

Virginia Legislative Update 2020

for Law Enforcement Agencies



COMMONWEALTH'S ATTORNEYS' SERVICES COUNCIL
Training Virginia's Prosecutors for the 21st Century

Materials

- This PowerPoint attempts to identify the legislation from the 2020 General Assembly session that has the greatest impact on law enforcement and public safety.
- Consult the *2020 Legislative Update Master List* for full listing of bills of interest.



Materials

- You must rely *only* upon the final language of the bill after passage.
- You can find the bill on the LIS website at: <http://lis.virginia.gov/lis.htm>.



ALCOHOLIC BEVERAGES/ ABC



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Habitual Drunkards; Interdiction; Repeal

HB 923 (Foy)

- Repeals provision allowing courts to enter orders of interdiction prohibiting sale of alcoholic beverages to habitual drunkards.
- Repeals provision that disqualifies habitual drunkards from obtaining concealed weapon permits.
- Amends §§ 4.1-333 and 18.2-308.09



ANIMALS



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Special License to Hunt Elk

HB 388 (Edmunds, II) / SB 262 (Chafin)

- Authorizes the Board of Game and Inland Fisheries (Board) to create a special license for hunting elk in the elk management zone.
- The Board is directed to establish procedures for obtaining the special elk license and rules for hunting elk in the elk management zone.
- The bill clarifies that a separate special license to hunt elk is not required to hunt elk outside of the designated elk management zone.
- Added §29.1-305.01



Unlawful Hunting, Fishing, or Trapping; Ban upon Conviction

HB 449 (Fowler, Jr.)

- Provides that any person convicted of violating a hunting, fishing, or trapping law may also be prohibited by the court from hunting, fishing, or trapping for a period of one to five years.
- Amended § 29.1-338, §29.1-530.2, §29.1-546, §29.1-550



Harassing Animals; Certain Species

HB 1074 (Adams)

- Removes the term "molest" and replaces it with "harass" in reference to certain unlawful acts against animals of certain species.
- The sections impacted are §29.1-521 (Unlawful to hunt, trap, possess, sell, or transport wild birds and wild animals except as permitted; exception; penalty) and §29.1-554 (Violation of sanctuaries, refuges, preserves and water used for propagation).
- Violations are still a Class 3 misdemeanor.
- Amended §18.2-127, §29.1-521, §29.1-554



Dead animals; Class 1 to Place on Church Property

HB 1096 (Miyares)

- The bill makes it illegal to maliciously place a dead animal within any church or on church property.
- Adds to the list of unlawful activity within/near churches.
- A violation of this provision is a Class 1 misdemeanor.
- Amends §18.2-127



Senior Lifetime License for Hunting Bear, Deer & Turkey

HB 1272 (Robinson)

- Adds that residents of the Commonwealth who are 80 years or older can obtain a lifetime license that includes a basic hunting license and a special license to hunt bear, deer & turkey for \$200.
- Amended §29.1-302.1



Tethering animals; Adequate Shelter and Space

HB 1552 (Levine) / SB 272 (J. Bell)

- Changes the definition of “Adequate Shelter” and “Adequate Space”.
- The outdoor tethering of an animal is not “Adequate Shelter” (a) if the animal is not safe from predators or well-suited or equipped to tolerate its environment, (b) during a hurricane warning or tropical storm warning, or (c) during a heat advisory, when it is 85 degrees or higher or 32 degrees or lower, during a severe weather warning.
- Amended §3.2-6500



Tethering animals; Adequate Shelter and Space (cont.)

- The amendment to Adequate Space, allows for an Animal Control Officer to make a determination, after inspection, that a shorter tether of at least 10 feet or three times the length of the animal makes the animal safer, more suited, and better equipped to tolerate its environment than a longer tether would.
- The first violation of Adequate Shelter and Adequate Space is still only a Class 4 Misdemeanor. A second violation of Adequate Shelter is a Class 2 Misdemeanor while a second violation of Adequate Space is a Class 3 Misdemeanor.



Tethering Animals; Adequate Shelter and Space (cont.)

- It does allow for an Animal Control Officer to grant an exception to the circumstances listed in Subsection (C) after inspecting an animal's individual circumstances and determining that they are safe, well suited, and well equipped to tolerate its environment.
- The bill increases the minimum tether length required to constitute adequate space from 10 feet to 15 feet in length or from three to four times the length of the animal, whichever is greater.



Rabid Animals

HB 1573 (R. Bell)

- Class 1 misdemeanor for a cat or dog owner who permits the pet to stray from his premises when he knows or has been told by the local health department, law-enforcement agency, animal control agency, etc., that the dog or cat is suspected of having rabies.
- Amended §3.2-6587, §18.2-403.1, §18.2-403.3



Dogs; Import and Sale from Certain Breeders

SB303 (Stanley, Jr.)

- Created §3.2-6511.2
- Prohibits the sale of a dog bred by someone who has been sanctioned under the Animal Welfare Act or other enumerated violations.
- It is a Class 1 misdemeanor for each dog imported, sold, or offered for sale.



