his studies. Such action may include seeking reimbursement from a pupil or the pupil's parent for any such loss, breakage, or destruction of or failure to return school property.”

Are parents liable for damages caused by their children?

Parents of persons under 18 years of age may be held liable for up to \$2,500 for damages to public or private property (*Code of Virginia* §§ 8.01-43, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-43> and 8.01-44, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-44>).

D. Disorderly Conduct

What is disorderly conduct?

Disorderly conduct is public behavior that causes public inconvenience, annoyance, or alarm. It can involve conduct having a direct tendency to cause acts of violence by persons at whom the conduct is directed or conduct that interferes with the orderly conduct of a funeral, memorial service, or meeting. (*Code of Virginia* § 18.2-415.A. & B., <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-415>)

The Code authorizes the person in charge of any building, place, conveyance, meeting, operation, or activity to eject disorderly persons from the activity and authorizes the governing bodies of counties, cities, and towns to adopt ordinances prohibiting and punishing disorderly conduct.

Code of Virginia § 18.2-415.C. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-415>) addresses disorderly conduct in schools, defining it as disrupting the operation of any school or any activity conducted or sponsored by any school, if the disruption (i) prevents or interferes with the orderly conduct of the operation or activity or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed.



D1C – Disrespect (walking away, talking back, etc.)

DCV Definition: Unwillingness to submit to authority or refusal to respond to a reasonable request. Any act that intentionally disrupts the orderly conduct of a school function. Any behavior that substantially disrupts the orderly learning environment.

D2C – Defiance (refuses requests)

DCV Definition: Unwillingness to submit to authority or refusal to respond to a reasonable request. Any act that intentionally disrupts the orderly conduct of a school function. Any behavior that substantially disrupts the orderly learning environment.

D3C – Disruptive Demonstrations

DCV Definition: Unwillingness to submit to authority or refusal to respond to a reasonable request. Any act that intentionally disrupts the orderly conduct of a school function. Any behavior that substantially disrupts the orderly learning environment.

D4C – Possession of Obscene or Disruptive Literature/Illustrations

DCV Definition: Unwillingness to submit to authority or refusal to respond to a reasonable request. Any act that intentionally disrupts the orderly conduct of a school function. Any behavior that substantially disrupts the orderly learning environment.

D5C – Classroom or Campus Disruption

DCV Definition: Unwillingness to submit to authority or refusal to respond to a reasonable request. Any act that intentionally disrupts the orderly conduct of a school function. Any behavior that substantially disrupts the orderly learning environment.

D6C – Using Obscene/ Inappropriate Language/Gestures

DCV Definition: Unwillingness to submit to authority or refusal to respond to a reasonable request. Any act that intentionally disrupts the orderly conduct of a school function. Any behavior that substantially disrupts the orderly learning environment.

D8C – Minor Insubordination

DCV Definition: Unwillingness to submit to authority or refusal to respond to a reasonable request. Any act that intentionally disrupts the orderly conduct of a school function. Any behavior that substantially disrupts the orderly learning environment.

Is cursing against the law?

Cursing can be against the law if a person curses or abuses another person or uses violent abusive language to such person concerning himself or any of his relations, or otherwise uses such language, under circumstances reasonably calculated to provoke a breach of the peace (*Code of Virginia* § 18.2-416, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-416>).



D6C – Using Obscene/Inappropriate Language/Gestures

DCV Definition: Unwillingness to submit to authority or refusal to respond to a reasonable request. Any act that intentionally disrupts the orderly conduct of a school function. Any behavior that substantially disrupts the orderly learning environment.

What if a student activates a fire alarm when there is no fire?

Anyone who without just cause calls for an ambulance or fire-fighting apparatus or maliciously activates a fire alarm in a public building violates *Code of Virginia* §18.2-212 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-212>) and shall be deemed guilty of a Class 1 misdemeanor.

Because a false fire alarm creates a substantial disruption to the operation of a school, the act may be considered disorderly conduct.



BB1 – School Threat

DCV Definition: Any threat (verbal, written, or electronic) by a person to bomb or use other substances or devices for the purpose of exploding, burning, causing damage to a school building or school property, or harming students or staff.

Intentionally making a false report of potential harm from dangerous chemicals or biological agents.

Sub-categories:

- BO1 – Bomb Threat
- BO2 – Chemical/Biological Threat
- BO3 – Terrorist Threat
- BO4 – Setting off false fire alarm



School Threats are required to be immediately reported.

What is a riot?

A riot is any unlawful use of force or violence, by three or more persons acting together, which seriously jeopardizes the public safety, peace, or order. (*Code of Virginia* §18.2-405, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-405>) Persons convicted of participating in any riot shall be guilty of a Class 1 misdemeanor.

A person who conspires with others to cause or produce a riot is inciting a riot. (*Code of Virginia* §18.2-408, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-408>).

A riot is closely related to the offense of *unlawful assembly* which is defined as occurring when three or more persons assembled share the common intent to advance some lawful or unlawful purpose by the commission of an act or acts of unlawful force or violence likely to jeopardize public safety, peace, or order, and the assembly actually tends to inspire persons of ordinary courage with well-grounded fear of serious and immediate breaches of public safety, peace, or order, then such assembly is an unlawful assembly (*Code of Virginia* §18.2-406, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-406>).

Remaining at a riot or unlawful assembly after being warned to disperse is also a violation of law (*Code of Virginia* §18.2-407, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-407>). A violation shall be punishable as a Class 3 Misdemeanor.



RT1 – Inciting to riot

DCV Definition: Unlawful use of force or violence, involving three or more people acting together, that seriously jeopardizes the public safety, peace, or order.

Sub-categories:

RG1 – Inciting a riot

RG2 – Attempting to incite a riot

E. Gang-related Offenses

What is a gang?

Virginia law defines a criminal street gang as any group of three or more persons, whether formal or informal,

- which has as its primary objectives or activities the commission of one or more criminal acts,
- that has an identifiable name or identifying sign or symbol, and
- whose members have engaged in two or more specified criminal acts, at least one of which is an act of violence.

(*Code of Virginia* § 18.2-46.1, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-46.1>)

Which other laws address gangs?

Code of Virginia § 18.2-46.2 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-46.2>) – Makes it a **Class 4 or 5 Felony** for gang members to commit certain criminal acts on behalf of a gang. Examples include robbery, assault, arson, gang recruitment, trespassing, and damage to property.

Code of Virginia § 18.2-46.3 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-46.3>) – Prohibits recruitment of juveniles for a criminal street gang. Specifically:

- Any person aged 18 years or older, who solicits, invites, recruits, encourages, or otherwise causes or attempts to cause a juvenile to actively participate in or become a member of a criminal street gang, shall be guilty of a **Class 6 Felony**.
- Any person who, regardless of age, solicits, invites, recruits, encourages, or otherwise causes or attempts to cause another to actively participate in or become a member of a criminal street gang, shall be guilty of a **Class 1 Misdemeanor**.
- Any person who uses threats or force against a person or that person's family to recruit that person into a gang, or force him or her to remain in the gang or to submit to a demand by a gang to commit a felony shall be guilty of a **Class 6 Felony**.

Code of Virginia § 18.2-55.1 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-55.1>) – Prohibits hazing of youth gang members. Anyone who causes bodily injury by hazing any member or person seeking to become a member of a youth gang or street gang shall be guilty of a **Class 1 Misdemeanor**. It does not matter whether or not the victim of the hazing participated voluntarily in the prohibited activity.

Code of Virginia § 16.1-260(G) (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-260>) – Requires that the school division superintendent be notified when a juvenile or adult student commits a violation of any gang statute, whether on or off school property.

What kinds of crimes do gang members commit?

Most street gang members are involved in activities that are crimes in the community. Some examples are:

- using drugs and dealing drugs;
- theft and dealing in stolen property;
- assault and battery and serious injury to other people;
- threats and intimidation of others; and
- destroying public and private property.

What authority/responsibilities do schools have related to gangs?

Gang-Free Zones

Code of Virginia § 18.2-46.3:3 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-46.3C3>) – Establishes Gang-Free Zones in which there are enhanced penalties for gang participation and recruitment. The zones include school property, public property within 1,000 feet of school property, and school buses as well as on the property of any publicly owned or operated community center or recreation center.

Parents are required to report gang activity at enrollment.

Code of Virginia §§ 22.1-3.2.A. and B. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-3.2>) requires a parent or guardian to provide a public school, upon registration of a student, information concerning criminal convictions or delinquency adjudications for any offense listed in subsection G of § 16.1-260 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-260>). These include homicide, felonious assault and bodily wounding, criminal sexual assault, manufacture, sale, or distribution of

Schedule I or II controlled substances or marijuana, arson, burglary and robbery, **prohibited street gang activity, and recruitment for street gang activity**. When the school registration results from foster care placement, the information is to be furnished by the local social services agency or licensed child-placing agency that made the foster care placement.

 DCV
DEFINITION

GA1 – Gang activity

DCV Definition: Street gang means any ongoing organization, association, or group of three or more persons, whether formal or informal, that has as one of its primary objectives or activities to commit one or more criminal or non-criminal gang activities. This includes articles of clothing that symbolize association, rituals, or activities identified by groups of students.

What resources are available to help schools deal with gangs?

 RESOURCES

The most comprehensive federal resource is the National Gang Center (www.nationalgangcenter.gov) which features the latest research about gangs; descriptions of evidence-based, anti-gang programs, and links to tools, databases, and other resources to assist in developing and implementing effective community-based gang prevention, intervention, and suppression strategies. An online form allows communities to request training and technical assistance as they plan and implement anti-gang strategies. Users can register for a variety of anti-gang training courses and subscribe to GANGINFO, an electronic mailing list for professionals working with gangs.

The U.S. Department of Justice Community Oriented Policing Services also has a *Gangs Toolkit* available online at www.cops.usdoj.gov/default.asp?item=1309. Numerous publications can be downloaded including a Gang Reference Card for Parents (in multiple languages) and other resources on graffiti and street gangs.

Virginia gangs

A study focusing on Virginia gangs, *2006 Study of Criminal Gangs*, was conducted by the Virginia Crime Commission (<http://leg2.state.va.us/DLS/H&SDocs.NSF/682def7a6a969fbf85256ec100529ebd/a610f0a73053b53685256fcc0059672c?OpenDocument>).

What is tagging?

Tagging is graffiti placed on property, often by gangs, to mark a territory. When there is a great deal of graffiti in an area, it is a strong indicator of gang-related activity. Virginia law says that tagging is destroying or defacing property.

Anyone who destroys or defaces any property, real or personal, not his own, shall be guilty of a **Class 1 Misdemeanor** if the damage to the property is less than \$1,000 or a **Class 6 Felony** if the value of or damage is \$1,000 or more (*Code of Virginia* § 18.2-137, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-137>).

Anyone who destroys or defaces public property shall be guilty of a **Class 1 Misdemeanor** if the damage to the property is less than \$1,000 and a **Class 6 Felony** if the damage is \$1,000 or more (*Code of Virginia* § 18.2-138, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-138>).

The parents or guardians of a child may be ordered to pay up to \$2,500 for damages their child caused to public property (*Code of Virginia* § 8.01-43, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-43>).

F. Alcohol and Drug-related Offenses

What is an alcoholic beverage?

The term alcoholic beverages is defined in *Code of Virginia* § 4.1-100 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+4.1-100>) as including “alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being.”

At what age is alcohol use allowed?

Age 21. It is illegal for any person under the age of 21 to purchase, possess, or attempt to purchase or possess any alcoholic beverage (*Code of Virginia* § 4.1-305, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+4.1-305>).

What is the penalty for someone under 21 possessing or purchasing alcohol?

For a first offense, the court may defer further proceedings and place the accused on probation subject to conditions imposed by the court that may include license suspension or restrictions. When proceedings are deferred, the court must require the accused to enter a treatment or education program, or both, depending on what the court believes best suits the needs of the accused. If the accused abides by the conditions, the court will discharge the person from probation and dismiss charges without an adjudication of guilt (*Code of Virginia* § 4.1-305.F, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+4.1-305>).

If the conditions of probation are violated, the court can find the defendant guilty of a **Class 1 Misdemeanor** and order a mandatory minimum fine of \$500 or a mandatory 50 hours of community service and suspend the driver's license of anyone 18 years of age or older for not less than six months or more than one year (*Code of Virginia* § 4.1-305.C, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+4.1-305>).

What other penalties may apply for alcohol-related offenses?

Anyone (adult or minor) possessing or consuming alcohol on public school property may face up to \$1,000 in fines and spend up to six months in jail.

Young adults (ages 18–20) who purchase, possess or drink alcohol, upon conviction, may lose their privilege to drive for not less than six months (and up to one year maximum). They face a mandatory

minimum fine of \$500 or must perform a mandatory minimum of 50 hours of community service (*Code of Virginia* § 4.1-305., <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+4.1-305>).

Using a fake ID to buy alcohol means that in addition to the penalties listed above for possession of alcohol, anyone convicted will lose their privilege to drive for not less than 30 days (and up to one year maximum) (*Code of Virginia* § 4.1-305.B, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+4.1-305>).

Fraudulent use of a driver’s license, ID card, or other identification materials:

- It is illegal to use another’s ID as one’s own.
- It is illegal to possess or sell an ID for the purpose of establishing false identification.
- It is illegal to make or alter an ID.

Persons who possess, use, or distribute false forms of ID are charged with a **Class 1 Misdemeanor** (*Code of Virginia* § 18.2-204.1, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-204.1>, 204.2, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-204.2>).

A motor vehicle operator, age 20 or younger, with a blood or breath alcohol level between .02 and .07 could lose his or her privilege to drive for up to one year and incur fines starting at a mandatory minimum of \$500 or be required to perform 50 hours community service (*Code of Virginia* § 18.2-266.1, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-266.1>).

What are schools required to do related to student alcohol possession or use?

Schools must handle conduct offenses involving alcohol in accordance with local school board student conduct policies.

