

Chapter 4. Crimes Against the Person

Article 1: Homicide

18.2-36 How involuntary manslaughter punished

18.2-36.1 Certain conduct punishable as involuntary manslaughter

-Section A (DUI related so long as not aggravated) excluded

-Section B (aggravated involuntary manslaughter) not excluded

Article 2: Crimes by Mobs

18.2-42 Assault or battery by mob

-whole statute excluded (Class 1 misdemeanor)

Article 2.1: Crimes by Gangs

18.2-46.2 Prohibited criminal street gang participation

-whole statute excluded (Class 5 Felony and Class 4 Felony)

18.2-46.3 Recruitment of persons for criminal street gang

-Section A not excluded (Class 1 misdemeanor was never a barrier crime; Class 6 Felony has a child victim)

-Section B (a) and (b) now excluded (both are Class 6 Felony); (c) is still a barrier crime because it is a violent felony

18.2-46.3:1 Third or subsequent conviction of criminal street gang crimes

-whole statute excluded so long as child is not a victim and none of the convictions are based on 18.2-46.3 (B)(c)

18.2-46.3:3 Enhanced punishment for gang activity taking place in a gang-free zone

-whole statute excluded (Class 6 Felony and Class 5 Felony)

Article 3: Kidnapping and Related Offenses

18.2-47 Abduction and kidnapping defined

-Section D is the only section excluded; Class 1 misdemeanor (parental abduction) was already excluded; Class 6 Felony (parental abduction outside the Commonwealth) used to require 5 year waiting period from conviction and that is now excluded

Article 4: Assaults and Bodily Woundings

18.2-55.1 Hazing of youth gang members unlawful

-whole statute excluded (Class 1 misdemeanor)

18.2-56 Hazing unlawful; civil and criminal liability; duty of school, etc., officials

-whole statute excluded (Class 1 misdemeanor)

18.2-56.1 Reckless handling of firearms; reckless handling while hunting
-whole statute excluded (Class 1 misdemeanors and Class 6 Felony)

18.2-56.2 Allowing access to firearms by children
-whole statute excluded (Class 1 misdemeanors)

18.2-57 Assault and battery

-Section A, D and E are excluded (Class 1 misdemeanor)

-Section B is not excluded because it is a violent felony (A&B based on a protected class)

-Section C is only excluded after 5 years from the conviction date (Class 6 Felony) (A&B of LEO)

18.2-57.01 Pointing laser at law-enforcement officer unlawful

-whole statute excluded (Class 2 misdemeanor)

18.2-57.02 Disarming a law-enforcement or correctional officer

-whole statute excluded (Class 1 misdemeanor and Class 6 felony)

18.2-57.2 Assault and battery against a family or household member

-Section A excluded (Class 1 misdemeanor)

-Section B not excluded (Class 6 felony)(3rd or subsequent Domestic A&B conviction)

Article 6: Extortion and Other Threats

18.2-59 Extortion of money, property or pecuniary benefit

-whole statute excluded (Class 5 felony)

18.2-60 Threats of death or bodily injury to a person or member of his family; threats of death or bodily injury to persons on school property; threats of death or bodily injury to health care providers

-whole statute excluded (Class 5 felony, Class 6 felony, Class 1 misdemeanor)

Article 7: Criminal Sexual Assault

18.2-63 Carnal knowledge of child between thirteen and fifteen years of age

-Section A not excluded because child is victim of felony

-Section B is partially excluded (Class 4 misdemeanor is excluded but Class 6 felony is not excluded because child is victim of felony)

18.2-64.2 Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or posttrial offender

-whole statute is excluded UNLESS victim is a child (Class 6 felonies)

18.2-67.4 Sexual battery

-whole statute is excluded (Class 1 misdemeanor)

18.2-67.4:1 Infected sexual battery

-Section A is not excluded because it is felony sexual battery

-Section B is excluded (Class 1 misdemeanor)

18.2-67.4:2 Sexual abuse of a child under 15 years of age

-whole statute is excluded (Class 1 misdemeanor)

18.2-67.5 Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual battery

-only section C is excluded (Class 1 misdemeanor)

Chapter 5 Crimes Against Property

Article 1: Arson and Related Crimes

18.2-77 Burning or destroying dwelling house, etc.

-Section A is not excluded because it is a violent felony

-Section B is excluded (Class 4 felony)

18.2-79 Burning or destroying meeting house, etc.

-the Class 3 felony is not excluded because it is a violent felony

-the Class 4 felony is excluded (if the offense is committed when no person inside)

18.2-80 Burning or destroying any other building or structure

-the Class 3 felony is not excluded because it is a violent felony

-the Class 4 felony is excluded (if the offense is committed when no person inside)

-the Class 1 misdemeanor is excluded (if no person inside and value less than \$1000)

18.2-81 Burning or destroying personal property, standing grain, etc.

-whole statute is excluded (Class 4 felony and Class 1 misdemeanor)

18.2-82 Burning building or structure while in such building or structure with intent to commit felony

-whole statute is excluded (Class 4 felony)

18.2-83 Threats to bomb or damage buildings or means of transportation; false information as to danger to such buildings, etc.

-whole statute is excluded (Class 5 felony and Class 1 misdemeanor)

18.2-84 Causing, inciting, etc., commission of act proscribed by 18.2-83

-whole statute is excluded (Class 5 felony)

18.2-86 Setting fire to woods, fences, grass, etc.