Fishing Permits; Special Permits for Certain Youth Camps

SB336 (Stuart)

- Authorizes employees of an organized nonprofit tax-exempt youth camp that holds a special fishing permit for certain youth camps to fish without a license in public waters adjacent to property owned by the camp.
- The license cannot be used for waters stocked with trout or where there is a daily fishing fee.
- Before the bill, only camp members under 18 years of age at such camp were authorized to fish without a license.
- Amends §29.1-316



Unlawful to Transport Bait Fish for Sale Outside VA

SB 772 (Stanley)

- Adds a ban on selling certain types of bait fish outside Virginia.
- Specifically, it is now unlawful to transport for sale outside of the Commonwealth at any time or in any manner any river herring, alewife, threadfin shad, or gizzard shad collected from the inland waters for use as bait fish.
- A violation of the provisions of this subsection is a Class 1 Misdemeanor.
- Amended §29.1-540



Big Game Hunting; Guaranteed Kills Prohibited

SB 774 (Chafin)/ (Fowler)

- Adds the prohibition against offering for sale, selling, offering to purchase, or purchasing a hunt guaranteeing the killing of a deer, bear, or wild turkey.
- The bill does not prevent a landowner from leasing land for hunting.
- A violation of this new subsection is punishable as a Class 1 misdemeanor; when the aggregate of such sales or purchases, or any combination thereof, by any person totals \$500 or more during any 90-day period, such violation is punishable as a Class 6 felony.
- Adds §29.1-521 (A)(12)



Hunting Waterfowl; Duck Blinds

SB 987 (Stuart)

- Prohibits hunting or shooting migratory waterfowl in the public waters of the Commonwealth from a boat, float, raft, etc., within 150 yards of a residence without the consent of the landowner, except when in active pursuit of a visibly crippled waterfowl that was legally shot by the person.
- Requires a person hunting waterfowl or applying to license a stationary blind in public waters to also have a state and federal duck stamp.
- Places a limit on the number of stationary blinds per individual outside the Virginia Beach area.
- Amends §29.1-340, §29.1-341.1, §29.1-344, §29.1-349



Dangerous Captive Animal Exhibits

SB 1030 (Spruill, Sr.)

- The bill prohibits a keeper of dangerous captive animals from providing or offering to provide to any member of the public, for free or for a cost, direct contact with such dangerous captive animal.
- Class 3 misdemeanor and a fine of not more than \$500.
- The bill has a delayed effective date of July 1, 2021.
- Adds Chapter 65, Article 14: §3.2-6594 §3.2-6595, §3.2-6596; amends §3.2-6500.



Dangerous Captive Animal Exhibits; Definitions

- Dangerous captive animal means any bear, cougar, jaguar, leopard, lion, nonhuman primate, or tiger, or any hybrid of any such animal, except a clouded leopard.
- Direct contact is physical contact or proximity where physical contact is possible, including an opportunity for photography without a permanent physical barrier designed to prevent physical contact between the public and a dangerous captive animal.
- Keeper is any person, as defined in § 1-230, who owns, has custody of, or is in control of a dangerous captive animal.



ASSET FORFEITURE



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Forfeiture; Finding of Guilt Required

HB 1522 (Simon)

- Requires that any action for the forfeiture of property used in connection with the commission of a crime be stayed until the person whose property is the subject of the forfeiture action has been found guilty of the crime authorizing the forfeiture, regardless of whether he has been sentenced.



Forfeiture; Finding of Guilt Required; Exceptions

- Property may be forfeited even though no finding of guilt is made if:
 - (i) the forfeiture is ordered by the court pursuant to a plea agreement, or
 - (ii) the owner has not submitted a written demand for the return of the property within 21 days from the date the stay terminates.
- Amends §§19.2-386.1, 19.2-386.10, 19.2-386.29, 19.2-386.31, 19.2-386.32, 19.2-386.34 & 19.2-386.35



CASINO GAMING, GAMBLING & LOTTERY



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Lottery Board; Regulation of Casino Gaming

HB 4 (Knight) / SB 36 (Lucas)

- Authorizes casino gaming in the Commonwealth under the authority of the Virginia Lottery Board.
- Significant new code sections governing the permitting, licensing, regulation, taxes and locations of casino gaming.
- No one under the age of 21 is permitted to bet or be where casino gaming takes place. §58.1-4122
- Criminal conduct and penalties listed in Article 10, §§ 58.1-4126 through 58.1-4139.



Illegal Gambling; Skill Games; Exception

HB 881 (Bulova) / SB 971 (Howell)

- Skills games are added within the definition of "gambling devices."
- Skill games, also known as regulated electronic gaming devices or "grey machines", are currently found throughout Virginia in bars, convenience stores, gas stations and restaurants.
- Term "grey machines" refers to uncertainty as to whether the machines are legal (operate in grey area of the law)
- Prior to this legislation, some Commonwealth's Attorneys had been asked by manufacturers, such as Queen of Virginia, to find that the machines did not fall under illegal gambling.



Illegal Gambling; Skill Games, Exception (cont.)

- Exempts family entertainment centers from the prohibition against the playing or offering of any skill game, provided the prize won or distributed to a player by the skill games offered by such centers is a noncash, merchandise prize or a voucher, billet, ticket, token, or electronic credit redeemable only for a noncash, merchandise prize that also meets certain other requirements.
- Enactment delayed until July 2021.
- Amends §18.2-325; adds §18.2-334.5



Lottery Board: Sports Betting

HB 896 (Knight) / SB 384 (Lucas)

- Allows for the regulation of sports betting under the authority of the Virginia Lottery Board.
- Prohibits betting on Virginia college sports and youth sports and prohibits proposition bets on all college sports.
- Prohibits betting by lottery employees, permit holders and certain related persons, athletes and coaches with respect to events in their league, and persons under age 21.