★ RESOURCES

Technologies such as breathalyzers to detect alcohol use must be used in accordance with policies that are consistent with school search guidelines outlined in the Virginia School Search Resource Guide (www.doe.virginia.gov/boe/guidance/safety/school_searches.pdf). Breathalyzers are portable hand held devices that measure the Blood Alcohol Content (BAC) by indirectly measuring the alcohol content in breath and can be used for onsite alcohol detection for students.

Code of Virginia § 22.1-277.2:1. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-277.2C1>) authorizes school boards to require any student who has been found in possession of, or under the influence of, drugs or alcohol on a school bus, on school property, or at a school-sponsored activity to undergo evaluation for drug or alcohol abuse, or both, and, if recommended by the evaluator and with the consent of the student's parent, to participate in a treatment program.

📖 DCV DEFINITION

AL1 – Alcohol

DCV Definition: Violating laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, or consumption of intoxicating alcoholic beverages or substances represented as alcohol. Suspicion of being under the influence of alcohol may be included if it results in disciplinary action.

Sub-categories:

AC1 – Alcohol Use

AC2 – Alcohol Possession

AC3 – Alcohol Sale/Distribution



Any offenses involving alcohol are required to be immediately reported.

What resources are available to address underage alcohol use?



The Virginia Department of Alcoholic Beverage Control has numerous publications and programs designed to restrict access to alcohol by those under age 21. Additional information is available at www.abc.virginia.gov/education.

Two Virginia-specific resources are also available:

Parent Guide to Preventing Underage Drinking

(www.publicsafety.virginia.gov/Initiatives/GOSAP/pdf/ParentGuideforUAD.pdf)

Community Guide for Preventing and Reducing Underage Drinking

(www.publicsafety.virginia.gov/Initiatives/GOSAP/pdf/CommGuideforUAD.pdf)

A comprehensive portal of Federal resources for information on underage drinking is www.StopAlcoholAbuse.Gov.

What Virginia laws are related to drugs and schools?

Code of Virginia § 18.2-255.2. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-255.2>) prohibits the sale or manufacture of drugs on or near certain properties including public and private schools or property within 1,000 feet of a school, on any school bus, or at any school bus stop.

Is student drug testing permissible?

Code of Virginia § 22.1-279.6. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.6>) states that “a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education’s guidelines and model student conduct policies required by subsection A” [of section 22.1-279.6] “and the Board’s guidelines for student searches required by § 22.1-279.7.” (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.7>).

The state statutory provisions do not require the adoption of drug testing programs by local school boards, but leave to local board discretion whether drug testing will be encouraged or required.



Guidelines Concerning Student Drug Testing in Virginia Public Schools

(www.doe.virginia.gov/boe/guidance/health/drug_testing_guidelines.pdf), approved by the Board of Education on June 23, 2004, provide legal background information and guidance on policies and procedures.

The *Guidelines* state, “The question of whether to test students for drugs involves myriad complex issues that must be fully understood and carefully weighted before testing begins ... Before implementing a drug testing program, local school boards should consult with legal counsel familiar with the laws regarding student drug testing.” (p. 6)

What types of disciplinary action can be taken with a student who brings drugs to school?

A school board policy, in accordance with *Code of Virginia* § 22.1-277.08. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-277.08>) must provide for the mandatory expulsion for a period of not less than one year of any student determined to have brought a controlled substance, imitation controlled substance, or marijuana as defined in § 18.2-247. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-247>) onto school property or to a school-sponsored activity.

“One year” is defined as 365 days as required in federal regulation. (§ 22.1-277.06., <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-277.06>)

A school board may establish policy and promulgate related guidelines for determining whether special circumstances exist that would allow for no disciplinary action or another disciplinary action, based on facts of a particular situation. A school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases. (§ 22.1-277.06., <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-277.06>)

School board policy may permit or require students expelled for drug-related offenses to attend an alternative education program provided by the school board for the term of the expulsion (§ 22.1-277.2:1. <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-277.2C1>).



D4G – Over the Counter Med./Use

DCV Definition: Unlawful use, distribution, sale, solicitation, purchase, possession, transportation, or importation of over-the-counter medication.

D5G – Over the Counter Med./Possession

DCV Definition: Unlawful use, distribution, sale, solicitation, purchase, possession, transportation, or importation of over-the-counter medication.

D6G – Over the Counter Med./Sale/Distribution

DCV Definition: Unlawful use, distribution, sale, solicitation, purchase, possession, transportation, or importation of over-the-counter medication.

DR1 – Possession/Use Schedule I/II Drugs

DCV Definition: Violation of laws or ordinances prohibiting the manufacture, transportation, possession, or consumption of marijuana, Schedule I & II drugs, and anabolic Steroid-Use. Suspicion of being under the influence of marijuana may be included if it results in disciplinary action.

Sub-categories:

DG1 – Schedule I & II Drug Use

DG2 – Schedule I & II Drug Possession

DG5 – Synthetic Marijuana Use or Possession

DG7 – Marijuana Use
 DG8 – Marijuana Possession
 DG20 – Anabolic Steroid/Use and Possession



Drug Offenses are required to be immediately reported.

DR2 – Possession/Use Inhalants

DCV Definition: Unlawfully using, cultivating, manufacturing, purchasing, possessing, transporting, or importing any substances represented as drug look-alikes.

Sub-categories:

D17 – Substances represented as drugs (look-alikes)



Possessions of inhalants are required to be immediately reported.

DR3 – Theft-Prescription Medications

DCV Definition: Unlawfully possessing or attempting to take possession of drugs prescribed for another.



Theft of prescription medications are required to be immediately reported.

DR4 – Sale/Distribution Schedule I/II Drugs

DCV Definition: Unlawfully possessing with the intent to distribute, sell, or solicit any Schedule I or II drug, marijuana, or anabolic steroid.

Sub-categories:

DG3 – Schedule I & II Drug Sale/Distribution
 DG6 – Synthetic marijuana sale and/or distribution
 DG9 – Marijuana Sale/Distribution
 DG19 – Anabolic Steroid Sale/Distribution



The sale and distribution of schedule I & II drugs is required to be immediately reported.

DR5 – Sale/Distribution Paraphernalia Schedule I/II Drugs

DCV Definition: Unlawfully using or possessing with the intent to distribute, selling, or soliciting any controlled drug or narcotic substance not specified in previous drug categories: having equipment (paraphernalia) for use in consuming illegal drugs in one’s pocket, bag, car or locker.

Sub-categories:

D10 – Other Drug Use/Overdose
 D11 – Other Drug/Paraphernalia Possession
 D12 – Other Drug Sale/Distribution



The sale and distribution of drug paraphernalia is required to be immediately reported.

D16 – Drug Violation – Inhalants Use

DCV Definition: Unlawfully using, cultivating, manufacturing, purchasing, possessing, transporting, or importing any inhalants.

D15 – Drug Violation – Inhalants Possession

DCV Definition: Unlawfully using, cultivating, manufacturing, purchasing, possessing, transporting, or importing any inhalants.

What are Virginia laws related to tobacco?

Code of Virginia § 18.2-371.2. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-371.2>) prohibits the purchase or possession of tobacco products by minors or sale of tobacco products to minors. Further, no person is permitted to sell or distribute to or purchase for or knowingly permit the purchase by any person less than 18 years of age.



TB1 – Tobacco Use, Possession, Sale, Distribution

DCV Definition: Possessing, using, distributing, or selling tobacco products, including smokeless tobacco, on school grounds, at school-sponsored events, and/or on school transportation.

Sub-categories:

TC1 – Tobacco Use

TC2 – Tobacco Possession

TC3 – Tobacco Sales/Distribution

T4B – Tobacco Paraphernalia.

DCV Definition: Bringing tobacco paraphernalia to school or to a school event.

G. Weapons-related Offenses

What is considered a weapon?

Code of Virginia § 18.2-308.1. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-308.1>) lists numerous types of weapons that are prohibited on school property or at school-sponsored events. Those listed in § 18.2-308 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-308>) and § 18.2-308.1. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-308.1>) include:

1. stun guns;
2. knife with a blade of three or more inches;
3. pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material;
4. dirk, bowie knife, switchblade knife, ballistic knife, machete, razor, slingshot, spring stick, metal knucks, or blackjack;
5. any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; and
6. any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart.

Code of Virginia § 18.2-308 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-308.1>) defines a handgun as “any pistol or revolver or other firearm, except a machine gun, originally designed, made and intended to fire a projectile by means of an explosion of a combustible material from one or more barrels when held in one hand.”

Under what circumstances can a weapon be brought onto school property?

Code of Virginia § 18.2-308.1 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-308.1>) specifically exempts the following:

1. persons who possess such weapon or weapons as a part of the school's curriculum or activities;
2. a person possessing a knife customarily used for food preparation or service and using it for such purpose;
3. persons who possess such weapon or weapons as a part of any program sponsored or facilitated by either the school or any organization authorized by the school to conduct its programs either on or off the school premises;
4. any law-enforcement officer;
5. any person who possesses a knife or blade which he uses customarily in his trade;
6. a person who possesses an unloaded firearm that is in a closed container, or a knife having a metal blade, in or upon a motor vehicle, or an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle; or
7. a person who has a valid concealed handgun permit and possesses a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress or egress to the school.

What types of disciplinary action can be taken with a student who brings a weapon to school?

Section 22.1-277.07. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-277.07>) of the *Code* requires school boards to expel students who bring a firearm or other destructive device onto school property or to a school-sponsored event in violation of the Gun-Free Schools Act of 1994.

RESOURCES

Disciplinary action for possession of other types of weapons must be in accordance with local school board policies. See Virginia Board of Education, *Student Conduct Policy Guidelines* (www.doe.virginia.gov/boe/guidance/safety/student_conduct.pdf).

What weapons fall under the Gun-Free Schools Act of 1994?

The term weapon in the Gun-Free Schools Act refers to a firearm and is defined by federal law (Section 921 of Title 18 of the U.S. Code) as "... (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."

This definition, it must be noted, also does not include knives. However, schools may enact broader policies if they desire.

DCV DEFINITION

W1P — Possession of Ammunition

DCV Definition: Possession of any type of ammunition. Ammunition means ammunition or cartridges, cases, primers, bullets, or propellant powder designed for use in any firearm.

W2P — Weapon/Chemical Substance

DCV Definition: Possessing or bringing to school or a school-sponsored event any substance used as a weapon. The substance would include mace, tear gas, or pepper spray.

W3P — Weapon/Look-alike

DCV Definition: Any device that looks like a real gun or is a toy gun (i.e., water pistols). Category also includes look-alike weapons.

W8P — Possible Weapons – Razor Blades, Box Cutters

DCV Definition: Possessing knife less than three inches, razor blades, box cutters, fireworks, firecrackers or bringing stink bombs to school or a school event.

W9P — Possible Weapons – Fireworks, Firecrackers

DCV Definition: Possessing knife less than three inches, razor blades, box cutters, fireworks, firecrackers or bringing stink bombs to school or a school event.

WP0 — Possession of a BB Gun

DCV Definition: Possessing or bringing any pneumatic gun or rifle that is air powered to school or a school event. A pneumatic gun or rifle includes a BB, paint ball, or pellet gun.



Possession of a BB gun is required to be immediately reported..

WP1 — Weapon – firearm, handgun, pistol

DCV Definition: Possessing or bringing a handgun or pistol to school or to a school-sponsored event.



Possession of a firearm is required to be immediately reported..

WP2 — Weapon – firearm, shotgun/rifle

DCV Definition: Possessing or bringing a rifle/shotgun to school or a school-sponsored event.



Possession of a firearm is required to be immediately reported.

WP4 — Weapon – expels a projectile

DCV Definition: Possessing or bringing to school or a school-sponsored event any weapon designed to expel a projectile or that may readily be converted or modified manufactured guns to expel a projectile by the action of an explosive device.



Possession of a weapon that expels a projectile is required to be immediately reported..

WP5 — Weapon – knife

DCV Definition: Possessing or bringing to school or a school-sponsored event any sharp-edged instrument that is classified as a knife with a blade of three inches or more.



Possession of a knife is required to be immediately reported..

WP6 — Possession of Explosive Device

DCV Definition: Possessing or representing any weapon that explodes or is designed to or may readily be converted to explode.



Possession of an explosive device is required to be immediately reported.

WP7 — Use of Bomb or Explosive Device

DCV Definition: Using any weapon that is designed to explode with the use of a triggering device or by a chemical reaction that causes an explosion.



Use of a bomb or explosive device is required to be immediately reported..

WP8 — Weapon – Other Firearms

DCV Definition: Possessing or bringing any other weapon that will, is designed to, expel a projectile by the action of an explosive to school or a school event. This includes firearms not mentioned previously (operable or in-operable, loaded or unloaded) such as, but not limited to a zip or starter gun.

These definitions may include automatic weapons or semi automatic weapons other than shotgun/rifle or handgun, such as an XM8.



Possession of other firearms are required to be immediately reported..

WP9 — Weapon – other

DCV Definition: Possessing or bringing any weapon, instrument, or object that is designed to or may readily be converted to inflict harm on another person to school or a school event (i.e., golf club, baseball bat, chains, nunchakus, or billy club).



Possession of other firearms are required to be immediately reported..

WS1 — Possession of stun gun

DCV Definition: Possessing or bringing any mechanism that is designed to emit an electronic, magnetic, or other charge that exceeds the equivalency of five milliamp 60 hertz shock and used for the purpose of temporarily incapacitating a person.

WT1 — Possession of a taser

DCV Definition: Possessing or bringing any mechanism that is designed to emit an electronic, magnetic, or another charge or shock through the use of a projectile and used for the purpose of temporarily incapacitating a person.

H. Computer and Internet-related Offenses

What computer/Internet use policies are schools required to have in place?

Code of Virginia § 22.1-70.2. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-70.2>) requires schools and divisions to establish guidelines for appropriate technology use. These guidelines generally are called acceptable use policies (AUP). By definition, an AUP is a written agreement signed by students, their parents/caregivers, and their teachers. It outlines the terms and conditions for using technology-based devices maintained by schools and personal technology-based devices used during school hours on school property.



The Superintendent of Public Instruction is required to issue guidelines to school divisions regarding instructional programs related to Internet safety. *Guidelines and Resources for Internet Safety in Schools:* (www.doe.virginia.gov/support/safety_crisis_management/internet_safety/guidelines_resources.pdf) provides more detailed guidance on what school divisions must address, integrating Internet safety into curricula, and numerous Web-based Internet safety resources.

What are Virginia laws related to computer-/Internet-related crimes?

There are numerous laws pertaining to computer-/Internet-related crimes. Some of the main computer-/Internet-related laws and key elements of the crimes are as follows:

Crime	Code of Virginia	Key Elements of Crime
Computer fraud	§ 18.2-152.3	Using computer or computer network without authority to 1) obtain property or services by false pretenses; 2) embezzle or commit larceny; or 3) convert the property of another. (http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-152.3)
Computer invasion of privacy	§ 18.2-152.5	Using computer or computer network to intentionally examine without authority any employment, salary, credit or any other financial or identifying information. (http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-152.5)
Computer trespass (hacking/cracking)	§ 18.2-152.4	Removing, altering, erasing, disabling, or unauthorized copying of any computer data, programs, or software; causing a computer to malfunction; creating or altering a financial instrument; using a computer or network to cause physical injury to the property of another; installing software to record keystrokes made on another computer or take control of another computer. This law does not prohibit the monitoring of computer usage of, the otherwise lawful copying of data of, or the denial of computer or Internet access to a minor by a parent or legal guardian of the minor. (http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-152.4)
Harassment by computer (cyberbullying)	§ 18.2-152.7:1	Using computer or computer network, with the intent to coerce, intimidate, or harass, to communicate obscene, vulgar, profane, lewd, lascivious, or indecent language, or make any suggestion or proposal of an obscene nature, or threaten any illegal or immoral act. (http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-152.7C1)
Identity theft	§ 18.2-186.3	Without authorization or permission, to obtain, record or access identifying information that would assist in obtaining identification documents or obtaining benefits; to obtain money, credit, loans, goods or services by using the identifying information of another person; to obtain documents in another's name. (http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-186.3)
Personal trespass by computer	§ 18.2-152.7	Using a computer or computer network to cause physical injury to an individual. Penalty is increased if committed maliciously. (http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-152.7)
Possession, reproduction, distribution, and facilitation of child pornography	§ 18.2-374.1:1	Knowingly possessing child pornography; reproducing child pornography by any means, including by computer, sells, gives away, distributes, electronically transmits, displays with lascivious intent, purchases, or possesses with intent to sell, give away, distribute, transmit, or display child pornography with lascivious intent; intentionally operating an Internet website for the purpose of facilitating the payment for access to child

Crime	<i>Code of Virginia</i>	Key Elements of Crime
		<p>pornography. Venue for a prosecution under this section may lie in the jurisdiction where the unlawful act occurs or where any child pornography is produced, reproduced, found, stored, received, or possessed in violation of this section. These provisions do not apply to possession for a bona fide medical, scientific, governmental, or judicial purpose. http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1C1)</p>
Production, publication, sale, financing, etc., of child pornography	§ 18.2-374.1	<p>Production of child pornography includes enticing or soliciting a person less than 18 years of age to perform or be a subject of child pornography; produces or takes part in filming or photographing child pornography; or knowingly finances or attempts or prepares to finance child pornography. http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1)</p>
Property capable of embezzlement (by computer)	§ 18.2-152.8	<p>Property subject to embezzlement, larceny, or receiving stolen goods shall include: 1. computers and computer networks; 2. financial instruments, computer data, computer programs, computer software and all other personal property; 3. computer services. http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-152.8)</p>
Theft of computer services (WiFi surfing)	§ 18.2-152.6	<p>Willfully obtaining computer services without authority. http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-152.6)</p>
Transmission of unsolicited bulk electronic mail (spam)	§ 18.2-152.3:1	<p>Using a computer or computer network to transmit unsolicited bulk electronic mail with the intent to falsify or forge electronic mail transmission information. http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-152.3C1)</p>
Use of communications systems to facilitate certain offenses involving children (solicitation)	§ 18.2-374.3	<p>Use of a communications system by a person 18 years of age or older to solicit a child to knowingly and intentionally: 1. expose his sexual or genital parts or propose that any such child expose his sexual or genital parts; 2. propose that any such child feel or fondle the sexual or genital parts of such person or propose that such person feel or fondle the sexual or genital parts of any such child; 3. Propose to such child the performance of an act of sexual intercourse; or 4. Entice, allure, persuade, or invite any such child to enter any vehicle, room, house, or other place, for any purposes set forth above. http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.3)</p>
Using a computer to gather identifying information (phishing/pharming)	§ 18.2-152.5:1	<p>Using a computer to obtain, access, or record, through the use of material artifice, trickery or deception, any identifying information. This law does not apply to law-enforcement officers performing official duties. http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-152.5C1)</p>



T1C — Technology Use Violations – Unauthorized Use of Technology or Information

DCV Definition: Unauthorized violations of technology use according to the Acceptable Usage Policy.

T2C — Causing/Attempting Damage to Computer Hardware, Software or Files

DCV Definition: Unauthorized violations of technology use according to the Acceptable Usage Policy.

T3C — Technology Use – Violations of Acceptable Usage Policy

DCV Definition: Unauthorized violations of technology use according to the Acceptable Usage Policy.

T4C — Technology Use – Violations of Internet Policy

DCV Definition: Unauthorized violations of technology use according to the Acceptable Usage Policy.

The following DCV offenses may also apply when they involve use of electronic communications:

TI1 — Threat/Intimidation Against Staff



Threat or intimidation against staff is required to be immediately reported.

TI2 — Threat/Intimidation Against Student

BB1 — School Threat

Sub-categories:

BO1 – Bomb Threat

BO2 – Chemical/Biological Threat

BO3 – Terrorist Threat

BO4 – Setting off false fire alarm



School threats are required to be immediately reported.

HR1 — Non-Sexual Harassment

H1Z — Hazing

What resources are available to schools to prevent/reduce computer and Internet-related offenses?



The Virginia Department of Education’s *Guidelines and Resources for Internet Safety in Schools* (www.doe.virginia.gov/support/safety_crisis_management/internet_safety/guidelines_resources.pdf) contains numerous Web-based Internet safety resources.

The Office of the Attorney General of Virginia, Computer Crime Section investigates and prosecutes crimes committed through the use of a computer. Its primary function is to prosecute child exploitation, spam cases, identity theft, and Internet fraud in the Commonwealth. The unit can be contacted at 804-786-2071 or at cybercrime@oag.state.va.us.

Numerous publications are available on the Office of the Attorney General's Website including an Internet Safety Guide for Teens (www.vaag.com/KEY_ISSUES/FAMILY_INTERNET/Internet_GuideforTeens.html) and tips for parents (www.oag.state.va.us/KEY_ISSUES/FAMILY_INTERNET/index.html).

A key federal resource is OnGuardOnline.gov (<http://onguardonline.gov/>) which provides practical tips from the federal government and the technology community related to Internet fraud, computer security, and protecting user privacy. One publication is designed as a guide for parents on talking to their children about navigating the online world safely.

The Net Cetera: Chatting with Kids About Being Online (www.onguardonline.gov/pdf/tec04.pdf) covers a wide range of topics, including social networking, cyberbullying, sexting, using mobile phones safely, and protecting the family computer.

What authority do schools have to limit cell phone use?

Code of Virginia § 22.1-279.6.B. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.6>) authorizes local schools to regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and to establish related disciplinary procedures.

In general, schools should have a policy in place to address appropriate use of cell phones that addresses permitted and prohibited uses. The policy can be included in the school division's acceptable use policy (AUP) or student code of conduct. The policy needs to clearly delineate what is not acceptable and the consequences of violations of policy.

Training of all staff in how to enforce the policy is important. They need to know what constitutes a violation, how to investigate incidents, when confiscating a cell phone is justified, the extent to which cell phones can be searched, and protocol for reporting incidents.

What about calls that aren't threatening but are annoying?

Code of Virginia § 18.2-429 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-429>) makes it illegal to use a telephone or digital pager with intent to annoy another person. A person shall be guilty of a Class 3 misdemeanor.

Further, making calls or allowing calls to be made with intent to annoy, harass, hinder or delay emergency personnel is also illegal and carries a heavier penalty. (§ 18.2-429, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-429>) A person shall be guilty of a **Class 1 Misdemeanor**.

I. Sex-related Offenses

What is sexual assault?

Sexual assault is sexual abuse of an individual by the use of force, threat, or intimidation. Rape, sodomy, sexual battery, and attempts to commit these crimes are some of the several types of sexual assault offenses. See *Code of Virginia* §18.2, Crimes Against the Person, (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC1802000000400000000000>).

What assistance is available for victims of sexual assault?

Sexual assault crisis centers offer services 24 hours a day. Services offered include: crisis intervention and emotional support, advocacy, and information on legal, counseling, and medical options available.

Where can I find out about sexual assault services in my community?

Call the statewide, toll-free Family Violence and Sexual Assault Hotline at 1-800-838-8238, which is operated by the Virginia Sexual and Domestic Violence Action Alliance. The hotline staff can put you in touch with your local victim/witness program, domestic violence program, and/or court service unit. Someone is there to answer your questions 24 hours a day.

What should a school do if a student reports being sexually assaulted?

Sexual assault is reportable to law enforcement. School personnel should report the matter to law enforcement immediately.

Subsequent response depends on the particular circumstances of the assault.

It is important for school personnel to be aware of the statewide, 24-hour, toll-free Family Violence and Sexual Assault Hotline at 1-800-838-8238, which is operated by the Virginia Sexual and Domestic Violence Action Alliance. The hotline staff can provide information about local services.

School administrators should also be aware that *Code of Virginia* § 22.1-3.3 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-3.3>) permits the transfer of a student who is the victim of any crime committed by another student, a school board employee, or a volunteer or contract worker who regularly works in the school. A student may transfer also if the crime was committed upon school property or on any school bus owned or operated by the school division. The transfer must be to another comparable school within the school division if available. Such transfer is to occur only when requested by parent, or student if emancipated, when the student would suffer physical or psychological harm.



SB1 — Sexual Battery against Staff

DCV Definition: Sexual battery against a staff member involves an offensive or intentional threat, intimidation or ruse or physical helplessness of sexual abuse. Sexual battery is a Class I misdemeanor.



Sexual battery against staff is required to be immediately reported.

SB2 — Sexual Battery against Student

DCV Definition: Sexual battery against a student member involves an offensive or intentional threat, intimidation or ruse or physical helplessness of sexual abuse. Sexual battery is a Class I misdemeanor.



Sexual battery against a student is required to be immediately reported.

SX0 — Sexual Harassment

DCV Definition: Unwelcome sexual advances, requests for sexual favors, or other physical or verbal conduct or communication of a sexual nature, including gender-based harassment that creates an intimidating, hostile, or offensive educational or work environment.

SX1 — Sexual Offense – Offensive Touching Against Staff

DCV Definition: Improper physical contact against a staff that is offensive, undesirable, and/or unwanted as determined by the victim.

SX2 — Sexual Offense – Offensive Touching Against Student

DCV Definition: Improper physical contact against a student that is offensive, undesirable, and/or unwanted as determined by the victim.

SX3 — Sexual Offenses Against Staff-Forcible Assault

DCV Definition: Sexual penetration (e.g., oral, anal, or vaginal) against a staff member without consent.



Sexual offenses against staff are required to be immediately reported.

SX6 — Sexual Offenses Against Student – Attempted Forcible Assault

DCV Definition: Attempted sexual penetration (e.g., oral, anal, or vaginal) against a student without consent, including statutory rape, or sexual penetration with or without the minor's consent.



Sexual offenses against students are required to be immediately reported.

SX7 — Sexual Offenses without Force

DCV Definition: Lewd behavior, indecent exposure that includes sexual intercourse, sexual contact, or other unlawful behavior or conduct intended to result in sexual gratification without force or threat. Consider age, developmentally appropriate behavior, and disability status before using this category.



Sexual offenses without force are required to be immediately reported.

SX4 — Sexual Offenses Against Student – Forcible Assault

DCV Definition: Sexual penetration (e.g., oral, anal, or vaginal) against a student without consent. This category also includes statutory rape that is defined as sexual penetration with or without the consent of a minor.



Sexual offenses against students are required to be immediately reported.

SX5 — Sexual Offenses Against Staff – Attempted Forcible Assault

DCV Definition: Attempted sexual penetration (e.g., oral, anal, or vaginal) against a staff member without consent.



Sexual offenses against staff are required to be immediately reported.

SX8 — Sexual Offense – Aggravated Sexual Battery

DCV Definition: Sexually abusing a victim less than thirteen years of age or accomplishing the act against the will of the victim by force, threat, intimidation, or through the use of the victim's mental incapacity or physical helplessness, and – the victim is at least thirteen but less than fifteen years of age, or the accused causes serious bodily or mental injury to the victim, or the accused uses or threatens to use a dangerous weapon.

Sexual abuse means an act committed with the intent to sexually molest, arouse, or gratify any person where the accused intentionally touches the victim's intimate parts; the accused forces the victim to touch the victim's own or another person's intimate parts or material directly covering such intimate parts; or the accused forces another person to touch the victim's intimate parts or material directly covering such intimate parts.



Sexual offenses are required to be immediately reported..

What constitutes sexual harassment?

A general definition of sexual harassment is unwelcome sexual advances, requests for sexual favors, or other physical or verbal conduct or communication of a sexual nature, including gender-based harassment that creates an intimidating, hostile, or offensive educational or work environment.

It is important for schools to have in place policies or regulations that define sexual harassment and establish procedures for reporting.



Additional information can be found in the *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties* on the U.S. Department of Education's website (www2.ed.gov/about/offices/list/ocr/docs/sexhar00.html).

What is sexting?

The National Center for Missing and Exploited Children (2009) defines sexting as “youth writing sexually explicit messages, taking sexually explicit photos of themselves or others in their peer group, and transmitting those photos and/or messages to their peers.” Although this behavior may not be criminal in intent, it can be construed as such under current laws. Importantly, two behaviors that might look like sexting are more likely to be considered criminal activities: (1) when a child sends a sexually explicit photo to an adult and (2) when a child sends sexually explicit photos because they have been coerced or enticed to do so.

The legal consequences of sexting are a serious concern. Producing, storing, or sharing lewd or explicit pictures of minors is against the law in Virginia – felonies that apply to students merely possessing such images on their cell phones, sharing them with other students via cell phone, or producing them using their cell phones (*Code of Virginia* §§ 18.2-374.1, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1>, and 18.2-374.1:1, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.1C1>).

Other laws may be invoked, depending on the circumstances:

- §18.2-152.7:1 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-152.7C1>), if the sexting involves bullying or harassment;
- §18.2-374.3 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-374.3>), if the sexting involves an adult who has solicited images from a child.

How common is sexting?

In a recent study by Cox Communications (2009), about 19% of students admitted to sexting. The survey also reported these data:

- 9% had sent a sexting message.
- 17% had received a sexting message.

- 3% had forwarded a sexting message.
- 60% of those sending sexting messages had sent them to boyfriends or girlfriends.
- 11% of those sending sexting messages had sent them to someone they did not know.
- 14% of those sending sexting messages were caught (mostly by parents).

Even though 20% of teens have sent or posted nude or semi-nude photos or videos of themselves, some 80% have not participated in this type of behavior.

What resources are available for schools to address sexting?



A primary resource is the Virginia Department of Education’s Information Brief *Sexting: Implications for Schools* (www.doe.virginia.gov/support/technology/info_briefs/sexting.pdf). The Brief contains lists of additional related resources.

What are laws related to sex offenders and schools?

Code of Virginia § [18.2-370.5](http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370.5). (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-370.5>) prohibits entry of sex offenders onto public or private school property or day care centers during school hours and during school-related and school-sponsored activities. Exceptions include entry solely for the purposes of casting his vote, he is a student enrolled at the school, or he has obtained a court order allowing him to enter and has obtained permission of the school board or owner of the private school or day care. Persons prohibited may petition the circuit court for permission to enter such property.

J. Traffic/Driving Offenses

Is there parental oversight of minors’ licenses?

Driving is not a right guaranteed by the Constitution or laws of the Commonwealth of Virginia. Driving is a privilege that is granted by parents to their children. If abused, the privilege may be revoked or taken away. The parents of youths under the age of 18 can choose to cancel their learner's permit or driver's license by simply submitting form DL 18, “Cancellation of Minor's Driving Privilege.” Once it is cancelled, neither the youth nor the parents will be able to reapply for at least six months.

What restrictions are there on driving for persons under 18 years of age?

A Virginia resident under age 19 must complete a state-approved driver education program and hold his/her Virginia learner's permit for at least nine months in order to obtain a driver's license.

Virginia's curfew laws prohibit drivers under age 18 who hold a learner's permit or driver's license from driving between midnight and 4:00 a.m. except:

- in case of an emergency;
- when traveling to and from work or a school-sponsored event;
- when accompanied by a parent or other adult acting in place of a parent; or
- when responding to an emergency call as a volunteer firefighter or rescue squad personnel.

In addition, there are passenger restrictions. A driver under age 18 may carry only one passenger under age 18 during the first year that he holds a driver's license. After holding a license for one year, the person may carry only three passengers under age 18 until he reaches age 18. Learner's permit holders may not carry more than one passenger under age 18. Passenger restrictions do not apply to family members.

Violations of either the curfew or passenger restrictions can result in the suspension of the driver's license.

Can a juvenile lose his driving privileges for things other than traffic violations?

When a juvenile is found to be delinquent, a judge may impose a wide range of dispositions, including suspending the driver's license or imposing a curfew on the juvenile as to the hours during which he or she may operate a motor vehicle (*Code of Virginia* § 16.1-278.8. <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-278.8>).

K. Status Offenses

What is a status offense?

Status offense means an act prohibited by law which would not be an offense if committed by an adult. Examples include being a runaway, truant, or in violation of curfew laws. Status offender means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

What does Virginia law say about school attendance?

In brief, Virginia law:

- requires parents to send children to school;
- requires students to attend school;
- requires schools to take specific action when children are not enrolled or students fail to attend;
- authorizes law enforcement officers to pick up students who are skipping school; and
- authorizes juvenile courts to take action against parents and/or children for failure to attend.

Basic provisions governing school attendance are listed in the table below.

§22.1-254	Compulsory Attendance Laws
§22.1-258	Appointment of Attendance Officers
§22.1-259	Teachers to Keep Daily Attendance Records
§22.1-260	Reports of Children Enrolled and Non-enrolled
§22.1-261	Duties of Attendance Officers
§22.1-262	Complaints to Court When Parents Fail to Comply
§22.1-263	Violations Constitute Misdemeanor
§22.1-265	Inducing Children to Absent Themselves
§22.1-266	Law Enforcement Officers and Truant Children

§22.1-267	Proceedings Against Habitually Absent Children
§22.1-269	Duties of the Board of Education
§22.1-279.3	Parental Responsibility and Involvement Requirements
§16.1-241.2	Proceedings Against Certain Parents

 **RESOURCES**

More detailed information about the legal framework for truancy prevention and intervention and specific procedural requirements are contained in the Virginia Department of Education’s *Improving School Attendance: A Resource Guide for Virginia Schools* (www.doe.virginia.gov/support/prevention/dropout_truancy/improving_school_attendance.pdf).

 **DCV DEFINITION**

AIT – Attendance

DCV Definition: Violation of state, school division, or school policy relating to attendance.

What does Virginia law say about unexcused absences and driving?

Code of Virginia § 46.2-323. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-323>) provides for the suspension of the driver's license of anyone under 18 years of age who has 10 or more unexcused absences from public school on consecutive school days.

What does Virginia law say about attendance and religious holidays?

Code of Virginia § 22.1-254.C. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+46.2-323>) requires local school boards to develop policies ensuring that any student's absence because of the observance of a religious holiday be recorded as excused on the student's attendance record and that a student not be deprived of any award or of eligibility or opportunity to compete for any award or of the right to take an alternate test or examination, for any which he missed because of such absence.

What does Virginia law say about notifying social services of non-attendance?

Code of Virginia § 63.2-606. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+63.2-606>) requires schools to report non-attendance of children receiving Temporary Assistance for Needy Families (TANF) to local departments of social services. Families receiving TANF are required to comply with compulsory school attendance laws.

How is truancy defined in Virginia law?

Truancy is addressed in *Code of Virginia* §16.1-228. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-228>) as part of the definition of a Child in Need of Supervision (CHINSup) which contains several important elements.

A Child in Need of Supervision (CHINSup) means a child who is subject to the compulsory attendance law yet remains habitually absent, **and**:

1. the child has been offered adequate opportunity to benefit from all education services that are required to be provided by law;
2. the school or other appropriate agency has made a reasonable effort to effect the student's attendance without success; and
3. the school system has provided the court with documentation that it has complied with all the provisions of *Code of Virginia* §22.1-258 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-258>).

What disciplinary action can be taken for truancy?

★ RESOURCES

Attendance requirements may be included as part of student conduct policy or may be addressed elsewhere in policy at the discretion of the school board. Virginia's *Student Conduct Policy Guidelines* (www.doe.virginia.gov/boe/guidance/safety/student_conduct.pdf) state: "The policy should establish an expectation for regular attendance, criteria for absences to be excused and not excused, and applicable disciplinary consequences and intervention assistance for unexcused absences and tardies."

Code of Virginia § 22.1-277 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-277>) restricts the use of suspension for truancy: "Pupils may be suspended or expelled from attendance at school for sufficient cause, however, in no cases may sufficient cause for suspensions include only instances of truancy."

Can school resource officers enforce compulsory attendance laws?

Any law enforcement officer or attendance officer **may** pick up any child who:

- is reported to be truant from the schools; and
- who is reasonably determined to be a public school student and is either truant or has been expelled.

The officer may deliver the child to the appropriate school, alternative education program, or truancy center.

The officers are authorized to transport the pupil to any of the above-listed sites without charging the parent or child with violation of the law. (*Code of Virginia* §22.1-266, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-266>)

Virginia's compulsory attendance laws generally give responsibility for enforcement to attendance officers and other school officials rather than law enforcement officers. Laws set forth numerous actions to be taken by attendance officers, principals, and juvenile court intake officers.

Can any action be taken against adults who allow truants to “hang out” during school hours?

Inducing or attempting to induce any child to be absent unlawfully from school or knowingly employing or harboring any child absent unlawfully is a misdemeanor. (*Code of Virginia* §22.1-265. <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-265>).

L. Other Types of Offenses**What is a bomb threat?**

Code of Virginia §18.2-83. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-83>) makes illegal communicating by any means a threat to bomb, destroy, or damage any place of assembly, building, or other structure or communicating false information about the existence of any danger of bombing or destruction.

The offense is a **Class 5 Felony** if person is aged 15 or older and a **Class 1 Misdemeanor** if person is younger than age 15.

 **RESOURCES**

Additional information about bomb threats, how to discourage them, and how to respond is found in the *Crisis Management and Emergency Response in Virginia Schools* (www.doe.virginia.gov/support/safety_crisis_management/emergency_crisis_management/crisis_mgmt_emer-response_guide.pdf).

Other resources on the handling of bomb threats include:

- An Interactive CD-ROM for school administrators about bomb threat assessment from the U.S. Department of Education (www.threatplan.org);
- U.S. Department of Justice and the ATF (www.threatplan.org); and
- U.S. Department of Justice, *Bomb Threats in Schools* (www.cops.usdoj.gov/files/ric/Publications/e07063413.pdf).

 **DCV DEFINITION**

BB1 — School Threat

DCV Definition: Any threat (verbal, written, or electronic) by a person to bomb or use other substances or devices for the purpose of exploding, burning, causing damage to a school building or school property, or harming students or staff.

Sub-categories:

BO1 – Bomb Threat

BO2 – Chemical/Biological Threat

BO3 – Terrorist Threat

BO4 – Setting off false fire alarm

 **REPORTABLE OFFENSE**

School threats are required to be immediately reported.

Is telling a law enforcement officer false information against the law?

Code of Virginia § 18.2-461. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-461>) makes it unlawful for any person to knowingly give a false report of any crime to any law enforcement official with intent to mislead or to interfere with the operations of any law enforcement official by calling or summoning a law enforcement official by telephone or alarm.

What is the legal definition of gambling?

Code of Virginia § 18.2-325. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-325>) defines gambling as the illegal means and making, placing or receipt of any bet or wager of money or other thing of value dependent upon the result of the game, contest, or any other event with an uncertain outcome.

 **RESOURCES**

Virginia Board of Education Student Conduct Policy Guidelines (www.doe.virginia.gov/boe/guidance/safety/student_conduct.pdf) recommends school divisions establish conduct policies on gambling activities.

 **DCV DEFINITION**

G1B — Gambling

DCV Definition: Making, placing, or receiving any bet or wager of money or other thing of value dependent upon the result of the game, contest, or any other event with an uncertain outcome.

What kinds of behaviors constitute contributing to the delinquency of a minor?

Code of Virginia § 18.2-371. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-371>) defines causing or encouraging acts rendering children delinquent or abused as follows:

“Any person 18 years of age or older, including the parent of any child, who

1. willfully contributes to, encourages, or causes any act, omission, or condition which renders a child delinquent, in need of services, in need of supervision, or abused or neglected as defined in § 16.1-228. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-228>), or
2. engages in consensual sexual intercourse with a child 15 or older not his spouse, child, or grandchild, shall be guilty of a Class 1 misdemeanor.”

V. ISSUES AND TOPICS

A. Student Conduct

What responsibilities do schools have for student conduct?

Code of Virginia § 22.1-253.13:7.C.3 (part of the section of the Code known as the Standards of Quality, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-253.13:7>) requires local school boards to maintain and follow an up-to-date policy manual that includes “standards of student conduct and attendance and enforcement procedures designed to provide that public education be conducted in an atmosphere free of disruption and threat to persons or property and supportive of individual rights.”

Section 22.1-78. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-78>) of the *Code* authorizes local school boards to adopt by-laws and regulations “for its own government, for the management of its official business and for the supervision of schools, including but not limited to the proper discipline of students, including their conduct going to and returning from school.”

Section 22.1-279.6.B. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.6>) of the *Code* requires local school boards to adopt and revise regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards are required to include procedures for suspension, expulsion, and exclusion decisions, to biennially review student conduct code guidelines, and to include prohibitions against hazing and profane or obscene language or conduct. School boards are authorized to regulate certain communications devices and, at their discretion, require or encourage drug testing.

Section 22.1-279.9. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.9>) of the *Code* requires school boards, in cooperation with the local law enforcement agencies, juvenile and domestic relations court judges and personnel, parents, and the community-at-large, to develop programs to prevent violence and crime on school property and at school-sponsored events.

★ RESOURCES

Key resource documents related to student conduct are:

- Virginia Board of Education *Student Conduct Policy Guidelines* (www.doe.virginia.gov/boe/guidance/safety/student_conduct.pdf)
- *Parents Guide to Student Discipline Policies* (www.doe.virginia.gov/support/student_conduct/parents_guide_student_discipline_policies.pdf)

What are discipline procedures when the student is in special education?

★ RESOURCES

Requirements related to students with disabilities are contained under “8VAC20-81-160. *Discipline procedures.*” Discipline Procedures in *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (www.doe.virginia.gov/special_ed/regulations/state/regs_speced_disability_va.pdf)

Virginia Department of Education *Guidance Document on the Implementation of the Regulations Governing Special Education Programs for Children with Disabilities in Virginia, 2009* (www.doe.virginia.gov/special_ed/regulations/state/regs_speced_disability_va_guidance.pdf).

Are school personnel protected in any way from liability when enforcing the student code of conduct?

Code of Virginia § 8.01-47. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-47>) grants immunity from civil liability to school personnel investigating or reporting activities of any student or any other person as they relate to conduct involving bomb threats, firebombs, explosive materials or other similar devices, or alcohol or drug use or abuse in or related to the school or school activity.

Can a student be spanked at school for misbehaving?

No. Virginia law states, “No teacher, principal or other person employed by a school board or employed in a school operated by the Commonwealth shall subject a student to corporal punishment.” Corporal punishment means inflicting physical pain on a student as a means of discipline (*Code of Virginia* § 22.1-279.1. <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.1>).

It is important to understand that the law against corporal punishment does not prevent:

1. the use of incidental, minor, or reasonable physical contact or other actions designed to maintain order and control;
2. use of reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance which threatens physical injury to persons or damage to property;
3. the use of reasonable and necessary force to prevent a student from inflicting physical harm on himself;
4. the use of reasonable and necessary force for self-defense or the defense of others; or
5. the use of reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia which are upon the person of the student or within his or her control.

The definition of corporal punishment also does not include physical pain, injury, or discomfort caused by participation in practice or competition in an interscholastic sport, or participation in physical education or an extracurricular activity.

Under what circumstances can a teacher remove a student from a classroom?

Virginia law gives teachers the authority to remove a student from a classroom for disruptive behavior in accordance with local school board policy (*Code of Virginia* § 22.1-276.2, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-276.2>). Disruptive behavior is defined as “conduct that interrupts or obstructs the learning environment”

When a student is removed from class, parents will be offered the opportunity to meet with the teacher and school administrators to address problems and prevent it from happening again.

Which offenses can result in expulsion?

School boards are required by Virginia law to expel students who commit two types of offenses:

1. bringing to school firearms or other destructive devices defined in the federal Gun-Free Schools Act of 1994 (*Code of Virginia* § 22.1-277.07. <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-277.07>) and

2. bringing drugs, imitation drugs, or marijuana onto school property or to a school-sponsored event (*Code of Virginia* § 22.1-277.08. <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-277.08>).

Expulsions for other types of offenses are required to be based on consideration of the following:

- the nature and seriousness of the violation;
- the degree of danger to the school community;
- the student's disciplinary history;
- the appropriateness and availability of an alternative education placement or program;
- the student's age and grade level;
- the results of any mental health, substance abuse, or special education assessments;
- the student's attendance and academic records; and
- such other matters as deemed to be appropriate.

A school board, in accordance with *Code of Virginia* § 22.1-277.08. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-277.08>), may determine, based on the facts of a particular case, that special circumstances exist and another disciplinary action is appropriate.

What action can a school take when a student violates student conduct policy but claims he acted in self defense?

According to Virginia Board of Education *Student Conduct Policy Guidelines*,

“A code of student conduct may, but is not required to, address consideration of self defense as a factor in determining appropriate disciplinary action. Procedures for such consideration should include an opportunity for the student(s) to present the student’s version of what occurred, as well as a review of facts, involving school personnel and others as appropriate. The fact-seeking process may include students and other staff who may have witnessed the incident or have observed previous interactions between the students involved. In cases where self defense is claimed, there may be a “history” between the students that often takes the investigation beyond looking at the single incident to examining patterns of interaction, past threats, and bullying. Persons from whom information is obtained could include a bus driver, other students, and parents.

School boards developing disciplinary policies including self defense should provide criteria that defines when an incident would be considered an act of self defense. Based on the criteria used in the judicial system for a claim of self defense to apply, the following conditions should be met. The person claiming self defense must:

1. be without fault in provoking or bringing on the fight or incident;
2. have reasonably feared, under the circumstances as they appeared to him, that he was in danger of harm; and
3. have used no more force than was reasonably necessary to protect him from the threatened harm.

A school board’s policy addressing self defense should retain a prohibition for bringing weapons of any kind to school for the purpose of self defense and explicitly state that self defense does not constitute a valid defense against possession or use of a weapon on school property or at any school-sponsored activity.”

B. Parental Responsibilities Related to School

What responsibilities do parents have related to school?

Code of Virginia § 22.1-279.3. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.3>) sets forth the duty of each parent of a student enrolled in a public school to assist the school in enforcing the standards of student conduct and compulsory school attendance. Procedures are set forth for notifying parents of their responsibilities, documenting the notification, and taking steps against parents for willful and unreasonable refusal to participate in efforts to improve their child's behavior or school attendance. Each parent of a student must sign a statement acknowledging the receipt of the school board's standards of student conduct and return it to the school.

Code of Virginia § 22.1-3.2.A and B. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-3.2>) requires a parent or guardian to provide a public school, upon registration of a student, information concerning criminal convictions or delinquency adjudications for any offense listed in subsection G of § 16.1-260 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-260>). These include homicide, felonious assault and bodily wounding, criminal sexual assault, manufacture, sale, or distribution of Schedule I or II controlled substances or marijuana, arson, burglary and robbery, prohibited street gang activity, and recruitment for street gang activity. When the school registration results from foster care placement, the information is to be furnished by the local social services agency or licensed child-placing agency that made the foster care placement.

C. Child Abuse Reporting

What is considered child abuse or neglect?

Code of Virginia § 63.2-100 defines an abused or neglected child as any child under 18 years of age whose parent or any person responsible for his or her care (such as a child care provider, foster parent, or anyone responsible for the welfare of a child receiving residential care at an institution):

- causes or threatens to cause a non-accidental physical or mental injury;
- has a child present during the manufacture or attempted manufacture of a controlled substance or during the unlawful sale of such substance where such activity would constitute a felony violation;
- neglects or refuses to provide adequate food, clothing, shelter, emotional nurturing, or health care;
- abandons the child;
- neglects or refuses to provide adequate supervision in relation to a child's age and level of development;
- knowingly leaves a child alone in the same dwelling with a person, not related by blood or marriage, who has been convicted of an offense against a minor for which registration is required as a violent sexual offender; or
- commits or allows to be committed any illegal sexual act upon a child, including incest, rape, indecent exposure, prostitution, or allows a child to be used in any sexually explicit visual material.

In addition, newborn infants who have been medically diagnosed for exposure to nonprescription, controlled substances during pregnancy are also considered to be at risk of abuse or neglect. Attending physicians are required to report these children.

What responsibilities do schools have for reporting suspected child abuse or neglect?

Code of Virginia § 63.2-1509 requires any teacher or other person employed in a public or private school, kindergarten or nursery school who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child to report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the department's toll-free child abuse and neglect hotline.

What protections do school personnel have from being sued by a parent for reporting child abuse or neglect?

Code of Virginia § 63.1-1512. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+63.2-1512>) states that any person making such a report shall be immune from any civil or criminal liability in connection with the reporting unless it can be proven that the person acted in bad faith or with malicious intent.

What resources are available to schools to assist them in proper reporting of suspected abuse or neglect?

The Virginia Department of Social Services publication *A Guide for Mandated Reporters in Recognizing and Reporting Child Abuse and Neglect* (www.dss.virginia.gov/family/cps/index2.cgi).

D. Student Records and Information Sharing

What responsibilities do schools have for student scholastic records?

State law requires that every student's scholastic record be made available to the student and his parent, guardian, or other person having control or charge of the student for inspection during the regular school day. Permission of the parent, guardian, or other person having control or charge of the student, or of a student who is 18 years of age or older, is required for the transfer of a scholastic record to another school or school division. Consistent with federal law and regulation, every school is required to annually notify parents of students of their rights under the federal Family Educational Rights and Privacy Act (FERPA) and related regulations.

- *Code of Virginia* § 22.1-287. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-287>) sets forth limitations on access to records.
- Code of § 22.1-287.1. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-287>) defines what constitutes “directory” information that may be disclosed.
- *Code of Virginia* § 22.1-288. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-288>) defines conditions for furnishing information to other schools, colleges or private businesses.
- *Code of Virginia* § 22.1-289. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-289>) sets forth conditions and methods for the transfer and management of scholastic records.

- *Code of Virginia* § 22.1-288.1. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-288.1>) requires the notation in records of missing children and documentation of cooperation with law enforcement.
- *Code of Virginia* § 22.1-288.2. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-288.2>) defines conditions for the receipt, dissemination, and maintenance of records of certain law-enforcement information (*also see below*)

What information can schools share with the school resource officer?

FERPA limits access to student records. It does **not** prohibit a school official from disclosing information about a student if the information is obtained through the school official’s personal knowledge or observation, and not from the student’s education records. For example, if a teacher overhears a student making threatening remarks to other students, *FERPA* does not protect that information, and the teacher may disclose what he or she overheard to appropriate authorities.



For additional guidance, see U.S. Department of Education, Balancing Student Privacy and School Safety: A Guide to the *Family Educational Rights and Privacy Act* for Elementary and Secondary Schools (October 2007) (www2.ed.gov/policy/gen/guid/fpco/brochures/elsec.pdf).

What acts of students are required to be reported to the school division superintendent?

Juvenile intake officers are required to notify a school superintendent of the filing of a petition against a juvenile in cases involving offenses set forth in *Code of Virginia* §16.1-260 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-260>). Law enforcement officers are required to report the arrest of school employees and adult students for certain offenses *Code of Virginia* §19.2-83.1 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-83.1>).

The offenses set forth in both sections are:

1. firearm offense;
2. homicide;
3. felonious assault and bodily wounding;
4. criminal sexual assault;
5. manufacture, sale, gift, distribution or possession of Schedule I or II controlled substances;
6. manufacture, sale or distribution of marijuana;
7. arson and related crimes;
8. burglary and related offenses;
9. robbery;
10. prohibited street gang participation; and
11. recruitment of juveniles for criminal street gang.

In the case of juveniles, superintendents may not disclose information about the filing of a petition except if the division superintendent believes that disclosure to school personnel is necessary to ensure the physical safety of the juvenile, other students, or school personnel within the division, he may at any time prior to receipt of the notice of disposition in accordance with § 16.1-305.1 disclose the fact of the filing of the petition and the nature of the offense to the principal of the school in which the juvenile who is the subject of the petition is enrolled.

The principal may further disseminate the information, after the juvenile has been taken into custody, whether or not the child has been released, only to those students and school personnel having direct contact with the juvenile and need of the information to ensure physical safety or the appropriate educational placement or other educational services (*Code of Virginia* § 16.1-305.2., <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-305.2>).

In cases involving employees and adult students, the arrest is a matter of public record and should be handled in accordance with established personnel and student conduct policies.

Records of information disclosed

Code of Virginia § 22.1-288.2. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-288.2>) provides additional guidance on the receipt, dissemination, and maintenance of records of certain law-enforcement information.

It is important to note that every notice of adjudication of delinquency or conviction received by the superintendent is not a disciplinary record as defined in Board of Education regulations, but must be maintained separately from all other records concerning the student. However, if the school administrators or the school board takes disciplinary action against a student based upon an incident which formed the basis for the adjudication of delinquency or conviction for an offense listed in subsection G of § 16.1-260 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-260>), the notice shall become a part of the student's disciplinary record.

When transferring records to another school, what information is to be included?

Under *FERPA*, school officials may disclose any and all education records, including disciplinary records and records that were created as a result of a student receiving special education services under Part B of the *Individuals with Disabilities Education Act*, to another school or postsecondary institution at which the student seeks or intends to enroll. While parental consent is not required for transferring education records, the school's annual *FERPA* notification should indicate that such disclosures are made.

E. Student Victims

Who are victims?

Virginia's Victims Bill of Rights recognizes victims as anyone who has suffered physical, emotional, or financial harm as a direct result of a crime. When the victim is a minor, the definition of victim includes his or her parents or guardians. (*Code of Virginia* § 19.2-11.01, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-11.01>).

What are victims' rights?

Virginia law contains a Crime Victim and Witness Rights Act, usually referred to as the Victims Bill of Rights (*Code of Virginia* § 19.2-11.01. <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-11.01>).

The Victims Bill of Rights is intended to ensure that crime victims:

- have opportunities to make the courts aware of the full impact of crime;
- are treated with dignity, respect, and sensitivity and have their privacy protected;

- are informed of their rights;
- receive authorized services; and
- are heard at all critical stages of the criminal justice process.

How can I find out about victim or witness services in my community?

The law enforcement agencies investigating a crime will give victims written information about their rights, including the telephone numbers of the Commonwealth's Attorney and other numbers to call for additional information or to receive services. They may also call the statewide toll-free Virginia Crime Victim Assistance INFO-LINE at 1-888-887-3418.

Victim/witness programs are available to provide information and assistance. It is important that victims and witnesses contact the program to learn about the different types of assistance available to them. For example, a victim who wants to receive notice of court dates or notice when an offender is released from jail must make sure the Commonwealth's Attorney and other agencies have accurate contact information.

Which specific rights do victims have?

The specific rights victims have depend on case circumstances.

Examples of some rights victims most often choose to exercise are: being notified of court dates, remaining in the courtroom during hearings, and giving victim impact statements at sentencing hearings.

Victims may ask to be notified of court dates, including preliminary hearings, plea agreement hearings, trials, and sentencing hearings.

Victims have the right to remain in the courtroom during all court proceedings the defendant attends, unless the judge has determined the presence of the victim would impair the conduct of a fair trial. Examples of these court proceedings are: bail or bond hearings, preliminary hearings, trials, and sentencing hearings. Additionally, if the victim is less than 18 years of age, the court may permit an adult chosen by the victim to remain in the courtroom as a support person for the victim.

After a defendant is found guilty in circuit court, the judge may consider a victim impact statement in determining the offender's sentence. The victim impact statement gives the victim the opportunity to tell the court, in writing, the impact of the crime(s). Victims may also be given the opportunity to testify, at the sentencing hearing, regarding the impact of the crime(s). If the victim or witness cannot speak English or is hearing impaired, a court-approved interpreter may be appointed to assist during the criminal justice process, at no cost to the victim. If a victim or witness is worried about having to wait in an area near the defendant or defense witnesses, a separate waiting area for victims and witnesses may be provided.

In some cases, victims may receive financial assistance. Under certain circumstances, the defendant may be ordered to repay the victim, at least partially, for losses. This is called restitution. If the victim was injured during the crime, the victim or his or her surviving family members may be eligible to receive money from a victims' compensation fund. Witnesses traveling from out of town may be eligible for reimbursement of expenses related to each day's attendance in court. Crime victims may also bring civil lawsuits against perpetrators or other responsible parties to hold them accountable for harm suffered.

These are not all the rights of victims and witnesses. In all cases, ask the victim/witness program staff or the Commonwealth's Attorney's office for information on specific procedures and services available in your locality.

What is a victim impact statement?

Virginia law allows victims to submit a written statement that describes the impact of crimes on the victim and his or her family (*Code of Virginia* §§ 19.2-299.1. <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+19.2-299.1> and 16-1.273., <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-273>). These statements may be considered by the court in deciding a sentence.

The victim impact statement may contain information about:

- physical injuries and medical treatment received;
- psychological effects of the crime and treatment received;
- life changes as a result of the crime, including personal welfare, lifestyle, or family relationships; and
- economic losses.

What resources are available for students who are victims of crime?

Code of Virginia § 22.1-3.3. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-3.3>) allows the transfer of students who were the victims of any crime against the person committed by:

- Another student who attends classes in the same school;
- Any employee of the local school board;
- Any volunteer, contract worker or other person who regularly works in the school.

A student may transfer also if the crime was committed upon school property or on any school bus owned or operated by the school division.

The transfer must be to another comparable school within the school division if available. Such transfer is to occur only when requested by parent, or student if emancipated, when the student would suffer physical or psychological harm.

F. Other Issues

What limits can schools place on students' freedom of speech/expression?

Freedom of speech/expression issues most frequently arise in connection with student newspapers and dress codes.

Within the school environment, there is a tension between freedom of speech and the need for schools to limit student behavior in order to preserve an environment conducive to learning. *Tinker v. Des Moines Independent School District* was the landmark case that set the standards on which student free speech cases are judged. The U.S. Supreme Court held that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” However, student conduct that “materially disrupts classwork or involves substantial disorder or invasion of the rights of other is . . . not immunized by the constitutional guarantee of freedom of speech.” Thus, the schools can prescribe speech/expression that constitutes a “material and substantial disruption.”

There are numerous issues to be considered in prescribing student speech/expression.

Is prayer allowed in public schools in Virginia?

Code of Virginia § 22.1-203.2. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-203.2>) requires the Virginia Board of Education, in consultation with the Office of the Attorney General, to develop guidelines on constitutional rights and restrictions relating to prayer and other religious expression in the public schools.

According to Virginia Board of Education *Guidelines Concerning Religious Activity in Public Schools*, “It is firmly settled in the law that the Establishment Clause forbids school-sponsored prayer or religious indoctrination, as well as any school initiative designed to endorse prayer generally or sponsor a particular religious viewpoint.” However, there are circumstances under which student prayer and other religious activities are permissible. There are numerous issues related to religious activities in schools.

 **RESOURCES** For additional information, see Virginia Board of Education *Guidelines Concerning Religious Activity in the Public Schools* (www.doe.virginia.gov/boe/guidance/support/religious_activity.pdf)

Can schools require students to wear uniforms?

Code of Virginia § 22.1-79.2. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-79.2>) requires the Virginia Board of Education to develop model guidelines for local school boards to utilize when establishing requirements for pupils to wear uniforms.

Local school boards **may**, but are not required to, establish requirements for school uniforms consistent with the Board guidelines.

 **RESOURCES** For additional information, see Virginia Board of Education *Model Guidelines for the Wearing of Uniforms in Public Schools* (www.doe.virginia.gov/boe/guidance/administration_governance/model_guidelines_uniforms.pdf).

Are schools required to take action if a student is thought to be possibly suicidal?

Code of Virginia §22.1-272.1. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-272.1>) requires licensed school personnel who have reason to believe a student is at imminent risk of suicide, to contact, as soon as practicable, at least one of the student’s parents. If the student has indicated parental abuse or neglect, contact with the parent is not to be made and social services is to be notified.

 **RESOURCES** The law also required the Board of Education to develop suicide prevention guidelines. For additional information see Virginia Board of Education *Suicide Prevention Guidelines* (www.doe.virginia.gov/boe/guidance/health/suicide_prevention.pdf).

What resources are available to educators to help them recognize and assist students who may be suicidal?

 **RESOURCES** In addition to the Virginia Board of Education *Suicide Prevention Guidelines* (www.vahealth.org/injury/preventsuicideva/documents/2009/PDF/VirginiaSuicidePreventionDirectory_2ndEdition.pdf), the Virginia Department of Health (VDH) offers publications and related training.

The VDH *Virginia Suicide Prevention Resources Directory* (www.vdh.virginia.gov/ofhs/prevention/preventsuicideva/documents/2012/pdf/Virginia_Suicide_Prevention_Directory.pdf) contains lists of available resources including hotlines, community mental health facilities, coalitions, and support groups as well as local and national resources.

VI. COMMUNITY RESOURCES

Throughout the *Code of Virginia* there are requirements for schools to communicate or collaborate with local agencies that have legal responsibilities for protecting or serving children and families. For example, *Code of Virginia* § 22.1-279.9. requires school boards, in cooperation with the local law enforcement agencies, juvenile and domestic relations court judges and personnel, parents, and the community at large, to develop programs to prevent violence and crime on school property and at school-sponsored events.

Listed below are brief descriptions of key state and local agencies that schools are required by law to notify or work with in some way.

Virginia Center for School Safety

Department of Criminal Justice Services
1100 Bank Street
Richmond, VA 23219
www.dcjs.virginia.gov/vcss

- School Safety Audits and School Crisis Plan Certification
- School Safety Training
- School Resource Officer Training
- School Security Officer Certification Program

Virginia Department of Social Services

801 E. Main Street
Richmond, VA 23219-2901
www.dss.virginia.gov

- Reports of suspected child abuse or neglect
- Reports of non-attendance of children in families receiving public assistance

Virginia Department of Behavioral Health and Developmental Services

www.dbhds.virginia.gov
A directory of Virginia's 40 locally-run community services boards is available at:
www.dbhds.virginia.gov/SVC-CSBs.asp

- Mental health emergency/crisis

Virginia Department of Juvenile Justice

700 East Franklin Street, 4th Floor
Richmond, VA 23219
www.djj.virginia.gov

A directory of local Juvenile Court Service Units is available at:
www.djj.virginia.gov/Community_Programs/Field_Operations/CSUlisting.aspx

- Filing of petitions related to offenses by juveniles

VII. RELATED TERMS

NOTE REGARDING JUVENILE JUSTICE

- *There are important differences between proceedings against adults and those against juveniles.*
- *Persons under 18 years of age (other than those transferred for trial as adults) are “adjudicated delinquent of offenses that would be crimes if committed by adults” rather than found guilty of felonies or misdemeanors.*
- *Students over 18 years of age, however, are tried as adults and, if found guilty, convicted of felonies or misdemeanors.*

Abused Child: *Code of Virginia § 16.1-228* (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-228>) defines an “abused or neglected child” as one

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by the child’s parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of 18.2-248;
2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;
3. Whose parents or other person responsible for his care abandons such child;
4. Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law; or
5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis; or
6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902.

Adjudicate: To make a judicial determination about an issue before the court.

Adjudicatory Hearing: In juvenile justice usage, it is the fact-finding process by which the juvenile court determines whether or not sufficient evidence exists to sustain the allegations in a petition. It occurs after the petition has been filed and after a detention hearing has been held.

Adult: A person who is 18 years of age or older, who is within the original jurisdiction of a criminal court rather than a juvenile court because his or her age at the time of an alleged criminal act was above a statutorily specified limit. A juvenile court may waive jurisdiction and transfer a juvenile to a criminal court for prosecution as an adult; an individual who is 18 years of age or older.

Alcohol: Any drink that has at least 1/2 of one percent alcohol.

Alleged: Claimed; asserted; charged.

Amend: To change.

Appeal: Taking a case which has been decided in a court of inferior jurisdiction to one of superior jurisdiction, for the purpose of obtaining a review.

Appellate Court: A court that reviews the decision of an inferior court or governmental agency. Appellate courts do not try cases, or have juries or witnesses. They review questions of law or allegations of procedural error arising in the trial court.

Arson: To unlawfully and intentionally damage, or attempt to damage, any real or personal property by fire or incendiary device.

Assault: (1) Acting in a manner that causes physical injury (criminal); (2) The willful attempt or threat to unlawfully touch or hurt another (civil); unlawful or intentional infliction of bodily injury or just an attempt or threat of bodily injury is an assault. Any threatening act that puts another person in reasonable fear of physical injury. [Words alone are not an assault. If the fear of physical injury is unreasonable, the conduct is not an assault. *Virginia Model Jury Instructions*, Instruction 36.000, 1993 Civil Edition.]

Attorney: An individual who has studied law, has passed a test to be admitted to practice law, and is licensed to practice law in accordance with state regulations. Attorneys are often referred to as lawyers.

Attorney General: The chief law officer of the executive branch of a state or the federal government.

Authority (Local, State, Federal): Each unit of government is empowered to perform its responsibilities to the public by local ordinances, state statutes, and federal laws. Ordinances are laws created by local units of government that apply to school divisions, persons, and institutions within a town, city, or county. Statutes are enacted by the General Assembly and apply to persons and institutions on a statewide basis. Federal statutes and regulations are national laws enacted by Congress which apply to persons and educational institutions located in every state.

Bail: A sum of money exchanged for the release of an arrested person as a guarantee of that person's appearance for trial.

Bail/Bond: An amount of money or property sometimes required by a judge or magistrate to be paid to the court by the defendant to insure that he or she will appear for trial. If he or she does not appear, the money may be forfeited to the court.

Bail Hearing: A hearing in which a judicial officer (judge, magistrate, or clerk of court) determines whether a defendant should be released from custody pending trial. The judicial officer also determines the terms and the conditions of release.

Bailiff: A person responsible for keeping order in a courtroom. In Virginia, bailiffs are usually deputy sheriffs.

Battery: An actual, intentional physical contact without the victim's permission is a battery. A battery is a touching however slight, of another person in a rude, insulting, or angry way; the actual physical, harmful contact associated with an assault.

Boundaries (School Grounds and School Property): All real and personal property with a title of ownership vested in the school board or a city that is necessary to use for school purposes is school

property. School property includes (but is not limited to) school buildings, surrounding land, parking lots, school buses (§18.2-128, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-128>), land outside of corporate city limits that is not adjacent to the school building and has been designated for school purposes (§22.1-125, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-125>) [desks, lockers, textbooks, library books, computers, etc.]

Bribery: Offering, giving, receiving, or soliciting of anything of value to sway the judgment or action of a person in a position of trust or influence.

Bullying: Intentional, repeated harmful acts, words, or other behavior, such as name calling, threatening, and/or shunning, committed by one or more persons against another.

Burglary: The unlawful entry into a building or other structure with the intent to commit a felony or a theft. A “structure” is considered to include, but not be limited to, any building, railroad car, garage, house-trailer or houseboat (if used as permanent dwelling), room, barn, stable, mill, and ship.

Capias: A document issued by the court for the arrest of a person; issued in case of contempt, or where an indictment has been issued, or to bring in a witness who does not obey the subpoena.

Capital Crime: A murder that can be punishable by a sentence of death.

Capital Offenses: Offenses for which the penalty can be a death sentence. Examples of capital offenses include, but are not limited to, contract murder, murder of a law enforcement officer, murder by a prisoner, multiple killings, murder arising from a drug crime, and killing a child younger than 12 years of age.

Case Law: The principles and rules of law that courts establish when they interpret laws.

Child in Need of Services (CHINS): According to §16.1-228 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-228>), “Child in need of services” means:

(i) a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of another person; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or to the life or health of another person, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

Child in Need of Supervision (CHINSup): According to §16.1-228 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-228>), “Child in need of supervision” means:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child's particular educational needs, (ii) the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child's regular attendance without success, and (iii) the school system has provided documentation that it has complied with the provisions of § 22.1-258 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-258>); or
2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or deserts or abandons his family or lawful custodian on more than one occasion or escapes or remains away without proper authority from a residential care facility in which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

Child Protective Services: Local social service agencies under the Virginia Department of Social Services that offer assistance including investigating child abuse and neglect cases and developing strategies to prevent child abuse and neglect.

Circuit Court: A trial court that has exclusive jurisdiction in all civil matters greater than \$10,000 and all felony prosecutions in criminal matters.

Civil Case: A lawsuit involving enforcement of private rights, such as fraud or defamation, as opposed to a criminal case that is brought by the government to punish a wrong against society.

Civil Law: Laws that define the rights and duties of one individual to another.

Civil Liability: Legal duty or responsibility for private acts which arise under municipal law as opposed to criminal law.

Clerk of Court: The person responsible for keeping a court's official records. Clerks of court for Circuit Courts are elected by the voters of their city or county.

Code of Virginia:

The official record of laws enacted by the Virginia General Assembly and signed by the Governor. These laws apply to all persons in the Commonwealth of Virginia.

Common Law: The system of laws, originated and developed in England, based on court decisions rather than codified written laws. The rule that you are “presumed innocent until proven guilty beyond a reasonable doubt” is an example of common law.

Commonwealth's Attorney: Also known as the prosecutor; a lawyer elected by the people to prosecute criminal and traffic cases; lawyer for the Commonwealth who represents the interests of the general public; an attorney who represents the Commonwealth of Virginia in criminal cases by presenting evidence to prove that a defendant is guilty. In Virginia, Commonwealth's Attorneys are elected by the voters in the city or county.

Compulsory Attendance: The Virginia Code §22.1-254 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-254>) contains a mandatory requirement that every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday shall, during the period of each year the public schools are in session and for the same number of days and hours per day as the public schools, send such child to a public school or to a private, denomination or parochial school or have such child taught by a tuturo or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent, or provide for home instruction of such child as described in § 22.1-254.1.

Constitutional Law: Laws that originate in the United States Constitution and the Constitution of Virginia. Constitutions establish the structure of our federal and state governments and set forth the rights of the governed.

Continuance: Postponing of a case until a later date upon request by either party or the court.

Continuum of Care: A level of service provided by juvenile courts for non-delinquent and adjudicated youth under the court's jurisdiction. It identifies behavior associated with future delinquency by starting with the most restrictive level of service, including in-home suspension, counseling, and electronic monitoring.

Contract: An agreement with specific terms between two or more persons or entities in which there is a promise to do something in return for a valuable benefit known as "consideration."

Controlled Substances: Substances to which the government restricts access because of the substances' potential for harm or abuse.

Convict: To find a person guilty of a criminal charge.

Conviction: Court's judgment finding the defendant guilty of a crime.

Copyright Act (U.S.): A federal law that protects the music and other industries against the illegal downloading and sharing of music, movies, or other media without consent.

Corporal Punishment: The infliction or causing the infliction of physical pain on a student as a means of discipline through the use of unreasonable or unnecessary force.

Counterfeiting: The altering, copying, or imitation of something, without authority or right, with the intent to deceive or defraud by passing the copy or thing altered or imitated as that which is original or genuine; the selling, buying, or possession of an altered, copied, or imitated thing with the intent to deceive or defraud.

Courts: Part of the judicial branch of government and responsible for interpreting laws when a law is broken or there is a dispute.

Crime: An act that violates a law either by doing something the law says you are not to do or by not doing something the law says you have to do.

Crimes Against Persons: Offenses that involve direct physical harm or force being applied to another person.

Crimes Against Property: Offenses that involve property, including crimes in which property is destroyed and crimes in which property is stolen or taken against the owner's will.

Criminal Case: A case in which the government is prosecuting a defendant accused of committing a criminal act.

Criminal Law: Laws that define behavior that is considered to be illegal, such as stealing, and the punishments that can be imposed. Criminal law provides a set of rules for peaceful, safe, and orderly living.

Curfew: A law, usually a local ordinance, restricting the time when a young person is no longer allowed to be out on the street without lawful business.

Custody: "Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in §20-107.2 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+20-107.2>); the care and control of a thing or person.

Custody Case: In Juvenile and Domestic Relations District Court or Circuit Court, the type of proceedings in which the court determines which parent, other adult, or agency shall have physical control over a child.

Cyberbullying: The use of technology (e-mail, instant messaging, web sites, cell phones, etc.) to harass or annoy another person. Cyberbullying is a form of harassing communication and is a Class 1 misdemeanor.

Defamation: Defamation means harm to one's reputation. Two examples of defamation are libel and slander. Libel is a written communication, such as a newspaper article, that is false and damages a person's reputation. Slander is a spoken communication that is false and damages a person's reputation.

Defendant: Person who is charged with a crime. In a criminal case, the person who is accused of committing a crime; in a civil case, the person who is being sued by another party (called a plaintiff) who alleges the defendant has injured or harmed him or her in some way.

Defense Counsel: Lawyer for the defendant.

Degree: Legal extent of guilt or negligence.

Delinquent: "Delinquent child" means a child who has committed a delinquent act, except where the jurisdiction of the juvenile court has been terminated under the provisions of §16.1-269.6. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-269.6>). "Delinquent act" means (i) an act designated a crime under the law of this Commonwealth, or an ordinance of any city, county,

town or service district, or under federal law, (ii) a violation of §18.2-308.7 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-308.7>) or (iii) a violation of a court order as provided for in §16.1-292 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-292>), but shall not include an act other than a violation of §18.2-308.7 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-308.7>), which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of §16.1-241 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-241>) and §16.1-278.9 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+16.1-278.9>), the term shall include a refusal to take a blood or breath test in violation of §18.2-268.2 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-268.2>) or a similar ordinance of any county, city, or town;
a juvenile who has committed an act that would be a crime if committed by an adult.

Destruction of Property: To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

Detention: Detention means to physically restrain or confine an individual. In Virginia, a judge, intake officer, or magistrate may detain a juvenile for reasons prescribed by law. Detention is most often used to hold a juvenile pending a hearing. Juveniles are typically held in detention centers in Virginia.

Detention Center: Sometimes called detention homes, places in the community where delinquents are held temporarily in secure custody pending court hearings.

Dismissal: A finding of not guilty; or a refusal by the court to allow a case to continue to be prosecuted.

Disorderly Conduct: Disturbing the peace by making loud noises, by fighting, or by publicly using obscene language.

Disposition: The manner in which a case is settled or resolved.

Disposition Hearing: A hearing in juvenile court conducted after an adjudicatory hearing and subsequent to receipt of the report of any predisposition investigation, to determine the most appropriate form of custody and treatment for a juvenile who has been judged a delinquent, status offender, or who is a dependent.

A hearing in which the court considers and selects the penalties and services which are appropriate for an offender. It is important to remember that the juvenile justice system is concerned not only with punishment, but also with rehabilitation.

Disruptive Behavior: Disruptive behavior means conduct that interrupts or obstructs the learning environment.

Domestic Relations: Refers to family relationships.

Domestic Violence: A pattern of physically, sexually, and/or emotionally abusive behaviors used by one individual to assert power or maintain control over another in the context of an intimate or family relationship.

Driving Under the Influence (DUI): Operating a motor vehicle while under the influence of alcohol or other drugs as determined by the amount of alcohol or drugs in that person's blood.

Drug Paraphernalia: All equipment, products, and materials of any kind which are used for converting,

producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing a controlled substance into the human body.

Drug Trafficking: The possession of large quantities of illegal drugs, which indicates the intent to sell for profit.

Due Process of Law: The guarantee that citizens are treated fairly by the government. A guarantee of due process is written in the U.S. Constitution in the Fifth, Sixth, and Fourteenth Amendments.

Element of an Offense: Any conduct, circumstance, condition, or state of mind which in combination with other conduct, circumstances, conditions or states of mind constitutes a unlawful act.

Emancipation: When a minor legally gains control and responsibility over all decisions in his or her life, even though he or she is a minor.

Embezzlement: The unlawful taking of personal property with which one has been entrusted.

Evidence: Statements by witnesses, documents, and objects presented to the court which can be considered by the judge and/or jury in determining whether the defendant is guilty or not guilty.

Exclusion of Witnesses (Exclude): Removal of witnesses from the courtroom.

Expungement: A process by which a record, or a portion thereof, is officially erased or removed after the defendant is not convicted. Criminal record expungement requests are heard by Circuit Courts, and, under certain conditions, by the General District Court.

Extortion: Unlawfully obtaining or attempting to obtain something of value from another by compelling the other person to deliver it by the threat of eventual physical injury or other harm to that person or the person's property, or a third person. *Blackmail* is the common name for extortion where the threat is not physical but relates to exposing some secret, true, or alleged fact which would do harm to someone's circumstances or damage his or her reputation; obtaining property from another person by using or threatening to use violence or other criminal means to cause harm to person, reputation, or property.

Family or Household Member:

Includes: spouse (regardless of whether you live together); ex-spouse (regardless of whether you live together); parents, children, stepparents and stepchildren, brothers and sisters, grandparents, grandchildren, and in-laws (if you live in the same house); cohabitants (those who live together) and those who cohabited in the past year and their children; and persons who have a child in common (even if you have never lived together).

Felony: A criminal offense which is more serious than a misdemeanor and which can carry harsher penalties including imprisonment of a term greater than one year. Juveniles are "adjudicated delinquent of offenses that would be crimes if committed by adults" rather than found guilty of felonies or misdemeanors; a crime punishable by death or confinement in the penitentiary. See *Code of Virginia* § 18.2-10 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-10>) for classification of felonies and the punishment for each classification.

FERPA: The Family Educational Rights and Privacy Act is a federal law designed to protect the rights of parents and students who are 18 years of age and older or attending a post-secondary institution, to

review the student's educational records and amend the record if the parent or student believes it is inaccurate, misleading, or in violation of the student's rights.

Forgery: The act of fraudulently making a false document or altering a real one to be used as if genuine.

Fraud: Intentionally telling someone something false or concealing the truth.

Fraud Offenses: The intentional perversion of the truth for the purpose of inducing another person or other entity in reliance upon it to part with something of value or to surrender a legal right. These offenses include false pretenses/swindle/confidence game, credit card/automatic teller machine, impersonation, welfare, and wire frauds.

Gambling: To unlawfully bet or wager money or something else of value; assist, promote, or operate a game of chance for money or some other stake; possess or transmit wagering information; manufacture, sell, purchase, possess, or transport gambling equipment, devices, or goods; tamper with the outcome of a sporting event or contest to gain a gambling advantage.

Gambling Offenses: These offenses include betting/wagering, operating/promoting/assisting in a gambling enterprise, gambling equipment, and sports tampering violations.

Gang, Criminal Street: According to *Code of Virginia* §18.2-46.1., "any ongoing organization, association, or group of three or more persons, whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction."

Graduated Court Sanctions: The approach to delinquency and recidivism a juvenile court adopts that includes comprehensive prevention programs coupled with a series of progressively more intensive treatment and disposition alternatives.

Grand Jury: A special type of jury assembled to investigate whether criminal charges should be brought. Grand jury proceedings are supervised by Circuit Courts.

Harassment: To repeatedly annoy or attack a person or group in such a way as to cause anxiety or fear for safety. Several different types of harassment are against Virginia law.

Harassment, Sexual: Sexual harassment is a prohibited employment practice that includes sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or academic achievement;
- submission to or rejection of such conduct by an individual is used as a basis for employment or academic decisions affecting that individual; and/or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive work or learning environment. *U.S. Equal Employment Opportunity Commission*

Hate Crimes: (i) a criminal act committed against a person or his property with the specific intent of instilling fear or intimidation in the individual against whom the act is perpetrated because of race, religion or ethnic origin or that is committed for the purpose of restraining that person from exercising his rights under the Constitution or laws of this Commonwealth or of the United States,

(ii) any illegal act directed against any persons or their property because of those persons' race, religion or national origin, and (iii) all other incidents, as determined by law-enforcement authorities, intended to intimidate or harass any individual or group because of race, religion or national origin. (*Code of Virginia* § 52-8.5. Reporting hate crimes)

Hazing: To recklessly or intentionally endanger the health or safety of a student or to inflict bodily injury on a student in connection with admission into a group.

Hearing: A court appearance before a judge or court referee where testimony is given and evidence is presented.

Hearsay: A statement based upon information heard from another person. It is generally not admissible as evidence in court, although there are exceptions to the rule.

Home Incarceration or Home Confinement: A sentencing option that enables an offender to serve a sentence at his or her place of residence. It is an alternative to building a prison that involves curfews, parole, or home detention with electronic monitoring.

Homicide: The killing of one human being by another.

Incarceration: Imprisonment; confinement in a jail or penitentiary.

Identity Theft: Using someone else's information (such as Social Security Numbers, credit card numbers, and driver licenses) without his or her permission for an unlawful purpose.

Indictment: A formal written document presented by a grand jury which legally accuses a person of committing a crime.

Intake Officer: A member of the juvenile court staff who receives and reviews the juvenile's case and decides whether or not to file a petition for a hearing or divert the case from court. The intake officer is a youth's first point of contact with the juvenile court; in Virginia, an officer of a Juvenile and Domestic Relations District Court who receives and reviews complaints to the court and determines whether there are enough facts to involve the court. These officers are authorized to handle cases informally or may authorize filing a petition to bring the matter before the judge. They are also authorized to detain juveniles when necessary.

Intent: A state of mind in which a person seeks to achieve a given result through a course of action.

Intimidation: To make another person fearful of bodily harm using threatening words and/or other conduct, but without displaying a weapon or physically attacking the person.

Jail: A place of confinement for persons awaiting trial and for persons sentenced to shorter terms of confinement for misdemeanors.

Judge: The court official that oversees courtroom proceedings, listens to testimony presented in cases brought before the court, and rules according to the law.

Jury: A panel of 12 citizens (felony charge) or seven citizens (misdemeanor charge) who decide the guilt or innocence of a defendant and recommend a sentence;
A group of citizens who listens to testimony, determines the facts, and applies the law. In a juvenile court, there is no jury; all decisions are made by the judge.

Juvenile or Minor: In Virginia, a person who is younger than 18 years of age.

Juvenile Correctional Center: A place where a juvenile committed to the Virginia Department of Juvenile Justice receives 24-hour supervision, education, treatment services, recreational services, and a variety of special programs.

Juvenile Court: A court having special jurisdiction over delinquent, dependent, or neglected children. In Virginia, this court is called a Juvenile and Domestic Relations District Court.

Juvenile Justice System: A special part of the larger justice system that deals with matters related to juveniles and has its own set of laws and procedures that govern how juveniles are treated.

Kidnapping/Abduction: The unlawful seizure, transportation, and/or detention of a person against his or her will or of a minor without the consent of his or her custodial parent(s) or legal guardian.

Knowingly: A state of mind that involves substantial certainty or knowledge and intelligence that a result or consequence will occur.

Larceny: The unlawful taking or carrying away of someone else's personal property with the intent to deprive the owner of it permanently.

Law: Rules and regulations created and enforced by the government.

Libel: Written or permanently recorded untruths causing harm to the person about whom the untruths are published.

Loitering: Remaining in a certain place for no reason.

Magistrate: A judicial officer who has the authority to set bail and to issue criminal charges based upon evidence presented by an individual or a law enforcement officer.

Malice: The intent to commit a wrongful act, without justification or excuse. Malice involves reckless disregard of the law or of a person's legal rights.

Malicious: Doing a wrongful act intentionally or as a result of ill will. Evidence of maliciousness can be shown by looking at a person's words or inferred by looking at the person's acts that necessarily result in injury. Ultimately, a judge or jury determines if the act involved malice.

Manslaughter: The reckless killing of another person. This crime may be intentional, but committed during a heated or passionate moment. The killing of one human being by another which is not deliberate and premeditated.

Material witness: A witness who has firsthand knowledge about the facts of a case.

Menacing: Physical action that intentionally places or attempts to place another person in such a position that he or she fears imminent, serious physical injury.

Minor: A person under 18 years of age.

Minor in Possession of Alcohol: The illegal act of someone under the age of 21 possessing and/or transporting alcohol or drugs. It can also include knowingly being in the presence of drugs or alcohol in an area over which a minor has control, such as a back pack, locker, or car.

Miranda Warning: Rights read to a suspect before questioning begins. It states that you have a right to be informed of the reason for arrest, the right to remain silent, the right to contact an attorney, parent, or guardian, and the right to an appointed attorney if you cannot afford one.

Misdemeanor: An offense which is less serious than a felony and carries lesser penalties, ranging from a fine only to a maximum sentence of 12 months in jail. Juveniles are “adjudicated delinquent of offenses that would be crimes if committed by adults” rather than found guilty of felonies or misdemeanors; offenses punishable by fine not exceeding \$2,500 or by being jailed for a term not exceeding 12 months, or a combination of fine and jail within these limits.

Motion: Request by a defense attorney or prosecutor that the judge makes a decision on a specific issue or point of law.

Motor Vehicle: Any vehicle that runs on its own power.

Motor Vehicle Theft: The theft of a motor vehicle, defined as a self-propelled vehicle that runs on the surface of land and not on rails, including automobiles, buses, recreation vehicles, trucks, and other motor vehicles such as motorcycles, motor scooters, trail bikes, mopeds, snowmobiles, and golf carts. Joyriding is included.

Murder: The intentional killing of another person without legal justification.

Neglected Child: See “abused child.”

Negligence: A tort that occurs when a person fails to use reasonable care causing harm to a person or to his or her property.

Nolle Prosequi (nol pros): Prosecutor’s decision with agreement by the court not to prosecute a case at the present time. The charge may be brought again.

Obscenity: A general term applying to anything that is immoral, indecent, or lewd.

Ordinance: A law passed by a city or county. In Virginia, city ordinances are enacted by City Councils and County Ordinances are enacted by County Boards of Supervisors. These laws apply just to persons in the particular city or county.

Parent’s Liability: Parents are responsible for their children and for what their children do until those children are 18 years old or legally emancipated.

Parole: Conditional release from jail, prison, or other confinement after actually serving part of the sentence. It entitles a parolee to serve the remainder of the term outside of the confines of an institution, if he or she complies with all of the terms and conditions of the parole order; release from prison before the full sentence has been served, granted at the discretion of a parole board.

Pedestrian: A person who is walking.

Perjury: Intentionally providing false information under oath.

Perpetrator: A police officer's term used to describe a person (usually unknown) who committed a criminal act.

Petition: To make a request of a court or public official. In a juvenile court, filing a delinquency petition means the same thing as filing charges in an adult court.

Petition, Filing of: Formally submitting to a court's record a document that alleges that a juvenile is delinquent, abused, or neglected, or a child in need of services, and asking that the court assume jurisdiction over the juvenile.

Phishing: Sending e-mail to a user falsely claiming to be a legitimate organization (examples: banks, EBay accounts, internet provider services, etc.) asking for the user's password, Social Security Number, bank account numbers, and credit card account numbers. This information is then used for the purposes of identity theft.

Plagiarism: The copying of someone else's work and representing it as your own.

Plaintiff: The party making a complaint. In a civil case, the plaintiff is the party who alleges he or she has been injured or harmed in some way.

Plea: Defendant's answer to a charge (guilty, not guilty, nolo contendere {no contest}).

Plea Agreement: An agreement in which a defendant pleads guilty in exchange for a prosecutor's recommendation for a particular sentence or particular charge. The judge must approve the agreement.

Policy: The general principles by which a government or unit of government is guided in its management of public affairs, or the legislature in its provisions.

Possession: Possession is not limited to ownership. It can also include knowingly being in the presence of or having control over an area containing illegal items.

Precedents: Court decisions on legal questions that guide future cases with similar questions.

Preliminary Hearing: Hearing held before a judge in a General District Court or Juvenile and Domestic Relations Court to determine if there is probable cause that the felony crime charged was committed by the defendant. If the judge finds probable cause, the case is certified to the grand jury for indictment and trial in Circuit Court.

Premeditated: Done with willful deliberation and planning; consciously considered beforehand.

Presentence Investigation/Report (PSI): Report prepared by a probation and parole officer to help the judge in deciding sentence. A victim impact statement may be included in the report.

Probable Cause: A set of facts and circumstances which would lead a reasonably intelligent and prudent person to believe that a particular person had committed a specific crime; having reasonable grounds or suspicion to make or believe an accusation. Probable cause is the standard required to justify a search by law enforcement officers; a reasonable ground for belief in the existence of facts warranting the proceedings complained of (e.g., probable cause to believe that a crime has been committed and that the person accused may have committed it).

Probation: A period of supervision by the court during which time an offender has the opportunity to show that he or she has learned from his or her mistakes and is required to obey rules of probation; in modern criminal administration, allowing a person convicted of some offense to remain free under a suspension of a jail sentence during good behavior and generally under the supervision or guardianship of a probation officer together with other restrictions as the court may impose.

Probation (Supervised v. Unsupervised): *Supervised probation* is guidance, treatment or regulation by a probation agency of the behavior of a person who is subject to adjudication or who has been convicted of an offense resulting from a formal court order or a probation agency decision. Contact between the agency and the client occurs on a regular basis. The average probation period is six months to a year. In *unsupervised probation*, contact occurs only when initiated by the client or other interested party outside the probation agency, and is not on a regular basis.

Probation and Parole Officer: A sworn officer of the court who is responsible for preparing Presentence Investigation Reports and providing supervision for offenders residing in the community.

Prosecutor: Another term for commonwealth's attorney, assistant commonwealth's attorney or deputy commonwealth's attorney; the lawyer who represents the government in a criminal case. In Virginia, prosecutors are called Commonwealth's Attorneys.

Protective Order: An order issued by judge or magistrate for the purpose of protecting a family/household member from abuse.

Public Place: A place to which the general public has a right to remain, not necessarily a place devoted solely to the uses of the public but a place that is accessible to the public and not private. It is a place in which the public has an interest in protecting the safety, health, welfare, and morals of the community.

Reasonable Suspicion: The degree of articulable suspicion. The degree of suspicion required is less than the degree that is necessary for probable cause, but reasonable suspicion will justify a brief stopping of a person for an investigation of pending, ongoing, or past criminal conduct. Reasonable suspicion is the standard necessary to justify a search by school officials; An objective basis, supported by specific facts, for suspecting a person of criminal activity.

Receiving Stolen Property: The criminal offense of acquiring or controlling property known to have been stolen by another person.

Reckless: The state of mind accompanying an act, in which a person disregards the possibility of injury or harmful consequences and although the person foresees such consequences, he or she proceeds in spite of his or her awareness.

Recognizance: The release of an arrested person on a written promise that he/she will return to court.

Restitution: Money ordered by the court to be paid back to a victim by the defendant for loss incurred as a result of the crime; the act of restoration. It means that an offender is required to repay money to the victim or take other action to "restore" the victim to his status before the criminal act.

Robbery: Taking, with intent to steal, another's personal property, from his or her person or in his or her presence, against his will, by violence or intimidation.

Rule of Law: The principle which means that everyone, including government officials, must respect and obey the legal system and its laws.

Safe and Drug-Free Schools Act of 2001: Section IV of the Improving America’s School’s Act of 2001. Authorizes funding to support school- and community-based drug and violence prevention efforts.

School Resource Officer (SRO): A School Resource Officer or SRO is a law-enforcement officer who works in local school divisions to ensure a school’s safety by serving as a law-enforcement officer within the school, teaching classes related to law enforcement, serving as a community resource, and as a role model for students. SROs are sometimes also referred to as Community Resource Officers (CROs), school liaison officers, youth safety officers, and other titles that may have been developed locally; a certified law-enforcement officer hired by the local law enforcement agency to provide law enforcement and security services to Virginia public elementary and secondary schools (*Code of Virginia* §9.1-101, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-101>).

School Security Officer (SSO): “School Security Officer” means an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school (*Code of Virginia* §9.1-101, <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+9.1-101>).

Search and Seizure: *Search* is the examination or inspection of a location (locker, desk, pockets, etc.), vehicle or person by a law-enforcement officer or other person authorized to do so, for the purpose of locating objects relating to or believed to be relate to criminal activity. *Seizure* is the taking into custody, by law-enforcement officers or other persons authorized to do so, of objects relating to or believed to relate to criminal activity. The Fourth Amendment of the United States Constitution prohibits unreasonable search and seizure.

Secure Facility: “Secure facility” or “detention home” means a local, regional or state public or private locked residential facility which has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

Sentencing: A hearing at which a judge imposes punishment on a convicted defendant.

Sexual Abuse: Prohibited and legally punishable behavior that includes sex offenses such as rape, sodomy, and carnal abuse of a child, committed by and against students, school officials, and teachers.

SHOCAP: The Seriously Habitual Offender Comprehensive Action Program (SHOCAP) is an interagency case management and information sharing system which enables the juvenile and criminal justice system, schools, and social service agencies to make more informed decisions regarding juveniles who repeatedly commit serious criminal and delinquent acts. A minor who is involved in SHOCAP has been adjudicated as a delinquent or convicted of murder, armed robbery, any felony sexual assault or malicious wounding, or convicted at least three times of offenses which would be felonies or Class 1 misdemeanors if committed by an adult.

Shoplifting: Taking goods from a store without payment or the intent to pay.

Show Cause: Order issued by the court for a person to show why they failed to comply with an instruction of the court.

Small Claims Court: A civil court with jurisdiction of claims up to \$5,000.

Status Offender: A juvenile who has committed certain actions which, if committed by adults, would not be considered criminal offenses – such as a curfew violation.

Status Offense: Status offense means an act prohibited by law which would not be an offense if committed by an adult. Examples include being a runaway, truant, or in violation of curfew laws. Status offender means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

Statute: A law enacted by legislatures. Federal laws are enacted by Congress and are recorded in the *United States Code* (“USC”). State laws are enacted by the Virginia General Assembly and are recorded in the *Code of Virginia*.

Stimulant: A substance that temporarily increases the function of the heart, lungs, brain, and/or nervous system.

Stolen Property Offenses: Receiving, buying, selling, possessing, concealing, or transporting any property with the knowledge that it has been unlawfully taken, as by burglary, larceny, fraud, embezzlement, or robbery.

Subpoena: A written, legal order telling a person to be in court at a specific time and place to give testimony; a process commanding a witness to appear before a court at a time specified to give testimony.

Sunshine Law: A law that requires all public officials to conduct their meetings openly.

Supervised Probation: A period of time during which an offender must obey certain conditions set by the court and probation and parole officer in lieu of serving the suspended portion of a jail or penitentiary sentence. The probation and parole officer monitors an offender’s compliance with supervised probation and keeps the court informed.

Suspension: A disciplinary action that temporarily removes a student from school.

Taken Under Advisement: The judge withholds final disposition of the case until certain conditions set by the judge are met by the defendant.

Teen Court: A pre-trial diversion program of the juvenile court that allows juveniles charged with a delinquent act the option of facing their peers for punishment, instead of going to juvenile court.

Terrorism: A violent criminal act committed with the intent to intimidate or threaten the general public or to influence the policy of government.

Theft: The taking of property or depriving someone of his or her property without the intent to return it.

Threat: A communication that threatens to kill or do bodily injury to a person or any member of his or her family and places the person in reasonable fear of death or bodily injury.

Tort: Action that harms another person or his property. Tort usually refers to injuring a person, causing damage to his or her property or reputation, or harming someone’s commercial interest. An intentional tort occurs when a person acts with the intent to harm someone or someone’s property.

Trespass: Entering someone else’s property or home without permission or remaining there against the owner’s wishes; fishing or hunting on the property; or throwing things onto the property.

Trial: Process by which guilt or innocence of a defendant is determined. Can be heard by a judge or jury; a formal proceeding before a judge and/or jury to determine the outcome of an issue before the court.

Truancy: Failure to attend school that is willful and habitual.

Truant: A truant is a juvenile who has been adjudicated by a judicial officer of a juvenile court, as having committed the status offense of violating a compulsory school attendance law.

United States Code (U.S. Code): The official record of laws enacted by the United States Congress and approved by the President. These laws apply to all persons in every state and U.S. territory.

Vandalism: Willful or ignorant destruction of public or private property, especially of artistic, architectural, or literary treasures.

Verdict: The decision a jury or judge makes at the end of a trial about whether the defendant is guilty or not.

Victim: A person harmed by a crime, tort, or other wrong.

Victim Impact Statement (VIS): A written statement which describes how the crime(s) has affected the victim and his/her family. This statement may be considered by the judge in deciding a sentence. If the judge orders a presentence investigation (PSI), the VIS becomes part of the PSI and is given to the defense attorney who may review it with the defendant.

Victim/Witness Program: Program designed to provide support, answer questions, make referrals and explain the criminal justice process to victims and witnesses of crime.

Violence: Violence refers to all types of illegal behavior, either threatened or actual, that result in damage or destruction of property or the injury or death of an individual. It includes but is not limited to assault (threats of imminent harm, throwing objects without striking a person), battery (hitting, kicking, shoving, stabbing, tripping), child abuse, rape, vandalism, gang violence, and unreasonable force used in corporal punishment.

Warrant: Written, legal order authorizing a law enforcement officer to make an arrest or perform a search; a legal document authorizing an officer of the law to take action (as in making an arrest, or the search and seizure of evidence).

Willful: Voluntary and intentional, but not necessarily malicious.

Willfully: Proceeding from voluntary or conscious motion of the will; intending or designing the result of an act which actually happens.

Witness: A person who has knowledge of the circumstances of a case; one who testifies as to what he or she has seen, heard, or otherwise observed, or has expert knowledge of, Witnesses are sworn to tell the truth and if a witness fails to tell the truth, he or she can be charged with the crime of perjury.

Work Permit: A permit that allows anyone under the age of 16 to work outside of school hours or during vacation periods. This involves completing an application for the permit and verification of school enrollment.

Zero Tolerance: Zero Tolerance is a general policy in education and criminal justice which calls for imposing strict penalties for juveniles who are adjudicated in drug, violence and alcohol offenses such as driving while intoxicated, and taking preventive steps to limit such behavior. As a result of this policy, it is illegal in every state for persons under the age of 21 to purchase and possess alcohol in public.