-whole statute is excluded (Class 6 felony)

18.2-87 Setting woods, etc., on fire intentionally whereby another is damaged or jeopardized

-whole statute is excluded (Class 1 misdemeanor)

18.2-87.1 Setting off chemical bombs capable of producing smoke in certain public buildings

-whole statute is excluded (Class 2 misdemeanor)

18.2-88 Carelessly damaging property by fire

-whole statute is excluded (Class 4 misdemeanor)

Article 2: Burglary and Related Offenses

18.2-94 Possession of burglarious tools, etc.

-whole statute is excluded (Class 5 felony)

Chapter 7 Crimes Involving Health and Safety

Article 4: Dangerous Use of Firearms or Other Weapons

18.2-279 Discharging firearms or missiles within or at building or dwelling house; penalty

-only the Class 4 felony in the last sentence is excluded and only when it is an *unoccupied* school building (willfully discharges firearm within or at any school building)

18.2-280 Willfully discharging firearms in public places

-Section A is not excluded because it is a violent felony

-Section B is not excluded because it is a violent felony

-Section C is excluded (Class 4 felony)

Article 6: "Sawed-Off" Shotgun and "Sawed-Off" Rifle Act

18.2-300 Possession or use of "sawed-off" shotgun or rifle

-Section A is not excluded because it is a violent felony

-Section B is excluded (Class 4 felony)

Article 7: Other Illegal Weapons

18.2-308.4 Possession of firearms while in possession of certain substances

-whole statute is excluded

Article 8: Miscellaneous Dangerous Conduct

18.2-314 Failing to secure medical attention for injured child

-whole statute is excluded (Class 1 misdemeanor)

Chapter 8 Crimes Involving Morals and Decency

Article 4: Family Offenses; Crimes Against Children, Etc.

18.2-366 Sexual intercourse by persons forbidden to marry; incest; penalties

- Section A is excluded (Class 1 misdemeanor)
- Section B is not excluded because it is a violent crime

18.2-369 Abuse and neglect of incapacitated adults; penalty

- Section A is excluded in part (Class 1 misdemeanor)(Class 6 felony is not excluded because it is a violent crime)
- Section B is not excluded (both Class 4 felony and Class 3 felony are violent crimes)

18.2-370.6 Penetration of mouth of child with lascivious intent

- whole statute is excluded (Class 1 misdemeanor)

Article 5: Obscenity and Related Offenses

18.2-386.1 Unlawful creation of image of another

- Section C is excluded (Class 1 misdemeanor)
- Section D is not excluded because the victim is a child (Class 6 felony)
- Section E is excluded ONLY when the victim is not a child (Class 6 felony)

18.2-386.2 Unlawful dissemination or sale of images of another

- whole statute is excluded (Class 1 misdemeanor)

Chapter 10 Crimes Against the Administration of Justice

Article 6: Interference with Administration of Justice

18.2-472.1 Providing false information or failing to provide registration information

- whole statute is excluded (Class 1 misdemeanor, Class 6 felony, Class 5 felony)

Article 7: Escape of, Communications with and Deliveries to Prisoners

18.2-477.1 Escape from juvenile facility

- the Class 1 misdemeanor is excluded
- the Class 6 felony is not excluded because it is a violent crime

18.2-477.2 Punishment for certain offenses committed within a secure juvenile facility or detention home

- whole statute is excluded (Class 5 felony and Class 6 felony)

18.2-479 Escape without force or violence or setting fire to jail

- whole statute is excluded (Class 1 misdemeanor and Class 6 felony)

Chapter 11 Offenses Against the Sovereignty of the Commonwealth

Article 1: Treason and Related Offenses

18.2-484 Advocacy of change in government by force, violence or other unlawful means
-whole statute is excluded (Class 6 felony)

The following felony crimes would be exempt after 5 years from the date of conviction:

Chapter 4 Crimes Against the Person

Article 4: Assaults and Bodily Woundings

18.2-56 Assault and battery; penalty

-to include section C (A&B of law enforcement officer; unsure if section B (A&B based on a protected class) is included (would need to consult with the AG regarding whether violent felonies are excused if they fall under Assault and Battery statute)

Chapter 7 Crimes Involving Health and Safety

Article 1: Drugs

18.2-248 Manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance prohibited

18.2-248.01 Transporting controlled substances into the Commonwealth

18.2-248.03 Manufacturing, selling, giving, distributing, or possession with intent to manufacture, sell, give, or distribute methamphetamine

18.2-248.1 Penalties for sale, gift, distribution or possession with intent to sell, give or distribute marijuana

18.2-248.5 Illegal stimulants and steroids

18.2-250 Possession of controlled substances unlawful

18.2-251.2 Possession and distribution of flunitrazepam; enhanced penalty

18.2-251.3 Possession and distribution of gamma-butyrolactone; 1, 4-butanediol; enhanced penalty

18.2-255 Distribution of certain drugs to persons under 18 prohibited (not sure if this would be a barrier crime since we are not sure if this is considered having a child victim; we would need to consult with the AG office)

18.2-255.2 Prohibiting the sale or manufacture of drugs on or near certain properties

18.2-258 Certain premises deemed common nuisance

18.2-258.02 Maintaining a fortified drug house

18.2-258.1 Obtaining drugs, procuring administration of controlled substances, etc., by fraud, deceit or forgery

18.2-258.2 Assisting individuals in unlawfully procuring prescription drugs

****Currently, all other felony convictions not listed on the current barrier crime list must wait 5 years from the date of conviction. Under our proposed legislation, all felony convictions not listed on the new barrier crime list or under the 5 year wait provision (A&B, drug crimes and resisting arrest with violence) would be completely excluded for kinship foster parents****