Lottery Board; Sports Betting

- Prohibits the use of player biometric data without the consent of the athlete.
- The penalty for engaging in prohibited betting is a Class 1 misdemeanor.
- Amends §§2.2-3705.7, 2.2-3711, 18.2-334.3, 37.2-304, 58.1-4000, 58.1-4002, 58.1-4007, 58.1-4027, 59.1-364, 59.1-569; adds §§11-16.1, 37.2-314.1, 58.1-4015.1 & 58.1-4030-58.1-4047



Conduct of Charitable Gaming

SB199 (Barker)

- Removes restrictions regarding:
 - (i) the number of calendar days that charitable gaming may be conducted,
 - (ii) the number of bingo sessions that may be played in any calendar day and the number of bingo games that may be played during each session, and
 - (iii) the locations at which games may be played.
- Enumerates prohibited acts in the administration of bingo games §18.2-340.33.
- Amends §18.2-340.19, 18.2-340.24, 18.2-340.25, 18.2-340.27, 18.2-340.28, 18.2-340.28:1 & 18.2-340.33 (Repeals 18.2-340.27:1)



CORRECTIONAL FACILITIES



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Prisoners; Obtaining ID's Upon Release

HB 1093 (Hope)/HB 1467 (Aird)

- Requires DOC or jails to help any prisoner confined for 90+ days to get a government-issued ID card if they do not have one.
- Adds §53.1-31.4; amends §53.1-116.1:02.



Children; Strip Searches

HB 1544 (Carter)

- Provides that no child under 18 shall be strip searched or subjected to a search of any body cavity by a law-enforcement officer or a jail officer - with limited exceptions:
 - Children committed to DJJ or in a secure local facility for juveniles or adults;
 - Children under custodial arrest when there is reasonable cause to believe the child is concealing a weapon.
- Adds § 19.2-59.1 (H)



Pregnant Prisoners

HB 1648 (Kory)

- Establishes new rules and regulations regarding the treatment, control and education of and about:
 - 1) pregnant prisoners, and
 - 2) prisoners who are primary caretakers of minor children.
- Amends §§ 9.1-102, 53.1-20, 53.1-25.1, 66-10; adds §§ 53.1-40.11 through 40.16



State Correctional Facilities; Visitation

SB 1023 (Peake)/ SB 1089 (Morrisey)

- Establishes a specific list of visitation policies.
- Completely bans strip searches or body cavity searches of visitors under age 18.
- Prohibits visitors from being barred for future visits if they i) stop a search prior to discovery of contraband, or ii) refuse to be searched.
- Adds §§ 53.1-1.2 & 53.1-30(D); amends §53.1-30.



Detector Canines and Detector Canine Handlers; DOC

SB 1024 (Peake)

- Requires the DCJS to establish compulsory minimum training standards for detector canine handlers employed by the Department of Corrections, standards for the training and retention of canines used by the Department of Corrections, and a database on the performance and effectiveness of detector canines.
- The bill requires that correctional officers employed by the Department of Corrections comply with such requirements.
- Amends §9.1-102, adds §9.1-114.2



CRIMES & OFFENSES



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Hate Crimes; Reporting to VSP

HB 276 (Sullivan, Jr.)

- Includes within the definition of "hate crime" a criminal act committed against a person or the person's property because of:
 - i. Disability, as defined in the bill,
 - ii. Sexual orientation,
 - iii. Gender, or
 - iv. Gender identification
- Requires the reporting of such crimes to the VSP.
- Amends § 52-8.5



Hate Crimes; Gender Identity, Sexual Orientation; Penalty

HB 618 (Plum)/ SB 179 (Favola)

- Adds gender, disability, gender identity, and sexual orientation to the categories of victims whose intentional selection for a hate crime involving assault, assault and battery, or trespass for the purpose of damaging another's property results in a higher criminal penalty for the offense.
- The bill also adds gender, disability, gender identity, and sexual orientation to the categories of hate crimes that are to be reported to the central repository of information regarding hate crimes maintained by the Virginia State Police.



Hate Crimes; Gender Identity, Sexual Orientation; Penalty

- Removes gender requirements for previously gender-specific crimes, such as abducting a female for purposes of prostitution.
- Provides that such a victim may bring a civil action to recover damages.
- Eliminates the mandatory minimum terms of confinement for such hate crimes.
- Provisions of the bill are contingent on funding in a general appropriation act.
- Amends §§ 8.01-42.1, 8.01-49.1, 18.2-57, 18.2-121, and 52-8.5



Prevailing Wage; Public Works Contracts; Penalty

HB 833 (Foy) / SB 8 (Saslaw)

- A contractor who willfully employs a person to perform work under a public contract at a rate less than the prevailing wage rate is guilty of a Class 1 misdemeanor.
- In addition, such a contractor or subcontractor shall be liable to such individuals for the payment of all wages due plus interest and shall be disqualified from bidding on public contracts with any public body until full restitution has been paid to the individuals.
- Delayed effective date May 1, 2021
- Amends § 40.1-6; adds § 2.2-4321.3



Grand Larceny; Increases Threshold Amount

HB 995 (Lindsey)/SB 788 (McClellan)

- Raises the larceny threshold from \$500 to \$1,000 for a felony offense.
- Amends §§ 18.2-23, 18.2-80, 18.2-81, 18.2-95 through 18.2-97, 18.2-102, 18.2-103, 18.2-108.01, 18.2-145.1, 18.2-150, 18.2-152.3, 18.2-162, 18.2-181, 18.2-181.1, 18.2-182, 18.2-186, 18.2-186.3, 18.2-187.1, 18.2-188, 18.2-195, 18.2-195.2, 18.2-197, 18.2-340.37, 19.2-289, 19.2-290, 19.2-386.16, and 29.1-553.



Unauthorized Use of Electronic Tracking Device

HB 1044 (Krizek)

- Increases from a Class 3 misdemeanor to a Class 1 misdemeanor the punishment for a person who installs or places an electronic tracking device through intentionally deceptive means and without consent, or causes an electronic tracking device to be installed or placed through intentionally deceptive means and without consent, and uses such device to track the location of any person.
- Amends § 18.2-60.5



Repeal of Profane Swearing in Public

HB 1071 (Adams)/ HB 132 (Webert)

- Removes the crime of profane swearing in public, which is currently punishable as a Class 4 misdemeanor.
- Removes part of § 18.2-388



Threats & Harassment; Certain Officials; Venue

HB 1627 (Bourne)

- Provides that threats & harassment of certain officials may be prosecuted in Richmond if venue cannot otherwise be established and the conduct occurred during or because of their public duties.
- Applies to Governor, Lt. Governor, AG (and their elected successors); members of the General Assembly, Supreme Court and Court of Appeals.



Threats & Harassment; Certain Officials; Venue

- Threats of damage to Commonwealth property in the Capitol District can also be prosecuted in Richmond if venue cannot be determined elsewhere.
- Amends §§ 18.2-60, 18.2-60.1, 18.2-83, 18.2-152.7:1, 18.2-430.



Paramilitary Activities; Penalty

SB 64 (Lucas)

- Makes it a Class 5 felony to violate §18.2-282 (A) (Brandishing) while assembled with one or more persons for the purpose of, and with the intent to, intimidate any person or group of persons.
- Adds §18.2-433.2 (3)



Computer Trespass; Expands the Crime

SB 378 (J. Bell)

- Expands the crime of computer trespass to include actions done through intentionally deceptive means and without authority
- Specifies that a computer hardware or software provider, an interactive computer service, or a telecommunications or cable operator does not have to provide notice of its activities to a computer user that a reasonable computer user should expect may occur.
- Amends §18.2-152.4



Adult Abuse; Reporting Financial Exploitation

SB 391 (McPike)

- Requires financial institutions to report to the local department of social services or the adult protective services hotline within five business days any refusal to execute a transaction, delay of a transaction, or refusal to disburse funds based on a good faith belief that such transaction or disbursement may involve financial exploitation of an adult.
- Amends § 63.2-1606(L)



Computer Trespass; Monetary Harm; Penalty

SB 1003 (Chafin)

- Provides that it is a Class 1 misdemeanor for any person who, without the intent to receive any direct or indirect benefit, maliciously sends an electronically transmitted communication containing a false representation intended to cause another person to spend money, and such false representation causes such person to spend money.
- Adds §18.2-152.7:2



CRIMINAL PROCEDURE



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Voir Dire Examination; Jurors; Criminal Case

HB 100 (Lindsey) / SB 325 (Deeds)

- Creates new code section to allow the court and counsel for either party in a criminal case to:
 1. Ask jurors any relevant question as to whether the juror can sit impartially in the guilt or sentencing phase, and
 2. Inform potential jurors as to the potential range of punishment (overrules *CW v. Hill*, 264 Va. 315 (2002)).
- Adds §19.2-262.01



Protected Information; Journalists

HB 113 (Roem)

- No journalist will be compelled in a criminal case to testify, disclose or produce protected info, except under 4 specified circumstances.
- Any info obtained in violation of this provision will be inadmissible for any purpose in an administrative or criminal proceeding.
- Adds §19.2-271.5.



Returns of Service; Acceptance of Copies

HB 780 (Roem)

- Provides that a photocopy, fax, or other copy of original proof of service shall be accepted by the clerk's office as if it were an original for purposes of complying with the return of service process to the clerk's office, provided that the proponent provides a statement that such copy is a true copy of the original.
- Amends § 8.01-325



Ex Parte Request for Expert in Criminal Cases

HB 824 (Hope)

- An *indigent* defendant charged with a felony or Class 1 misdemeanor may request the appointment of a qualified expert to assist in defense, with specific requirements.
- Requires notice to Commonwealth that he will be making request (not what the request will be).



Ex Parte Request for Expert in Criminal Cases

- Defendant must state under oath that a need for confidentiality exists.
 - A risk that trial strategy may be disclosed unless the hearing is ex parte shall be sufficient grounds.
- The court is required to authorize funds when:
 - Defendant shows that the expert will materially assist in *preparing* the defense, and
 - The denial of expert services would result in a fundamentally unfair trial.
- Adds § 19.2-266.4; repeals § 19.2-264.3:1.3



Discovery Changes in Criminal Cases

HB 873 (Bourne)

- *Enactment Clause: This law will not go into effect because the proposed Virginia Supreme Court Rule 3A:11 and 3A:12 adopted on September 5, 2018, by the Supreme Court will go into effect on July 1, 2020.*
- The upcoming changes to the Supreme Court Rules are a topic for separate training.



Discovery Changes in Criminal Cases

- It is critically important that *every* law enforcement officer understands the CA's discovery obligations.
- Failure to do so could jeopardize your case.
- Be sure that you become familiar with the changes to Supreme Court Rules 3A:11 and 3A:12.



Local Government Employees; Misdemeanor Summonses

HB 1213 (Heretick)

- Permits local government employees to issue summonses for misdemeanor local ordinance violations, except for traffic offenses and offenses in Title 18.2.
- Their power shall be limited to issuing such summonses in their localities.
- Adds § 15.2-1512.5



Bail; Rebuttable Presumptions Against Bail

HB 1462 (Scott)

- For a person charged with an offense with a rebuttal presumption against bail, *any judicial officer* may set or admit such person to bail.
- Eliminates requirements of agreement of the CA or notice to the CA.
- Such judicial officers must still consider the same factors as judges were required to consider in making such bail decisions.
- Amends §19.2-120



Attorney-Issued Subpeona Duces Tecum; Criminal Cases

SB 801 (Morrissey)

- Allows an attorney of record to issue an SDT in a criminal case instead of requesting clerk to issue it.
- Provisions of Rule 3A:12(b) applies:
 - Notice to opposing party
 - Certify requested documents are material and in the possession of a 3rd party
 - Documents to be returned to the Clerk
- Provides a process for objection to such attorney-issued subpoenas.
- Adds §19.2-10.4



DOMESTIC VIOLENCE/ FAMILY ABUSE



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Protective Orders; Motions to Dissolve Filed by Petitioner

HB 880 (Simonds)

- Upon motion by a petitioner to dissolve a protective order, a dissolution order may be issued on an ex parte basis with or without a hearing and that a hearing on such a motion shall be heard by the court as soon as practicable.
- A dissolution order granted on an ex parte basis shall be served upon the respondent.
- Amends § 16.1-253.1, §16.1-279.1, §19.2-152.9, and §19.2-152.10



Prohibition to Possess Firearm While Under Protective Order

HB 1004 (Mullin) / SB 479 (Howell)

- Prohibits any person subject to a permanent protective order (PO lasting up to 2 years) from possessing firearms while the Order is in effect.
- Person served with a permanent protective order has 24 hours after being served with the order to sell or transfer the firearm(s) or to surrender them to law enforcement.
- A violation of this provision is Class 6 felony.



Prohibition to Possess Firearm While Under Protective Order

- Person served with permanent protective order must certify in writing within 48 hours that he does not possess any firearms or has properly disposed of them.
- A willful failure to certify that the firearms have been surrendered, sold or transferred shall be punished contempt of court.



Prohibition to Possess Firearm While Under Protective Order

- Provides procedures for local law-enforcement agencies to receive and store firearms, as well as a process to return such surrendered firearms.
- Class 4 felony for any person to sell, barter, give, or furnish any firearm to any person he knows is prohibited from possessing or transporting a firearm who is subject to a permanent protective order.
- Amends §§ 18.2-308.1:4 & 18.2-308.2:1



Violations of Protective Order; Venue

HB 1181 (Watts)

- Provides that a violation of a protective order can be prosecuted:
 - In the jurisdiction where the order was issued, or
 - Where any violation of the order occurred.
- Adds §16.1-253.2(E) and §18.2-60.4(F)



Protective Orders; Convictions for Certain Felonies

SB 144 (Stuart)

- Authorizes a court to issue a protective order upon conviction of an act of violence and upon the request of the victim or the CA.
- Provides that such order can be for any reasonable period of time, *including up to the lifetime of the defendant*, that the court deems necessary to protect the health and safety of the victim.
- Violation of a protective order issued upon a conviction for an act of violence is punishable as a Class 1 misdemeanor.
- Amends §18.2-60.4 and §19.2-152.10



Appeal of Protective Orders

SB 408 (Hashmi)

- Provides that the clerk of the appellate court to which an order of protection is appealed shall have the parties served with notice of the appeal stating the date and time of the hearing, and
- Such a hearing shall not take place unless the appellee has been served or has waived service.
- Amends § 16.1-112 and 16.1-296



DRUGS, HEMP & TOBACCO



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Hemp; Products Intended for Smoking

HB 962 (Marshall III)

- Prohibits the sale of hemp products intended for smoking to persons under age 21.
- Adds hemp products to the prohibition for people under 21 to possess tobacco and nicotine vaping products.
- Amends § 18.2-371.2



Marijuana; Decriminalization

HB 972 (Herring) / SB 2 (Ebbin)

- Decriminalizes Possession of Marijuana for adults
- Becomes a civil offense for adults (§ 18.2-250.1)
 - Charged on summons (§ 18.2-250.1)
 - May be enforced by CA (§15.2-1627 & §18.2-250.1)
- Is a delinquent act for juveniles (§16.1-228)
- Max \$25 fine (§ 18.2-250.1)
- No more 1st offender option for Possession of Marijuana (§ 18.2-251)



Marijuana; Decriminalization

- PWID/Distribution of Marijuana (§ 18.2-248.1)
 - Change 1/2 oz to 1 oz for Class 1 misd. (1 oz or less)
 - Change 1/2 oz to 1 oz for Class 5 felony (more than 1 oz to 5 lb)
 - Keeps the over 5 lb of marijuana as unclassified felony punished at 5-30 years
 - *Rebuttable presumption that 1 oz or less is for personal use*
- Definition of marijuana amended (§ 18.2-247 & § 54.1-3401)
 - The definition and separate crime for possessing hashish oil is eliminated.
 - An oily extract containing 12% or higher THC is now marijuana.



Marijuana; Decriminalization

- Appeal handled like criminal misdemeanors (§18.2-250.1)
 - Entitled to jury & must be proven beyond a reasonable doubt
- Expungement (§19.2-392.2)
 - Adds “civil offense” as offense eligible for expungement
 - Allows a person charged with a civil offense who is acquitted, a nolle prosequi is taken, or the charge is otherwise dismissed, to file a petition requesting expungement of the police records and court records related to the charge.



Marijuana; Decriminalization

Limited dissemination:

- Civil offenses not to be reported to CCRE (§ 18.2-250.1)
- Records not open to public inspection or disclosure (§ 19.2-389.3)
 - Applies to records of arrest or conviction for §18.2-250 or deferred & dismissed charges of §18.2-250 under §18.2-251
 - That are maintained in CCRE
 - Only addresses PRIOR convictions, not civil offenses under the new law
 - Lots of exceptions related to law enforcement, public safety and criminal justice (i.e., prepare guidelines)



Marijuana; Decriminalization

Limited dissemination:

- Don't Ask, Don't Tell - § 19.2-389.3 (B)(C)
 - employers and educational institutions for employment or admission - § 19.2-389.3(B)
 - agencies, officials, and employees of the state and local governments from requiring an applicant for a license, permit, registration, or governmental service - § 19.2-389.3(C)
- Class 1 misdemeanor for each violation of these “Don't Ask, Don't Tell” provisions.



Marijuana; Decriminalization

- In an enactment clause, the bill requires that the Secretaries of Agriculture and Forestry, Finance, Health and Human Resources, and Public Safety and Homeland Security convene a work group to study the impact on the Commonwealth of legalizing the sale and personal use of marijuana and report the recommendations of the work group to the General Assembly and the Governor by November 30, 2020.
- Amends §§15.2-1627, 16.1-228, 16.1-260, 16.1-273, 18.2-247, 18.2-248.1, 18.2-250.1, 18.2-251, 18.2-251.02, 18.2-252, 18.2-254, 18.2-259.1, 19.2-392.2, 46.2-390.1, 54.1-3401; adds §19.2-389.3



Industrial Hemp Extract; Approval as Food or Ingredient

HB 1430 (Gooditis)/SB 918 (Marsden)

- Provides that an industrial hemp extract, as defined in the bill, is a food and is subject to applicable laws and regulations.
- The bill establishes:
 - (i) Requirements for the production of an industrial hemp extract or a food containing an extract, and
 - (ii) Conditions under which a manufacturer of such extract or food shall be considered an approved source.



Industrial Hemp Extract; Approval as Food or Ingredient

- The bill authorizes the Board of Agriculture and Consumer Services to adopt regulations establishing contaminant tolerances, labeling requirements, and batch testing requirements, and it provides that moneys collected under the chapter shall be deposited in the Virginia Industrial Hemp Fund, created by the bill.
- The bill directs the Secretary of Agriculture and Forestry to report by November 1, 2020, a plan for the long-term sustainability of funding for the industrial hemp program.
- The bill contains an emergency clause.
- Adds §§ 3.2-4121, 3.2-5145.1 through 3.2-5145.5,



Cannabidiol Oil and THC-A Oil; Certification for Use

HB 1460 (O'Quinn)

- Provides that a pharmaceutical processor may dispense in person to a patient or a patient's legal guardian who temporarily resides in Virginia, with a certification for cannabidiol oil and THC-A oil from a Virginia practitioner.
- Clarifies that a practitioner who issues a written certification for cannabidiol oil must use his professional judgment to determine the manner and frequency of patient care and evaluation and authorizes such practitioner to utilize telemedicine, consistent with federal requirements for the prescribing of Schedule II through V controlled substances.
- Amends §§ 54.1-3408.3 and 54.1-3442.7



Naloxone; Possession & Administration

SB 0566 (Edwards)

- A person who is not otherwise authorized to administer naloxone may do so to a person they believe to be experiencing a life-threatening overdose.
 - Must be done in good faith and absent gross negligence or willful and wanton misconduct
- Amends §§ 8.01-225, 54.1-3408



Tetrahydrocannabinol Concentration; Definition

SB 646 (Surovell)

- Clarifies that certain uses of "tetrahydrocannabinol concentration" refer to delta-9-tetrahydrocannabinol.
- Requested by DFS
- The bill contains an emergency clause.
- Amends §§ 18.2-247, 19.2-188.1, 54.1-3401, 54.1-3408.3, 54.1-3442.6, and 54.1-3442.7



Overdoses; Arrest & Prosecution When Experiencing or Reporting

SB 667 (Boysko)

- Provides that no person shall be subject *to arrest* or prosecution for any offense of possession of alcohol, marijuana, any controlled drug, DIP or possession of paraphernalia if:
 - The person called for emergency medical help for himself or someone overdosing, *or*
 - If the person is overdosing and someone called for emergency medical help for him.
- Changed from affirmative defense to immunity.



Overdoses; Arrest & Prosecution When Experiencing or Reporting

- Added immunity for the person who did not call but was overdosing.
- No liability for LEO acting in good faith for false arrest if person was later determined to be immune.
- This law legalizes possession of cocaine, heroin, fentanyl, etc. for the drug user when someone seeks medical help for him while he is overdosing.
- This law does not provide any intervention or treatment for the person's drug problem and creates obstacles to the investigations into the source of the drugs.
- Amends §18.2-251.03



Operation of Cannabis Dispensing Facilities

SB 976 (Marsden)

- Defines "cannabis dispensing facilities" and allows the Board of Pharmacy to issue up to five permits for cannabis dispensing facilities per health service area.
- The bill requires the Board to establish a ratio of one pharmacist for every six pharmacy interns, technicians, and technician trainees for pharmaceutical processors and cannabis dispensing facilities.
- Governor's amendments replaced the term "cannabidiol oil and THC-A oil" with "cannabis oil."



Operation of Cannabis Dispensing Facilities

- Directs the Board of Pharmacy to require that, after processing and before dispensing cannabis oil, a pharmaceutical processor make a sample available from each homogenized batch of product for testing at an independent laboratory located in Virginia that meets Board requirements.
- The bill requires the Board of Pharmacy to promulgate required detailed regulations within 280 days of the bill's enactment.
- Amends §§ 54.1-3408.3 and 54.1-3442.5 through 54.1-3442.8



Possession of CBD or THC-A Oil

SB 1015 (Marsden)

- Provides that a person who possesses marijuana in the form of cannabidiol oil or THC-A oil pursuant to a valid written certification issued by a practitioner shall not be prosecuted for simple possession of marijuana.
- Provides that no agent or employee of a pharmaceutical processor shall be prosecuted for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabidiol oil or THC-A oil, or subject to any civil penalty, denied any right or privilege, or subject to any disciplinary action by a professional licensing board if such agent or employee acted in accordance with law.
- Amends §§ 18.2-250.1 and 54.1-3442.8



Cannabidiol Oil and THC-A Oil; Sample Testing

SB 1045 (Hashmi)

- Directs the Board of Pharmacy to require that, after processing and before dispensing cannabidiol oil and THC-A oil, a pharmaceutical processor make a homogenized batch of product for testing at an independent laboratory located in Virginia.
- Adds § 54.1-3442.6(D)



FINGERPRINTS



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Fingerprint & Photo on DUI Summons

HB 1047 (Krizek) / SB 926 (Peake)

- Police authorities having the power of arrest may take the fingerprints and photographs of persons who plead guilty or are found guilty of driving while intoxicated when charged by summons.
- Such summons info may be entered into VCIN.
- Amends § § 19.2-390, 19.2-392



Fingerprints & Photographs by Police Authorities

HB 1048 (Krizek) / SB 925 (Peake)

- Police authorities having the power of arrest may take the fingerprints and photographs of any person found in contempt or in violation of the terms or conditions of a suspended sentence or probation for a felony offense.
- Amends § 19.2-392



Firearms & Concealed Weapons



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Expanded Gun Background Checks

HB 2 (Plum) / SB 70 (Lucas)

- Expands background checks for all gun sales (but not all transfers, such as trades and loans.)
- Currently, only licensed firearms dealers are required to conduct background checks before making sales.
- Amends §§ 18.2-308.2, 18.2-308.2:2,, 22.1-277.07 & 54.1-4201.2; Adds 18.2-308.2:5



Expanded Gun Background Checks

- Amends §18.2-308.2:2 – Applies to firearms dealers
 - Persons who have been a under a temporary detention order (TDO)/voluntary admission prohibited from possessing guns.
 - Firearms transaction form requires purchasers to disclose previous TDO/voluntary admission.
 - VSP gets 3 days to complete criminal history before a firearm may be transferred.
 - Prohibits the sale of a firearm to out-of-state resident unless that person is a dual resident of VA and the other state.



Expanded Gun Background Checks

- Creates §18.2-308.2:5 – Applies to anyone selling firearm who is not a dealer
 - Requires background check as required under 18.2-308.2:2.
 - VSP to set up means by which sellers obtain the background check information from licensed dealers.
 - Exceptions: (1) Sale is authorized as part of an authorized voluntary gun buy-back or give-back program and (2) Sale occurs at firearms show & VSP confirms that the person is not prohibited.



Expanded Gun Background Checks

- Criminal Violations:
 - Class 1 misdemeanor for seller who sells gun without doing background check
 - Class 1 misdemeanor for purchaser to buy gun without doing background check
- NOTE: all criminal sanctions available under existing §18.2-308.2:2 would also apply, e.g., Class 6 felony for dealer who willfully & intentionally sells, etc. in violation of §18.2-308.2:2; Class 5 felony for purchaser who lies on VSP transaction form.



Reporting Lost or Stolen Guns; Civil Penalty

HB 9 (Bourne)

- Requires lawful possessor of gun to report a lost or stolen firearm to any local law enforcement officer or VSP within 48 hours after discovering or learning that it is gone.
- Law enforcement agency enters it into NCIC.
- Violation is civil penalty of \$250
 - Enforceable by the county, city or town attorney, at their discretion.



Reporting Lost or Stolen Guns; Civil Penalty

- If reported in good faith, the reporter is immune from criminal or civil liability for “acts or omissions” resulting from the loss or theft.
 - Immunity does not apply to someone who knowingly gave a false report.
- No requirement to report loss or theft of antique firearm.
- Amends §18.2-287.5



In-person Safety Training for Concealed Handgun Permit

HB 264 (Lopez) / SB 263 (John Bell)

- Tightens training required to get concealed handgun permit (CHP).
- Requires in-person demonstration of competency for CHP - eliminates on-line option.
- It is perjury to make materially false statement about any of the requirements to get CHP including completion of in-person course
- Delayed effective date Jan 1, 2021.
- Amends §§18.2-308.02 & 18.2-308.06



Locality Authority to Ban Guns

HB 421 (Price) / SB 35 (Surovell)

- Allows VA localities to ban guns in public buildings, parks and other areas, including recreation and community centers. Also applies to streets where events or rallies requiring permits are taking place.
- Previously, the state's firearms preemption law had barred localities from passing their own gun control measures.



Locality Authority to Ban Guns

- The new rules require clear signage and exempt Virginia Military Institute cadets or other members of college ROTC programs, as well as gun sports.
- Guns surrendered in a buy-back will be destroyed unless accompanied with a written request that it be sold.
- Amends §§15.2-915, 15.2-915.5; repeals §15.2-915.1



Family Day Homes; Storage of Firearms

HB 600 (Hope)/SB 593 (Hanger)

- Requires that during hours of operation, specified in-home child care facilities must unload and securely lock up firearms.
- Ammunition must be securely locked in a separate container.
- Locks and combinations must be inaccessible to children.
- Amends § 15.2-914; adds § 63.2-1701.01.



Emergency/Substantial Risk Orders “Red Flag Law”

HB 674 (Sullivan) / SB 240 (Barker)

- Allows police and prosecutors to petition the court to temporarily prohibit people judged to be a risk to themselves or others from buying or having a gun.
- Creates 2 new substantive Code sections:
 1. §19.2-152.13: Emergency Substantial Risk Order (ESRO)
 2. §19.2-152.14: Substantial Risk Order (SRO)



Emergency/Substantial Risk Orders “Red Flag Law”

- Petition cannot be filed until law enforcement conducts an independent investigation and “determines that grounds for the petition exist.”
- Petition must be:
 1. Under oath, and
 2. Supported by an affidavit
- Enactment clause: The Supreme Court shall create standard forms to implement the intent of this act



Emergency/Substantial Risk Orders “Red Flag Law”

- ESRO - An ex parte ESRO may be issued upon petition to a magistrate or a judge of any VA court to prevent possession or purchase of gun for up to 14 days if there is **probable cause** to believe that the person poses a risk of injury to self or others in the near future by possession of guns.
- SRO - Following issuance of the ESRO, the circuit court must hold a hearing before the ESRO expires to decide if the court should issue a “substantial risk order” (SRO) to prohibit the person from buying or possessing a gun for up to 6 months upon a finding **by clear and convincing evidence** that person poses a risk of injury to self or others in the near future by possessing guns



Emergency/Substantial Risk Orders “Red Flag Law”

- The CA has the burden of proof and the rules of civil proceedings apply.
- People who are subject to an ESRO or SRO must surrender any concealed handgun permit (CHP) and are disqualified from getting a CHP and may not work for a firearms dealer.
- VSP will be required to keep and maintain a digital system for keeping track of people subject to E/SROs.
- Other procedures and penalties are outlined in the law.



Emergency/Substantial Risk Orders “Red Flag Law”

- The law has no provisions:
 - Requiring person to get mental health treatment
 - To remove any other type of weapon that the person could use to hurt himself or others.
- Amends §§ 18.2-308.09, 18.2-308.2:1, 18.2-308.2:2, 18.2-308.2:3; Adds §§ 18.2-308.1:6, 19.2-152.13 – 19.2-152.17 & 19.2-387.3



One Handgun Per Month

HB 812 (Ward) / SB 69 (Locke)

- Restores the state's former one-handgun-per-month law.
- The measure prohibits any person who is not a licensed firearms dealer from buying more than one handgun in a 30-day period.
- Establishes a Class 1 misdemeanor for violation.
- Amends §18.2-308.2:2



One Handgun Per Month

The bill exempts:

1. People who have undergone a VSP enhanced background check,
2. Law-enforcement agencies and officers,
3. State and local correctional officers,
4. Licensed private security companies,
5. Persons who hold a valid Virginia CHP,
6. Persons whose handgun has been stolen or irretrievably lost or who are trading in a handgun,
7. Purchases of handguns in a private sale, and
8. Purchases of antique firearms.



Firearms or Other Weapons on School Property

HB 1080 (Hope)

- Provides that no school board may authorize or designate any person to possess a firearm on school property other than those persons expressly authorized by statute.
- Clarifies that no exemption exists for a special conservator of the peace to possess a firearm or other weapon on school property.
- Amends §18.2-308.1; adds § 22.1-280.2:4



Increased Penalty; Allowing Minor's Access to Loaded Gun

HB 1083 (Hayes, Jr.)

- Increases the penalty to a Class 1 misdemeanor for “recklessly leaving” a loaded, unsecured gun in a way “that endangers the life or limb” of a child under 14.
 - Previously a Class 3 misdemeanor (up to a \$500 fine)
- Amends §18.2-56.2



Ban on Trigger Activators; “Bump Stocks”

SB 14 (Saslaw)

- Prohibits the manufacture, importation, sale or offer to sell, possession, transfer, or transportation of a trigger activator.
- Restatement of Federal “bump stock” ban.
- A violation is punishable as a Class 6 felony.
- Adds §18.2-308.5:1



Ban on Trigger Activators; “Bump Stocks”

- Definition: A device designed to allow a semi-automatic firearm to shoot more than one shot with a single pull of the trigger by harnessing the recoil energy of any semi-automatic firearm to which it is affixed so that the trigger resets and continues firing without additional physical manipulation of the trigger by the shooter.



Firearms on Property of Schools, Preschools & Child Day Centers

SB 71 (Lucas)

- Adds public, private, or religious preschools and certain licensed child day centers to the list of schools where possessing a firearm on school property or on a school bus is prohibited.
- The provisions of the bill regarding child day centers only apply during the regular operating hours of such child day center.



Firearms on Property of Schools, Preschools & Child Day Centers

- Under current law, the list of such schools only includes public, private, or religious elementary, middle, or high schools.
- The bill also provides that a licensed child day center or religious or private preschool may hire an armed security officer to provide security services.
- Amends §§24.2-946, 24.2-946.3:1 & 24.2-947.3



Exemption for Possession of Stun Weapon on School Property

SB 173 (Hanger, Jr.)

- Allows the holder of a valid concealed handgun permit to possess a stun weapon on school property while in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress or egress to the school.
- The bill also allows a stun weapon to be stored in a closed container in a motor vehicle while such vehicle is on school property.
- Amends §18.2-308.1



Virginia Voluntary Do Not Sell Firearms List; Penalty

SB 436 (Surovell)

- Creates the Virginia Voluntary Do Not Sell Firearms List (List) that prohibits the possession, transportation, and sale of firearms to any person who voluntarily registers himself to be enrolled into the List.
- The List shall be maintained and updated by the Virginia State Police.
- Disqualifies any person enrolled into the List from obtaining a concealed handgun permit.
- Prohibits such person from being employed by a firearms dealer.



Virginia Voluntary Do Not Sell Firearms List; Penalty

- Class 3 misdemeanor for any person enrolled into the List to purchase, possess, or transport a firearm.
- Class 1 misdemeanor for any person who sells, barter, gives, or furnishes, or has in his possession or under his control with the intent of selling, bartering, giving, or furnishing, any firearm to any person he knows is enrolled into the List.
- The bill has a delayed effective date of July 1, 2021.
- Amends §§18.2-308.09, 18.2-308.2:1, 18.2-308.2:2 & 18.2-308.2:3; adds §§18.2-308.1:6



Firearms Shows; Mandatory Background Check

SB 543 (Edwards)

- Requires VSP to perform a criminal history record check on the prospective purchaser or transferee prior to the completion of any firearms transaction at a firearms show held in the Commonwealth.
- Current law requires the VSP to be available at every firearms show held in Virginia to perform criminal history record information checks, but does not require such checks to be performed unless requested by a party involved in the transaction.
- Amends §54.1-4201.2



Involuntary Commitment and Restoration of Firearm Rights

SB 684 (Mason)

- The bill requires that, notwithstanding the outcome of an appeal to Circuit Court from an involuntary commitment in General District Ct., the appellant is required to *petition* for restoration of his firearm rights.
- The portion of the GDC order forfeiting the right to possess firearms is not automatically nullified if the commitment is reversed on appeal.



Involuntary Commitment and Restoration of Firearm Rights

- Responds to the holding in *Paugh v. