Caught and Released: Amending the Virginia General Assembly's 2021 Bail Reforms to Hold Violent Repeat Offenders in Pretrial Detention

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Executive Summary

Perhaps the most troubling and least discussed impact to public safety in Fairfax County and the Commonwealth of Virginia was the 2021 General Assembly session changes that removed the presumption against bail for violent offenders accused of serious crimes. Repeat violent offenders are now being released into our community where many continue to commit violent crimes, including rape and murder. In an effort to guard against what some viewed as unnecessary pretrial detention, the scales of justice have shifted too far in protecting criminals rather than protecting victims. We need to tip the scales of justice back toward the public as each of these crimes represents a victim.

While Fairfax County claims to be the "safest jurisdiction of its size in the country," the unnecessary, unjust suffering of the victims of these repeat violent crimes necessitates that we walk back the 2021 bail changes.

Violent crime is up over 20 percent from pre-pandemic years.[1] The Fairfax County Commonwealth's Attorney's policies and failure to adequately execute the duties of the office have significantly contributed to the release of violent criminals in our community.[2] And the 2021 General Assembly bail changes have increased the rise in crime associated with the Commonwealth's Attorney's reckless approach.[3] These changes contribute to a trend of violent crimes that did not previously materialize as similar repeat violent offenders would be detained pretrial under the prior bail setting process. While Fairfax County claims to be the "safest jurisdiction of its size in the country,"[4] the unnecessary, unjust suffering of the victims of these violent crimes necessitates that we walk back the 2021 bail changes. While there are numerous examples in Fairfax County, we have limited those examples to five for illustration.

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[1] MAJOR CITIES CHIEFS ASS'N, VIOLENT CRIME SURVEY – NATIONAL TOTALS (2018-2024), available at https://majorcitieschiefs.com/resources (last visited Jan. 12, 2025).
[2] *See* Zack Smith & Cully Stimson, *Meet Steve Descano, the Rogue Prosecutor Whose Policies Are Wreaking Havoc in Fairfax County, Virginia,* DAILY SIGNAL (Dec. 14, 2020).
[3] *See generally* Va. Code § 19.2-120.
[4] Nick Minock, '*Everything is not OK. It's not anywhere near OK*' - *Major crimes are up in Fairfax County,* WJLA (Nov. 23, 2022) (quoting Fairfax County Board of Supervisors Chairman Jeff McKay when questioned about the rise in crime in Fairfax County).

When confronted with the increased crime that resulted from recent structural changes to the criminal justice system—bail reform, post-2020 de-policing, and the rise of "social justice" prosecutors—reform activists typically pin the blame on the COVID-19 pandemic, but that talking point has been debunked. A nonpartisan study found that crime fell during the first months of the pandemic,[5] and that trend only reversed itself because of the marked increase in drive-by shootings in cities like Chicago, not the sort of activity that naturally follows from pandemic-related fatigue. [6]

Accordingly, the Springfield Criminal Justice Working Group proposes a partial rollback of the bail reform measures passed by the General Assembly in 2021. Other jurisdictions, including New York, have made similar adjustments to protect the public from crimes of violence from offenders accused of a crime while under judicial supervision. Virginia must do the same.

The changes proposed here maintain some of the reforms implemented in the 2021 legislation while addressing its deficiencies in relation to public safety. In particular, we propose allowing magistrates to place greater emphasis on assessing the risk to the public if the accused is released pretrial, which includes considering the severity of the pending charges. This narrowly tailored revision would require the judicial officer to weigh the defendant's bond status and the severity of his charges to determine the risk he poses to the public if released. Thus, the judicial officer's task in determining conditions of release or detention would be informed by the traditional two-fold approach that the overwhelming majority of arraignment judges in the United States deploy: (1) the likelihood that the defendant will appear in court when required to be there, and (2) whether he poses a risk to the public if released. The proposed changes would also lead to consistent bail determinations across Virginia, which should aspire to uniform application of its laws, rather than rely on the personal preference of the magistrate.

The Working Group urges Fairfax County to include these reforms as a part of its Legislative Agenda for the 2025 Virginia General Assembly session.

The Cause **– The 2021 Virginia General Assembly Bail Reform Measures Prioritized Release of Individuals Over Potential Risk to the Public.**

In 2021, the Virginia General Assembly enacted significant changes to the bail laws (§ 19.2) in the Commonwealth, which became effective on July 1, 2021. Prior to these changes, a person held in custody would appear before a local magistrate (i.e. judicial officer) after their arrest to determine if they were to be released, detained until trial, or

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[5] Ben Stickle & Marcus Felson, *Crime Rates in a Pandemic: The Largest Criminological Experiment in History*, AM. J. CRIM. JUST. 45, 525-536 (2020). *See also* CHARLES FAIN LEHMAN, MANHATTAN INST. REPORT, DOING LESS WITH LESS: CRIME AND PUNISHMENT IN WASHINGTON, D.C., 4 (Aug. 8, 2024) (observing in D.C. that homicide rates "have risen steadily since before 2020" and that "motor vehicle theft and robbery spiked precipitously in 2023 after steadily increasing from 2020"), available at https://manhattan.institute/article/doing-less-with-less-crime-and-punishment-in-washington-dc (last visited Jan. 12, 2025).

[6] Heather MacDonald, *Taking Stock of a Most Violent Year*, WALL ST. J. (Jan. 24, 2021).

granted monetary or special condition bond if they are not judged a flight risk or unreasonable danger to themselves or the public. Under that analysis, the law required that the magistrate presume the defendant should not be released if he were (1) accused of certain serious crimes, (2) a repeat offender, or (3) out on bail for another offense.

The new law reversed those considerations and essentially instructed magistrates to presume release of the defendant—even dangerous ones with serious charges and violent criminal histories—after considering relevant factors and the objections, if any, of the Commonwealth's Attorney. In effect, the new law tied the hands of magistrates, compelling the release of violent repeat offenders unless the authorities could meet the heavy burden of proving the defendant was a likely flight or immediate safety risk.

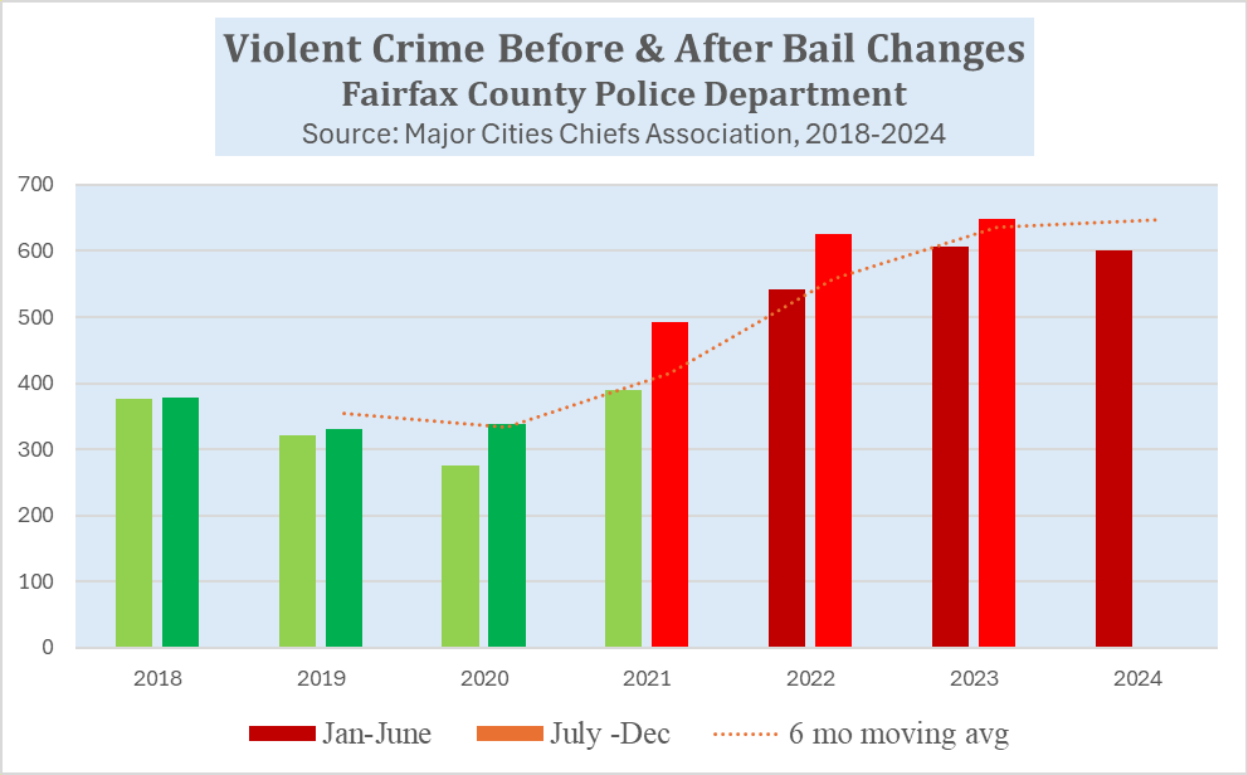
In effect, the new law tied the hands of magistrates, compelling the release of violent repeat offenders unless the authorities could meet the heavy burden of proof of a likely flight or immediate safety risk.

A summary of the General Assembly's 2021 bail reform changes is included in Appendix A.

The Result – The Commonwealth's Permissive Bail Reform Has Resulted in Increased Crime and Unnecessary Human Suffering.

Violent crime is up over 20 percent from pre-pandemic years, which preceded the 2021 bail changes in Virginia.[7] The Fairfax County Commonwealth's Attorney's policies and failure to adequately execute the duties of the office have contributed significantly to the release of violent criminals in our community.[8] Likewise, the General Assembly's bail changes have also substantially contributed to the increase in crime because the revised law allows repeat violent offenders to be released back onto our streets.[9]

[7] VIOLENT CRIME SURVEY, *supra* note 1.
[8] *See* Smith & Stimson, *supra* note 2. *See also* Christian Flores, *Fairfax sexual assault suspect had more than a dozen prior charges dropped*, WJLA (Mar. 24, 2024); Katie Lusso, *Hybla Valley man arrested five times in 102 days*, WUSA-9 (Dec. 18, 2023); Lindsay Watts, *Virginia bar owners outraged over alleged shooter's plea deal*, FOX5DC (Dec. 2, 2022); Justin Jouvenla, *Some see criminal justice failures in shootings of homeless people*, Wash. Post (Mar. 27, 2022).
[9] *See generally* Va. Code § 19.2-120.



Below are five examples of violent crimes that occurred in and around Fairfax County that were committed by violent repeat offenders who would have been held in jail under the prior bail law. Additional case details are contained in Appendix C.

Maldin Anibal Guzman committed murder after being previously held and released on 23 different charges between July 2022 and July 2024, including a malicious wounding.	In August 2023, **Yeudy Chavez Sandoval** sexually assaulted a woman whom he met online, lured to an apartment, and pushed down the stairs. He had three prior charges in 2021, 2022, and 2023, including a DWI and reckless driving but was released.	**Selyin Cruz Oliva** continued to commit violent offenses in the community despite being arrested over 10 times for charges that included drug possession, grand larceny, and property damage between January to May 2024.	**Jaquan Deandre Royal** robbed three banks in Arlington and Alexandria after being released from a prior carjacking charge, despite having a felony record with a parole violation.	**Peter Lollobrigido**[10] violently assaulted and strangled his wife three weeks after Virginia's bail changes took effect. After being released on bail, Lollobrigido beat his wife to death with a hammer and pleaded guilty to murder in June 2024.

[10] While the incident occurred in Sterling and was adjudicated in Loudoun County, the killer was a Fairfax County resident at the time he committed the crime.

Virginia is not the only state to experience the effects of bail reform gone wrong. New York, for instance, which currently does not permit its judges to set bail or detain offenders pretrial who pose a threat to the public, "reformed" its bail laws in 2019 and set those changes to take effect on January 1, 2020.[11] The reforms ended the ability to hold almost all defendants, no matter their criminal histories, accused of nonviolent felony and misdemeanor offenses.[12] The consequences were immediate. In January 2020, New York City "saw a 30 percent increase in crime from January 2019. In January and February, 482 individuals were arrested for serious felony offenses, released without bail, and arrested again for committing another 846 new crimes — over a third of them serious felonies. By early March 2020, crime was up in by double digits."[13] These numbers represent real victims—individuals and the community alike—and the released offenders represent real dangers to the public.

The judge who was forced to release Hernandez after his arraignment stated, "My hands are tied because under the new bail rules, I have absolutely no authority or power to set bail on this defendant for this alleged offense."[1]

For example, a serial burglary offender, Raymond Wilson, was "charged with third-degree burglary" but released pretrial because New York's bail reform does not allow judges to set bail on that charge.[14] While released on that case, "he broke into a 10-year-old girl's bedroom" and sexually assaulted her.[15] Under New York's former bail law, Wilson could have been held on cash bail or detained pretrial without any bail condition. Likewise, Ricardo Hernandez, who had been arrested on at least 12 occasions, could have been held on bail prior to 2020 for the "three hate crimes" he was charged with committing in 2021, including "shoving an Asian NYPD officer onto Queens subway tracks."[16] The judge who was forced to release Hernandez after his arraignment stated, "My hands are tied because under the new bail rules, I have absolutely no authority or power to set bail on this defendant for this alleged offense."[17]

While the Working Group did not find similar data or study on crimes committed by those recently released on recognizance in Fairfax County or Virginia, we found data from a study in New York that clearly shows the impact of permissive bail reform. In a February 2024 study, the Data Collaborative for Justice, in a report entitled "Does New York's Bail Reform Law Impact Recidivism? A Quasi-Experimental Test in the State's Suburban and Upstate Regions," found that pretrial release under New York's bail reform regime was

[11] JIM QUINN, MANHATTAN INST. REPORT, MORE CRIMINALS, MORE CRIME: MEASURING THE PUBLIC SAFETY IMPACT OF NEW YORK'S 2019 BAIL LAW 3 (July 28, 2022), available at https://manhattan.institute/article/more-criminals-more-crime (last visited Jan. 12, 2025).
[12] *Id.* at 2.
[13] Craig Trainor, *The Baleful Effects of New York's Bail Reform*, NAT'L REV. (June 22, 2020).
[14] Jorge Fitz-Gibbon, *The worst NYC crimes committed in 2021 are thanks to shaky bail reform law*, N.Y. POST (Dec. 28, 2021).
[15] *Id.*
[16] Kevin Sheehan & Jorge Fitz-Gibbon, *Man charged with attacking undercover Asian NYPD cop released without bail*, N.Y. POST (Apr. 18, 2021).
[17] *Id.* (internal quotation marks omitted).

associated with higher rates of overall re-arrest (66% vs. 60%), felony re-arrest (45% vs. 38%), violent felony re-arrest (17% vs. 13%), and firearm re-arrest (4.5% vs. 2.8%).[18]

In addition to New York, Illinois's Cook County Circuit Court implemented a similar bail reform program, mandating unconditional releases for many crimes and severely restricting money bail.[19] The result has been more missing defendants and more re-offending upon release. Immediately after the reforms, failure-to-appear rates climbed 19%.[20] In 2022, over 18,000 or 21% of non-bail felony releasees have missed court, according to the court's own data.[21] And 18% of felony defendants were arrested for a new crime.[22] And that data likely understates both failure-to-appear and re-offense rates. According to a University of Utah study and a separate *Chicago Tribune* investigation, the Cook County Chief Judge played fast and loose with data to whitewash problems wrought by his bail reform initiative.[23] Both analyses found that defendants benefiting from automatic release had committed more crimes, including serious ones, more often than the official Cook County data claimed. Overall re-offense rates for releasees rose by 45% while violent offenses jumped 33%.[24] While the judge's initial report claimed only three releasees were later accused of murder, 21 releasees were, in fact, arrested for homicides.

New York's similar bail reform—twice revised since 2019—offers a further cautionary tale. With mandatory release for numerous crimes, repeat offenders run through the courthouse doors at a breakneck pace. According to the New York City Police Department, the 60-day rearrest rates for burglary (23.7%), auto theft (21%), and grand larceny (19.7%) in 2021 had more than doubled from 2017 rates.[25]

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[18] *See generally* DATA COLLABORATIVE FOR JUST., DOES NEW YORK'S BAIL REFORM LAW IMPACT RECIDIVISM? A QUASI-EXPERIMENTAL TEST IN THE STATE'S SUBURBAN AND UPSTATE REGIONS (FEB. 2024) [attached hereto as Appendix D), available at https://datacollaborativeforjustice.org/work/bail-reform/does-new-yorks-bail-reform-law-impact-recidivism-a-quasi-experimental-test-in-the-states-suburban-and-upstate-regions (last visited Jan. 11, 2025).

[19] *See generally* DON STEMEN & DAVID OLSON, CENTER FOR CRIMINAL JUST. RESEARCH, POLICY, AND PRACTICE, LOYOLA UNIVERSITY, REPORT, DOLLARS AND SENSE IN COOK COUNTY (NOV. 2020), available at https://safetyandjusticechallenge.org/resources/dollars-and-sense-in-cook (last visited Jan. 11, 2025).

[20] *Id.*

[21] CIRCUIT COURT OF COOK COUNTY (ILLINOIS), MODEL BOND COURT DASHBOARD, QUARTERLY REPORTS, Q4 2022 (2022), available at https://www.cookcountycourt.org/court-reports-statistics (last visited Jan. 12, 2025).

[22] *Id.*

[23] Paul G. Cassell & Richard Fowles, *Does Bail Reform Increase Crime? An Empirical Assessment of the Public Safety Implications of Bail Reform in Cook County, Illinois*, 55 WAKE FOREST L. REV. 933, 967-970 (2020). David Jackson et al., *Bail Reform analysis of Cook County chief judge based on flawed data, undercounts new murder charges*, CHI. TRIBUNE (Feb. 13, 2020).

[24] *Id.*

[25] Bernadettte Hogan et al., *Recidivism rates for NYC's burglars and thieves soar amid bail reform: NYPD data*, N.Y. POST (July 28, 2022).

***Our Proposal* - The Commonwealth's Bail Reform Experiment Has Failed. It's Time for a Humane, Workable, and Effective Bail Regime.**

The Working Group proposes these changes to protect the public from crimes of violence by offenders who have open criminal cases or are under judicial supervision. These proposals maintain *some* of the reforms implemented in the 2021 legislation while addressing its deficiencies in relation to public safety. In particular, we propose allowing magistrates to place greater emphasis on assessing the risk to the public if the accused is released pretrial, which includes considering the severity of the pending charges. This narrowly tailored revision would require the judicial officer to weigh the defendant's bond status and the severity of his charges to determine the risk he poses to the public if released. Thus, the judicial officer's task in determining conditions of release or detention would be informed by the traditional two-fold approach that the overwhelming majority of arraignment judges in the United States deploy: (1) the likelihood that the defendant will appear in court when required to be there, and (2) whether he poses a risk to the public if released.

In particular, we propose allowing magistrates to place greater emphasis on assessing the risk to the public if the accused is released pretrial, which includes considering the severity of the pending charges.

All of our recommendations are contained in Appendix B.

Other Jurisdictions Have Begun to Walk Back Their Bail Reform

In response to the "unprecedented crime increases" that bail reform caused in New York, its legislature amended the law on two separate occasions, once in July 2020 and again in April 2022, adding a handful of other offenses that qualify for cash bail and pretrial detention.[26] The Empire State, however, failed to allow judges to consider a defendant's threat to public safety when determining conditions of release. As a result, "bail reform was followed by a significant increase in criminal reoffending," according to data released by the New York State Division of Criminal Justice Services.[27]

Conclusion

Other jurisdictions, including New York, have reformed their criminal justice "reforms"; it is time for Virginia to do the same. Fairfax County data clearly demonstrates that increased recidivism has resulted from not detaining violent repeat offenders from the time of their arrest to their trial or case disposition. While we are not recommending a total walk back of the 2021 bail reforms, we are recommending changes to the 2021 bail legislation that would give magistrates uniform guidance and the necessary tools to detain pretrial repeat offenders who present a clear public safety risk to Virginia residents.

[26] QUINN, *supra* note 11, at 10.
[27] Charles Fain Lehman, *Yes, New York's Bail Reform Has Increased Crime*, CITY J. (Sep. 22, 2022) (analyzing the New York State Department of Criminal Justice Services data on arraignments).

Magistrates need clear and uniform guidance to avoid outcomes that reflect their personal preferences rather than the interests of the communities they serve. These changes will prioritize protecting the community from violence over protecting those who have repeatedly broken the law. Without these changes, the Springfield Criminal Justice Working Group concludes that the trend of recidivism will continue unabated, causing unnecessary suffering for the victims of repeat offenders who benefit from a permissive and unjust bail system. Virginia deserves better.

Appendices

Appendix A – "Redline" of the 2021 General Assembly Bail Reform Changes

Appendix B - Proposed Legislative Change (For Review by Legislative Services)

Appendix C – Released to Rape, Rob, and Kill: Case Examples

APPENDIX A

"Redline" of the 2021 General Assembly Bail Reform Changes

~~2019 Code of Virginia~~
~~Title 19.2 - Criminal Procedure~~
~~Chapter 9 -~~ Article 1. Bail ~~and Recognizances.~~
§ 19.2-119. Definitions.
~~Universal Citation:~~
~~VA Code § 19.2-119 (2019)~~

As used in this chapter:

"Bail" means the pretrial release of a person from custody upon those terms and conditions specified by order of an appropriate judicial officer.
"Bond" means the posting by a person or his surety of a written promise to pay a specific sum, secured or unsecured, ordered by an appropriate judicial officer as a condition of bail to assure performance of the terms and conditions contained in the recognizance.
"Criminal history" means records and data collected by criminal justice agencies or persons consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations or other formal charges, and any deposition arising therefrom.
"Judicial officer" means, unless otherwise indicated, any magistrate serving the jurisdiction, any judge of a district court and the clerk or deputy clerk of any district court or circuit court within their respective cities and counties, any judge of a circuit court, any judge of the Court of Appeals and any justice of the Supreme Court of Virginia.
"Person" means any accused, or any juvenile taken into custody pursuant to § 16.1-246 ~~16.1-246.~~.
"Recognizance" means a signed commitment by a person to appear in court as directed and to adhere to any other terms ordered by an appropriate judicial officer as a condition of bail.

Code 1950, § 19.1-109.1; 1973, c. 485; 1974, c. 114; 1975, c. 495; 1984, c. 703; 1991, c. 581; 1993, c. 636; 1999, cc. 829, 846 ~~829, 846;~~; 2008, cc. 551, 691 ~~551, 691.~~.
~~**Title 19.2 - Criminal Procedure**~~
~~**Chapter 9 - Bail and Recognizances**~~
§ 19.2-120. Admission to bail.
A. Prior to conducting any hearing on the issue of bail, release, or detention, the judicial officer shall, to the extent feasible, obtain the person's criminal history.

~~A~~B. A person who is held in custody pending trial or hearing for an offense, civil or criminal contempt, or otherwise shall be admitted to bail by a judicial officer, unless there is probable cause to believe that:

1. He will not appear for trial or hearing or at such other time and place as may be directed~~,~~; or

2. His liberty will constitute an unreasonable danger to himself, family or household members as defined in § 16.1-228, or the public.

~~B.~~C. In making a determination under subsection B, the judicial officer shall ~~presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is currently charged with:~~

~~1. An act of violence as defined in § 19.2-297.1;~~

~~2. An offense for which the maximum sentence is life imprisonment or death;~~

~~3. A violation of § 18.2-248, 18.2-248.01, 18.2-255, or 18.2-255.2 involving a Schedule I or II controlled substance if (i) the maximum term of imprisonment is 10 years or more and the person was previously convicted of a like offense or (ii) the person was previously convicted as a "drug kingpin" as defined in § 18.2-248;~~

~~4. A violation of § 18.2-308.1, 18.2-308.2, or 18.2-308.4 and which relates to a firearm and provides for a mandatory minimum sentence;~~

~~5. Any felony, if the person has been convicted of two or more offenses described in subdivision 1 or 2, whether under the laws of the Commonwealth or substantially similar laws of the United States;~~

~~6. Any felony committed while the person is on release pending trial for a prior felony under federal or state law or on release pending imposition or execution of sentence or appeal of sentence or conviction;~~

~~7. An offense listed in subsection B of § 18.2-67.5:2 and the person had previously been convicted of an offense listed in § 18.2-67.5:2 or a substantially similar offense under the laws of any state or the United States and the judicial officer finds probable cause to believe that the person who is currently charged with one of these offenses committed the offense charged;~~

~~8. A violation of § 18.2-374.1 or 18.2-374.3 where the offender has reason to believe that the solicited person is under 15 years of age and the offender is at least five years older than the solicited person;~~

~~9. A violation of § 18.2-46.2, 18.2-46.3, 18.2-46.5, or 18.2-46.7;~~

~~10. A violation of § 18.2-36.1, 18.2-51.4, 18.2-266, or 46.2-341.24 and the person has, within the past five years of the instant offense, been convicted three times on different dates of a violation of any combination of these Code sections, or any ordinance of any county, city, or town or the laws of any other state or of the United States substantially similar thereto, and has been at liberty between each conviction;~~

~~11. A second or subsequent violation of § 16.1-253.2 or 18.2-60.4 or a substantially similar offense under the laws of any state or the United States;~~

~~12. A violation of subsection B of § 18.2-57.2;~~

~~13. A violation of subsection C of § 18.2-460 charging the use of threats of bodily harm or force to knowingly attempt to intimidate or impede a witness;~~

~~14. A violation of § 18.2-51.6 if the alleged victim is a family or household member as defined in § 16.1-228; or~~

~~15. A violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1.~~

~~C. The judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is being arrested pursuant to § 19.2-81.6.~~

~~D. A judicial officer who is a magistrate, clerk, or deputy clerk of a district court or circuit court may not admit to bail, that is not set by a judge, any person who is charged with an offense giving rise to a rebuttable presumption against bail as set out in subsection B or C without the concurrence of an attorney for the Commonwealth. For a person who is charged with an offense giving rise to a rebuttable presumption against bail, any judge may set or admit such person to bail in accordance with this section after notice and an opportunity to be heard has been provided to the attorney for the Commonwealth.~~

~~E. The court shall~~ consider ~~the following factors and such others as it deems appropriate in determining, for the purpose of rebuttal of the presumption against bail described in subsection B, whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of the public:~~
~~1. The~~ all relevant information, including (i) the nature and circumstances of the offense ~~charged;~~
~~2.~~; (ii) whether a firearm is alleged to have been used in the commission of the offense; (iii) the weight of the evidence; (iv) the history ~~and characteristics~~ of the ~~person~~accused or juvenile, including his ~~character, physical and mental condition,~~ family ties~~,~~ or involvement in employment, ~~financial resources,~~education, or medical, mental health, or substance abuse treatment; (v) his length of residence in, or other ties to, the community~~, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, membership in a criminal street gang as defined in § 18.2-46.1, and~~; (vi) his record ~~concerning~~of convictions; (vii) his appearance at court proceedings or flight to avoid prosecution or convictions for failure to appear at court proceedings; and (viii) whether the person is likely to obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness, juror, victim, or family or household member as defined in § 16.1-228~~; and~~.

D. A judicial officer who admits a person to bail who is charged with an act of violence as defined in § 19.2-297.1~~3. The nature and seriousness of the danger to any person or the community that would be posed by the person's release.~~

~~F~~ shall notify the attorney for the Commonwealth for the jurisdiction in which such person's case is filed contemporaneously with such person's grant of bail or release. Notice to the attorney for the Commonwealth may be made by facsimile or other electronic means.

E. The judicial officer shall inform the person of his right to appeal from the order denying bail or fixing terms of bond or recognizance consistent with § 19.2-124 ~~19.2-124.~~

~~G~~F. If the judicial officer sets a secured bond and the person engages the services of a licensed bail bondsman, the magistrate executing recognizance for the accused shall provide the bondsman, upon request, with a copy of the person's Virginia criminal history record, if readily available, to be used by the bondsman only to determine appropriate reporting requirements to impose upon the accused upon his release. The bondsman shall pay a $15 fee payable to the state treasury to be credited to the Literary

Fund, upon requesting the defendant's Virginia criminal history record issued pursuant to § 19.2-389 ~~19.2-389.~~ The bondsman shall review the record on the premises and promptly return the record to the magistrate after reviewing it.
1975, c. 495; 1978, c. 755; 1979, c. 649; 1987, c. 390; 1991, c. 581; 1993, c. 636; 1996, c. 973 ~~973;~~; 1997, cc. 6, 476 ~~6, 476;~~; 1999, cc. 829, 846 ~~829, 846;~~; 2000, c. 797 ~~797;~~; 2002, cc. 588, 623 ~~588, 623;~~; 2004, cc. 308, 360, 406, 412, 461, 819, 954, 959 ~~308, 360, 406, 412, 461, 819, 954, 959;~~; 2005, c. 132 ~~132;~~; 2006, c. 504 ~~504;~~; 2007, cc. 134, 386, 745, 923 ~~134, 386, 745, 923;~~; 2008, c. 596 ~~596;~~; 2010, c. 862 ~~862;~~; 2011, cc. 445, 450, 480 ~~445, 450, 480;~~; 2012, c. 467 ~~467;~~; 2015, c. 413 ~~413;~~; 2018, c. 71; 2020, c. 999; 2021, Sp. Sess. I, cc. 337, 344, 345, 523, 540; 2024, c. 243 ~~71.~~.

§ 19.2-120.1. Repealed.

~~A. In addition to the presumption against the admission to bail under subsection B of § 19.2-120, the judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if (i) the person is currently charged with an offense listed in subsection A of § 19.2-297.1, subsection C of § 17.1-805, any offense under Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 except any offense under subsection A of § 18.2-57.2, any felony offense under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or any offense under Article 2 (§ 18.2-266 et seq.), or any local ordinance substantially similar thereto, 4 (§ 18.2-279 et seq.), 5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), 6.1 (§ 18.2-307.1 et seq.), or 7 (§ 18.2-308.1 et seq.) of Chapter 7 of Title 18.2, and (ii) **the person has been identified as being illegally present** in the United States by United States Immigration and Customs Enforcement.~~

~~B. Notwithstanding subsection A, no presumption shall exist under this section as to any misdemeanor offense, or any felony offense under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, unless United States Immigration and Customs Enforcement has guaranteed that, in all such cases in the Commonwealth, it will issue a detainer for the initiation of removal proceedings and agree to reimburse for the cost of incarceration from the time of the issuance of the detainer.~~
~~2008, cc. 469, 834; 2013, c. 746.~~

~~**2019 Code of Virginia**~~
~~**Title 19.2 - Criminal Procedure**~~
~~**Chapter 9 - Bail and Recognizances**~~
~~**§ 19.2-121.**~~, cl. 2, effective July 1, 2021.
§ 19.2-121. Fixing terms of bail.

A. If the person is admitted to bail, the terms thereof shall be such as, in the judgment of any official granting or reconsidering the same, will be reasonably fixed to ~~assure~~ensure the appearance of the accused and to ~~assure~~ensure his good behavior pending trial. The judicial officer shall take into account (i) the nature and circumstances of the offense; (ii) whether a firearm is alleged to have been used in the offense; (iii) the weight of the evidence; (iv) the financial resources of the accused or juvenile and his ability to pay bond; (v) the character of the accused or juvenile including his family ties, employment or involvement in education; (vi) his length of residence in the community; (vii) his

record of convictions; (viii) his appearance at court proceedings or flight to avoid prosecution or failure to appear at court proceedings; (ix) whether the person is likely to obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness, juror, or victim; and (x) any other information available which the court considers relevant to the determination of whether the accused or juvenile is unlikely to appear for court proceedings.

B. When a magistrate conducts a bail hearing for a person arrested on a warrant or capias for a jailable offense, the magistrate shall describe the information considered under subsection A on a form provided by the Executive Secretary of the Supreme Court and shall transmit the completed form to the circuit court or district court before which the warrant or capias is returnable, and if such jailable offense is an act of violence as defined in § 19.2-297.1, then such magistrate shall transmit within 24 hours a copy of the completed form to the attorney for the Commonwealth for the jurisdiction where the warrant or capias is returnable. Transmission of such copy to the attorney for the Commonwealth may be by facsimile or other electronic means.

C. In any case where the accused has appeared and otherwise met the conditions of bail, no bond therefor shall be used to satisfy fines and costs unless agreed to by the person who posted such bond.

1975, c. 495; 1978, c. 755; 1980, c. 190; 1991, c. 581; 1992, c. 576; 1993, c. 636; 1999, cc. 829, 846 ~~829, 846;~~; 2019, c. 176; 2022, cc. 47, 48 ~~176.~~

§ 19.2-122. Repealed.

Repealed by Acts 1986, c. 327.

~~§ 19.2-123.~~§ 19.2-123. Release of accused on secured or unsecured bond or promise to appear; conditions of release.

A. Any person arrested for a felony who has previously been convicted of a felony, or who is presently on bond for an unrelated arrest in any jurisdiction, or who is on probation or parole, may be released only upon a secure bond. This provision may be waived with the approval of the judicial officer and with the concurrence of the attorney for the Commonwealth or the attorney for the county, city or town. Subject to the foregoing, when a person is arrested for either a felony or a misdemeanor, any judicial officer may impose any one or any combination of the following conditions of release:

1. Place the person in the custody and supervision of a designated person, organization or pretrial services agency which, for the purposes of this section, shall not include a court services unit established pursuant to § 16.1-233 ~~16.1-233;~~;

2. Place restrictions on the travel, association or place of abode of the person during the period of release and restrict contacts with household members for a specified period of time;

2a. Require the execution of an unsecured bond;

3. Require the execution of a secure bond which at the option of the accused shall be satisfied with sufficient solvent sureties, or the deposit of cash in lieu thereof. Only the actual value of any interest in real estate or personal property owned by the proposed surety shall be considered in determining solvency and solvency shall be found if the

value of the proposed surety's equity in the real estate or personal property equals or exceeds the amount of the bond;
3a. Require that the person do any or all of the following: (i) maintain employment or, if unemployed, actively seek employment; (ii) maintain or commence an educational program; (iii) avoid all contact with an alleged victim of the crime and with any potential witness who may testify concerning the offense; (iv) comply with a specified curfew; (v) refrain from possessing a firearm, destructive device, or other dangerous weapon; (vi) refrain from excessive use of alcohol, or use of any illegal drug or any controlled substance not prescribed by a health care provider; and (vii) submit to testing for drugs and alcohol until the final disposition of his case;
3b. Place a prohibition on a person who holds an elected constitutional office and who is accused of a felony arising from the performance of his duties from physically returning to his constitutional office;
3c. Require the accused to accompany the arresting officer to the jurisdiction's fingerprinting facility and submit to having his photograph and fingerprints taken prior to release; or
4. Impose any other condition deemed reasonably necessary to assure appearance as required, and to assure his good behavior pending trial, including a condition requiring that the person return to custody after specified hours or be placed on home electronic incarceration pursuant to § 53.1-131.2 ~~53.1-131.2~~ or, when the person is required to execute a secured bond, be subject to monitoring by a GPS (Global Positioning System) tracking device, or other similar device. The defendant may be ordered by the court to pay the cost of the device.

Upon satisfaction of the terms of recognizance, the accused shall be released forthwith. In addition, where the accused is an individual receiving services in a state training center for individuals with intellectual disability, the judicial officer may place the individual in the custody of the director of the training center, if the director agrees to accept custody. The director is hereby authorized to take custody of the individual and to maintain him at the training center prior to a trial or hearing under such circumstances as will reasonably assure the appearance of the accused for the trial or hearing.

B. In any jurisdiction served by a pretrial services agency which offers a drug or alcohol screening or testing program approved for the purposes of this subsection by the chief general district court judge, any such person charged with a crime may be requested by such agency to give voluntarily a urine sample, submit to a drug or alcohol screening, or take a breath test for presence of alcohol. A sample may be analyzed for the presence of phencyclidine (PCP), barbiturates, cocaine, opiates or such other drugs as the agency may deem appropriate prior to any hearing to establish bail. The judicial officer and agency shall inform the accused or juvenile being screened or tested that test results shall be used by a judicial officer only at a bail hearing and only to determine appropriate conditions of release or to reconsider the conditions of bail at a subsequent hearing. All screening or test results, and any pretrial investigation report containing the screening or test results, shall be confidential with access thereto limited to judicial officers, the attorney for the Commonwealth, defense counsel, other pretrial service agencies, any criminal justice agency as defined in § 9.1-101 ~~9.1-101~~ and, in cases where

a juvenile is screened or tested, the parents or legal guardian or custodian of such juvenile. However, in no event shall the judicial officer have access to any screening or test result prior to making a bail release determination or to determining the amount of bond, if any. Following this determination, the judicial officer shall consider the screening or test results and the screening or testing agency's report and accompanying recommendations, if any, in setting appropriate conditions of release. In no event shall a decision regarding a release determination be subject to reversal on the sole basis of such screening or test results. Any accused or juvenile whose urine sample has tested positive for such drugs and who is admitted to bail may, as a condition of release, be ordered to refrain from use of alcohol or illegal drugs and may be required to be tested on a periodic basis until final disposition of his case to ensure his compliance with the order. Sanctions for a violation of any condition of release, which violations shall include subsequent positive drug or alcohol test results or failure to report as ordered for testing, may be imposed in the discretion of the judicial officer and may include imposition of more stringent conditions of release, contempt of court proceedings ~~or revocation of release.~~, or revocation of release. Any report of a violation of any pretrial condition of release provided to the court shall be sent by the pretrial services agency to the attorney for the Commonwealth and the counsel of record for the accused or juvenile, or directly to the accused or juvenile if such person is not represented by counsel. Any test given under the provisions of this subsection which yields a positive drug or alcohol test result shall be reconfirmed by a second test if the person tested denies or contests the initial drug or alcohol test positive result. The results of any drug or alcohol test conducted pursuant to this subsection shall not be admissible in any judicial proceeding other than for the imposition of sanctions for a violation of a condition of release.

C. [Repealed.]

D. Nothing in this section shall be construed to prevent an officer taking a juvenile into custody from releasing that juvenile pursuant to § 16.1-247 ~~16.1-247.~~. If any condition of release imposed under the provisions of this section is violated, a judicial officer may issue a capias or order to show cause why the recognizance should not be revoked.

E. Nothing in this section shall be construed to prevent a court from imposing a recognizance or bond designed to secure a spousal or child support obligation pursuant to § 16.1-278.16 ~~16.1-278.16,~~ Chapter 5 (§ 20-61 ~~20-61~~ et seq.) of Title 20, or § 20-114 ~~20-114~~ in addition to any recognizance or bond imposed pursuant to this chapter.

Code 1950, § 19.1-109.2; 1973, c. 485; 1975, c. 495; 1978, cc. 500, 755; 1979, c. 518; 1981, c. 528; 1984, c. 707; 1989, c. 369; 1991, cc. 483, 512, 581, 585; 1992, c. 576; 1993, c. 636; 1999, cc. 829, 846 ~~829, 846;~~; 2000, cc. 885, 1020, 1041 ~~885, 1020, 1041;~~; 2001, c. 201 ~~201;~~; 2006, c. 296 ~~296;~~; 2008, cc. 129, 884 ~~129, 884;~~; 2011, cc. 799, 837 ~~799, 837;~~; 2012, cc. 476, 507 ~~476, 507;~~; 2013, c. 614 ~~614;~~; 2014, c. 466; 2024, c. 74 ~~466.~~.

A. If a judicial officer denies bail to a person, requires excessive bond, or fixes unreasonable terms of a recognizance under this article, the person may appeal the decision of the judicial officer.

If the initial bail decision on a charge brought by a warrant or district court capias is made by a magistrate, clerk, or deputy clerk, the person shall first appeal to the district court in which the case is pending.

If the initial bail decision on a charge brought by direct indictment or presentment or circuit court capias is made by a magistrate, clerk, or deputy clerk, the person shall first appeal to the circuit court in which the case is pending.
If the appeal of an initial bail decision is taken on any charge originally pending in a district court after that charge has been appealed, certified, or transferred to a circuit court, the person shall first appeal to the circuit court in which the case is pending.
Any bail decision made by a judge of a court may be appealed successively by the person to the next higher court, up to and including the Supreme Court of Virginia, where permitted by law.
The bail decision of the higher court on such appeal, unless the higher court orders otherwise, shall be remanded to the court in which the case is pending for enforcement and modification. The court in which the case is pending shall not modify the bail decision of the higher court, except upon a change in the circumstances subsequent to the decision of the higher court.

B. The attorney for the Commonwealth may appeal a bail, bond, or recognizance decision to the same court to which the accused person is required to appeal under subsection A.

C. ~~In a matter not governed by subsection B or C of § 19.2-120 or § 19.2-120.1,~~ The court granting or denying such bail may, upon appeal thereof, and for good cause shown, stay execution of such order for so long as reasonably practicable for the party to obtain an expedited hearing before the next higher court. ~~When a district court grants bail over the presumption against bail in a matter that is governed by subsection B or C of § 19.2-120 or § 19.2-120.1, and upon notice by the Commonwealth of its appeal of the court's decision, the court shall stay execution of such order for so long as reasonably practical for the Commonwealth to obtain an expedited hearing before the circuit court, but in no event more than five days, unless the defendant requests a hearing date outside the five-day limit.~~
No such stay under this subsection may be granted after any person who has been granted bail has been released from custody on such bail.

D. No filing or service fees shall be assessed or collected for any appeal taken pursuant to this section.

Code 1950, §§ 19.1-109.3, 19.1-112; 1960, c. 366; 1973, cc. 130, 485; 1975, c. 495; 1978, c. 755; 1984, c. 703; 1991, c. 581; 1999, cc. 829, 846 ~~829, 846;~~; 2007, cc. 462, 549 ~~462, 549;~~; 2010, cc. 404, 592 ~~404, 592;~~; 2013, cc. 408, 474 ~~408, 474;~~; 2016, c. 621 ~~621;~~; 2019, c. 616; 2021, Sp. Sess. I, c. 337 ~~616.~~.

~~**2019 Code of Virginia**~~
~~**Title 19.2 - Criminal Procedure**~~
~~**Chapter 9 - Bail and Recognizances**~~

§ 19.2-125. Release pending appeal from conviction in court not of record.

A person who has been convicted of an offense in a district court and who has noted an appeal shall be given credit for any bond that he may have posted in the court from which he appeals and shall be treated in accordance with the provisions of this article.

Code 1950, § 19.1-109.4; 1973, c. 485; 1975, c. 495; 1978, c. 755; 1999, cc. 829, 846 ~~829, 846.~~

§ 19.2-126. Repealed.

Repealed by Acts 1999, cc. 829 ~~829~~ and 846 ~~846.~~

~~**2019 Code of Virginia**~~
~~**Title 19.2 - Criminal Procedure**~~
~~**Chapter 9 - Bail and Recognizances**~~
~~**§ 19.2-127.**~~**§ 19.2-127. Conditions of release of material witness.**

If it appears by affidavit that the testimony of a person is material in any criminal proceeding, and it reasonably appears that it will be impossible to secure his presence by a subpoena, a judge shall inquire into the conditions of his release pursuant to this article.

Code 1950, § 19.1-109.6; 1973, c. 485; 1975, c. 495; 1999, cc. 829, 846 ~~829, 846.~~

§ 19.2-128. Penalties for failure to appear.

A. Whoever, having been released pursuant to this chapter or § 19.2-319 ~~19.2-319~~ or on a summons pursuant to § 19.2-73 ~~19.2-73~~ or 19.2-74 ~~§ 19.2-74,~~ willfully fails to appear before any court or judicial officer as required, shall, after notice to all interested parties, incur a forfeiture of any security ~~which~~that may have been given or pledged for his release, unless one of the parties can show good cause for excusing the absence, or unless the court, in its sound discretion, shall determine that neither the interests of justice nor the power of the court to conduct orderly proceedings will be served by such forfeiture.

B. Any person (i) charged with a felony offense or (ii) convicted of a felony offense and execution of sentence is suspended pursuant to § 19.2-319 ~~19.2-319~~ who willfully fails to appear before any court as required ~~shall be~~is guilty of a Class 6 felony.

C. Any person (i) charged with a misdemeanor offense or (ii) convicted of a misdemeanor offense and execution of sentence is suspended pursuant to § 19.2-319 ~~19.2-319~~ who willfully fails to appear before any court as required ~~shall be~~is guilty of a Class 1 misdemeanor.

D. The provisions of this section shall not apply to any person who is (i) incarcerated in any correctional facility or (ii) (a) detained in any state or federal facility or (b) in the custody of a law-enforcement officer at the time such person is required to appear before any court or judicial officer.

Code 1950, § 19.1-109.7; 1973, c. 485; 1975, c. 495; 1981, c. 382; 1982, c. 271; 1999, c. 821; 2024, c. 109 ~~821.~~

§ 19.2-129. Power of court to punish for contempt.

Nothing in this chapter shall interfere with or prevent the exercise by any court of the Commonwealth of its power to punish for contempt, except that a person shall not be sentenced for contempt and under the provisions of § 19.2-128 ~~19.2-128~~ for the same absence.

Code 1950, § 19.1-109.8; 1973, c. 485; 1975, c. 495.

§ 19.2-130. Bail in subsequent proceeding arising out of initial arrest.
A. Any person admitted to bail by a judge or clerk of a district court or by a magistrate shall not be required to be admitted to bail in any subsequent proceeding arising out of the initial arrest unless the court having jurisdiction of such subsequent proceeding deems the initial amount of bond or security taken inadequate. When the court having jurisdiction of the proceeding believes the amount of bond or security inadequate or excessive, it may change the amount of such bond or security, require new and additional sureties, or set other terms of bail as are appropriate to the case, including, but not limited to, drug and alcohol monitoring. The court may, after notice to the parties, initiate a proceeding to alter the terms and conditions of bail on its own motion.

B. Any motion to alter the terms and conditions of bail where the initial bail decision is made by a judge or clerk of a district court or by a magistrate on any charge originally pending in that district court shall be filed in that district court unless (i) a bail decision is on appeal, (ii) such charge has been transferred pursuant to § 16.1-269.1 ~~16.1-269.1~~ to a circuit court, or (iii) such charge has been certified by a district court.
Code 1950, § 19.1-111.1; 1972, c. 366; 1975, c. 495; 1978, c. 755; 1991, c. 581; 2008, cc. 363, 812 ~~363, 812;~~; 2019, c. 616 ~~616.~~.

§ 19.2-130.1. Bail terms set by court on a capias to be honored by magistrate.
A magistrate who is to set the terms of bail of a person arrested and brought before him pursuant to § 19.2-234 ~~19.2-234~~ shall, unless circumstances exist that require him to set more restrictive terms, set the terms of bail in accordance with the order of the court that issued the capias, if such an order is affixed to or made a part of the capias by the court.
2010, cc. 312, 375 ~~312, 375;~~; 2011, c. 112 ~~112.~~.

§ 19.2-131. Bail for person held in jurisdiction other than that of trial.
In any case in which a person charged with a misdemeanor or felony, or a juvenile taken into custody pursuant to § 16.1-246 ~~16.1-246~~ is held in some county, city or town other than that in which he is to be tried upon such charge, he may be admitted to bail by any judicial officer of the county, city or town in which he is so held in accordance with the provisions of law concerning the granting of bail in cases in which persons are so admitted to bail, when held in the county, city or town in which they are to be tried. In such case, such judicial officer before whom he is brought may, without trial or examination, let him to bail, upon taking a recognizance for his appearance before the court having cognizance of the case. The fact of taking such recognizance shall be certified by the court or officer taking it upon the warrant under which such person was arrested or taken into custody and the warrant and recognizance shall be returned forthwith to the clerk of the court before whom the accused or juvenile taken into custody pursuant to § 16.1-246 ~~16.1-246~~ is to appear. And to such court, the judicial officer who issued such warrant shall recognize or cause to be summoned such witnesses as he may think proper.
Code 1950, §§ 19.1-118, 19.1-119; 1960, c. 366; 1975, c. 495; 1978, c. 755; 1992, c. 576.

§ 19.2-132. Motion to increase amount of bond fixed by judicial officer; when bond may be increased.

A. If the amount of any bond fixed by a judicial officer is subsequently deemed insufficient, or the security taken inadequate, or if it appears that bail should have been denied or that the person has violated a term or condition of his release, or has been convicted of or arrested for a felony or misdemeanor, the attorney for the Commonwealth of the county or city in which the person is held for trial may, on reasonable notice to the person and, if such person has been admitted to bail, to any surety on the bond of such person, move the appropriate judicial officer to increase the amount of such bond or to revoke bail. The court may grant such motion and may require new or additional sureties therefor, or both, or revoke bail. Any surety in a bond for the appearance of such person may take from his principal collateral or other security to indemnify such surety against liability. The failure to notify the surety will not prohibit the court from proceeding with the bond hearing.

The court ordering any increase in the amount of such bond, ordering new or additional sureties, or both, or revoking such bail may, upon appeal, and for good cause shown, stay execution of such order for so long as reasonably practicable for such person to obtain an expedited hearing before the court to which such order has been appealed.

B. Any motion filed pursuant to subsection A where the initial bail decision is made by a judge or clerk of a district court or by a magistrate on any charge originally pending in that district court shall be filed in that district court unless (i) a bail decision is on appeal, (ii) such charge has been transferred pursuant to § 16.1-269.1 ~~16.1-269.1~~ to a circuit court, or (iii) such charge has been certified by a district court.

Code 1950, § 19.1-120; 1960, c. 366; 1975, c. 495; 1978, c. 755; 1989, c. 519; 1991, c. 581; 1999, cc. 829, 846 ~~829, 846;~~; 2010, cc. 404, 592 ~~404, 592;~~; 2013, cc. 408, 474 ~~408, 474;~~; 2019, c. 616 ~~616.~~.

§ 19.2-132.1. Repealed.

Repealed by Acts 1991, c. 581.

§ 19.2-134. When bail piece to be delivered to accused; form of bail piece.

In all cases in which recognizances, at the suit of the Commonwealth, may have been, or shall hereafter be entered into, it shall be the duty of the clerk of the court in which, or in the clerk's office of which, any recognizance is filed, to deliver to the accused and his sureties upon request, a bail piece, in substance, as follows: "A. B. of the county or city of....., is delivered to bail, unto C. D. of the county or city of....., at the suit of the Commonwealth. Given under my hand, this day of....., in the year....."

Code 1950, § 19.1-123; 1960, c. 366; 1975, c. 495; 1991, c. 581; 1992, c. 576.

§ 19.2-134.1. Collection and reporting of data related to adults charged with a criminal offense punishable by confinement in jail or a term of imprisonment.

A. The Virginia Criminal Sentencing Commission shall, on an annual basis, collect statewide and locality-level data related to all adults charged with any criminal offense punishable by confinement in jail or a term of imprisonment in the Commonwealth. The Virginia Criminal Sentencing Commission may request data and shall be provided such data upon request from (i) every department, division, board, bureau, commission,

authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party, or any political subdivision thereof; (ii) any criminal justice agency as defined in § 9.1-101; and (iii) the clerk of each circuit court. If the statewide Circuit Court Case Management System is used by the circuit court clerk, the Executive Secretary of the Supreme Court shall provide for the transfer of such data upon request of the Virginia Criminal Sentencing Commission. The Virginia Criminal Sentencing Commission shall use the data only for research, evaluation, or statistical purposes and shall ensure the confidentiality and security of the data.

B. The Virginia Criminal Sentencing Commission shall collect data as necessary to report on the following:
1. Information about the individual charged, including sex, race, year of birth, and residential zip code;
2. The type of charging document, including summons, warrant, direct indictment, or any other charging document;
3. Information related to the offense or offenses with which the individual was charged, including (i) the date on which the individual was charged; (ii) the total number of charges; (iii) the Code section or county, city, or town ordinance under which the charge was issued; (iv) whether the charge was a felony, misdemeanor, or other type of offense; and (v) the classification of each such felony, misdemeanor, or other type of offense;
4. Whether, at the time the individual was charged, that individual was a named defendant in any pending criminal proceeding in the Commonwealth;
5. Whether, at the time the individual was charged, that individual was under the supervision of the Department of Corrections, any local community-based probation agency, or any pretrial services agency;
6. Whether, at the time the individual was charged, that individual's criminal history record included any charges or convictions for failure to appear within the Commonwealth, and if so, the date of such charge or conviction;
7. Whether, at the time the individual was charged, that individual's criminal history record included any conviction for any criminal offense committed within the Commonwealth, and if so, the offense for which that individual was convicted and the date of such conviction;
8. Whether, at the time the individual was charged, that individual's criminal history record included any convictions for which the individual was ordered to serve an active term of incarceration;
9. Information related to the individual's detention status at the time of the charge and any changes to the individual's detention status prior to the final disposition of the charge, including whether that individual was released on a summons, denied bail, or admitted to bail, and if admitted to bail, the date of release from custody;
10. For those individuals who were detained at the time of the charge, information related to the conditions of bail and the bond initially ordered on the charge, including (i) whether bail was denied, (ii) whether the bond was secured or unsecured, and (iii) all monetary amounts set on the bond;
11. For those individuals admitted to bail prior to the final disposition of the charge, whenever available, information related to the conditions of bail and the bond at the time that individual was admitted to bail, including (i) whether the bond was secured or unsecured, (ii) all monetary amounts set on the bond, (iii) whether that individual was

ordered to be supervised by a pretrial services agency, and (iv) whether that individual utilized the services of a bail bondsman;
12. Whether the individual was charged with failure to appear in the Commonwealth prior to the final disposition of the charge, and if so, the date on which the failure to appear was alleged to have occurred and whether the individual was convicted of the charge of failure to appear;
13. Whether the individual was charged with any other criminal offense punishable by confinement in jail or a term of imprisonment in the Commonwealth prior to the final disposition of the charge, and if so, the offense for which the individual was charged, the date of the offense, the date of arrest, and whether the individual was convicted of the offense;
14. Information related to the final disposition of the charge, including (i) the date of final disposition; (ii) whether the charge resulted in a conviction, dismissal, entry of a nolle prosequi, finding of not guilty, or other disposition; (iii) whether the individual was sentenced to a term of incarceration for such charge, and if so, the length of such term of incarceration and the length of time that the individual was incarcerated for such charge; (iv) whether the individual was placed under the supervision of the Department of Corrections; and (v) when available, whether the individual was placed under the supervision of any local community-based probation agency for such charge;
15. Whether the individual was represented by a public defender or court-appointed attorney on the charge at the time of the final disposition of the case; and
16. Any other data deemed relevant and reliable by the Virginia Criminal Sentencing Commission.

C. The Virginia Criminal Sentencing Commission shall submit an annual report on the statewide and locality-level data collected pursuant to this section on or before December 1 to the General Assembly, the Governor, and the Office of the Executive Secretary of the Supreme Court of Virginia. Such report may include recommendations related to the collection of data.

D. The Virginia Criminal Sentencing Commission shall annually make the statewide and locality-level data collected pursuant to this section publicly available on a website established and maintained by the Virginia Criminal Sentencing Commission on or before December 1. The data shall be made available as (i) an electronic dataset, excluding any personal and case identifying information, that may be downloaded by members of the public and (ii) an electronic interactive data dashboard tool that displays aggregated data based on characteristics or indicators selected by the user. The Virginia Criminal Sentencing Commission shall not be required to provide electronic data in a format not regularly used by the agency. Data containing any personal or case identifying information shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) and shall not be made publicly available.
E. Nothing in this section shall require any (i) department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party, or any political subdivision thereof; (ii) criminal justice agency as defined in § 9.1-101; or (iii) clerk of circuit court to provide data to the Virginia Criminal Sentencing Commission if the requested data is not regularly maintained by

such entity or if such data is prohibited from such disclosure under any other law or under the Virginia Rules of Professional Conduct.
2021, Sp. Sess. I, cc. 111, 112.

APPENDIX B

Proposed Legislative Change (For Review by Legislative Services)

§ 19.2-120. Admission to bail.

A. Prior to conducting any hearing on the issue of bail, release, or detention, the judicial officer shall, to the extent feasible, obtain the person's criminal history.
B. A person who is held in custody pending trial or hearing for an offense, civil or criminal contempt, or otherwise shall be admitted to bail by a judicial officer, unless there is probable cause to believe that:
1. He will not appear for trial or hearing or at such other time and place as may be directed; or
2. His liberty will constitute a danger to the victim, himself, family, household members as defined in § 16.1-228, or the public at large.

Or

3. He has prior convictions for a crime of violence. Crimes of violence includes, but are not limited to the following crimes, attempted crimes, and conspiracy to commit the following or similar crimes in Virginia or another jurisdiction:

1. Murder (Homicide) §§ 18.2-30 – 18.2-37
2. Rape (Criminal Sexual Assault) §§ 18.2-61 – 18.2-67
3. Sex Offenses Against Minors. 18.2-
4. Kidnapping/Abduction (Kidnapping and related offenses) §§ 18.2-47 – 18.2-50
5. Robbery (and Extortion) §§ 18.2-58 – 18.2-60
6. Burglary (statutory and common law) (and related offenses) §§ 18.2-89 – 18.2-94
7. Assaults and Bodily Wounding ((including malicious wounding, strangulation, domestic assaults) §§ 18.2-51 – 18.2-57
8. Arson and related crimes 18.2-77 – 18.2-88
9. Gang or mob offenses §§ 18.2-38 – 18.2-46

4. He is under the jurisdiction of a court for an open criminal case and is charged with a felony offense in Virginia or an equivalent case in another jurisdiction, while at liberty, either on bail or on his own recognizance.

APPENDIX C

Released to Rape, Rob, & Kill: Case Examples

MURDER

Peter Lollobrigido (Sterling, Virginia)[1]

Previous Charge(s): Strangulation, domestic assault of his wife (July 2021)
- Released on $4,000 unsecured bond (July 2021)

New Charge: Murder (September 2021)

Three weeks after Virginia's bail changes took effect, Lollobrigido violently assaulted and strangled his wife. Despite community corrections recommending against release, judge granted $4,000 unsecured bond and GPS monitoring. On September 19, 2021, Lollobrigido beat his wife to death with a hammer and pleaded guilty to murder in June 2024.

Kevin Alexander Lemus (Annandale, Virginia)[2]

Previous Charge(s): illegal gun possession and narcotics (April 2022); narcotics (May 2022)
- Released on recognizance (May 2022)

New Charge: Murder (September 2022)

Despite over 80 previous police encounters including "numerous serious contacts" as a juvenile, 18-year-old Lemus was released on personal recognizance for gun and drug charges on April 20, 2022 and released again for new drug charges on May 25th. In September 2022, Lemus allegedly shot and killed 19-year-old Darlin Ariel Diaz Flores in Annadale.

Maldin Anibal Guzman (Oakton, Virginia)[3]

[1] https://www.nbcwashington.com/news/local/man-charged-in-loudoun-county-hammer-attack-case-pleads-guilty-to-killing-estranged-wife/3651591/
https://www.loudountimes.com/news/man-charged-with-murdering-wife-was-awaiting-trial-in-domestic-abuse-case/article_0ab4b2ac-21f0-11ec-ba3e-9fb156587530.html

[2] Virginia Judiciary Case Search, Online Case Information System, https://eapps.courts.state.va.us/ocis/landing; Accessed September 28, 2024; https://www.ffxnow.com/2022/09/21/teen-arrested-in-fatal-woodlawn-shooting-has-earlier-felony-charges/

[3] Virginia Judiciary Case Search, Online Case Information System, https://eapps.courts.state.va.us/ocis/landing; Accessed September 28, 2024; Jimmy Henderson, "Recent crimes again raise concerns about county's sanctuary policy," Fairfax County Times, December 5, 2024, https://www.fairfaxtimes.com/articles/fairfax_county/recent-crimes-again-raise-concerns-about-county-s-sanctuary-policy/article_237e17fc-5b3a-11ef-b659-d368a63c62b7.html;

Previous Charge(s): Malicious Woundings (March 2023, June 2023), 22 charges in 2 years
Released on recognizance (June 2023)
New Charge: Murder as "MOB: Malicious Wounding" (July 2024)

After being charged with Malicious Wounding on June 27, 2023, Guzman was released on recognizance despite prior assault (October 2022) and two separate attempted malicious wounding charges (March 5th and 11th 2023). On July 19, 2024, Guzman allegedly beat a homeless man to death outside a convenience store.

Chante Antonio Jones (Hybla Valley, Virginia)[4]

Previous Charge(s): Aggravated assault prior violent/sexual felony convictions
Released on recognizance (October 2021);
New Charge: Murder (June 2022)

A repeat violent offender whose probation had been revoked two weeks before, Jones committed a violent assault in October 2021 and was released on recognizance. On June 17, 2022, Jones beat a 63-year-old woman to death at a bus stop in the Hybla Valley area. Jones' previous charges include robbery, assault, indecent exposure, and numerous probation violations.

RAPE

Kevin Lopez-Altan (Annadale, Virginia)[5]

Previous Charge(s): Assault on law enforcement, 9 prior felony charges, 2 prior bail violations

- Released on recognizance (October 2023)

New Charge: 2 counts rape, 1 count attempted rape (March 2024)

Lopez-Altan is accused of violently raping two women and attempting a third rape in March 2024.
Despite long violent criminal history including a Malicious Wounding (2019), 10 assault charges, 2 bail violations, he was most recently released on recognizance in October 2023 after assaulting and attempting to disarm law enforcement.

[4] Virginia Judiciary Case Search, Online Case Information System, https://eapps.courts.state.va.us/ocis/landing; Accessed September 28, 2024; https://fcpdnews.wordpress.com/2022/06/28/man-arrested-for-june-17-deadly-assault/ https://www.nbcwashington.com/news/local/northern-virginia/woman-dies-after-found-assaulted-at-fairfax-county-bus-stop-michelle-huntley/3086736/ https://freebeacon.com/democrats/soros-prosecutor-freed-violent-offender-now-charged-with-killing-homeless-woman/

[5] https://wjla.com/news/local/fairfax-county-sexual-assault-suspect-dozens-of-prior-charges-dropped-criminal-history-kevin-lopez-altan-crime-arrest-virginia-prosecutor

Yeudy Chavez Sandoval (Springfield, Virginia)[6]

Previous Charge(s): DWI/ No Driver's License (April 2023) Reckless Driving (July 2022)

- Released on recognizance/summons (April 2023)

New Charge: Rape, Malicious Wounding, Sex Assault by Object (August 2023)

Sandoval was previously arrested for no driver's license (August 2021), reckless driving (July 2022), and DWI (April 23, 2023) and was released each time. On August 25, 2023, he allegedly lured a woman into an apartment, pushed her downstairs and raped her. He was still granted bond and released, then skipped bail before he was again arrested in April 2024.

Jaquan Deandre Royal (Alexandria, Virginia)[7]

Previous Charge(s): Bank Robbery (May 2022), repeat felon out on bond

- Released on recognizance: May 26, 2022

New Charge(s): Malicious Wounding, Carjacking, 3 bank robberies, burglary, grand theft

A convicted armed robber out on bond for a 2020 Arlington carjacking, Royal was released on recognizance by a Fairfax magistrate in May 2022, then allegedly went on a violent crime spree across Northern Virginia: burglary/theft (December 14, 2022), a shooting (December 23, 2022), and three bank robberies in Arlington and Alexandria (March and April 2023).

OTHER – REVOLVING DOOR

Selyin Cruz Oliva (Fairfax County, Virginia)[8]

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[6] Virginia Judiciary Case Search, Online Case Information System, https://eapps.courts.state.va.us/ocis/landing; Accessed September 28, 2024; https://www.fox5dc.com/news/fairfax-county-man-charged-with-rape-malicious-wounding-after-attacking-woman-he-met-online-police https://wjla.com/news/local/fairfax-county-rape-arrest-kingstowne-victim-malicious-wounding-escape-call-911-pushed-stairs-injuries-sexual-assault-detectives-online-dating-apps-suspect-charges-investigation-fcpd-virginia-crime https://fcpdnews.wordpress.com/2023/08/28/detectives-arrest-man-responsible-for-malicious-sexual-assault/ https://eapps.courts.state.va.us/ocis/search https://vinelink.vineapps.com/person-detail/offender/38415331;tabIndexToSelect=0

[7] https://casesearch.courts.state.md.us/casesearch/inquiryDetail.jis?caseId=CT160077X&loc=65&detailLoc=ODYCRIM https://dailyvoice.com/virginia/alexandria/police-fire/police-make-bust-in-alexandria-bank-robbery-cas/833504/ https://www.arlingtonva.us/About-Arlington/Newsroom/Articles/2023/Police-Announce-Arrest-of-Bank-Robbery-Suspect https://www.arlnow.com/2023/04/05/new-man-arrested-for-columbia-pike-bank-robbery/

[8] Virginia Judiciary Case Search, Online Case Information System, https://eapps.courts.state.va.us/ocis/landing; Accessed September 28, 2024

Previous Charge(s): 10 Arrests in 2 months: trespassing, drugs, fleeing police (March-May 2024)
Released on recognizance (May 7, 2024)
New Charge: Possession of Schedule I or II drugs (narcotics) and trespassing (May 11, 2024)

From March 20, 2024 to May 11, 2024, Oliva was arrested over a dozen times for charges including possession of narcotics, vandalism, theft, and fleeing from law enforcement and released on recognizance each time.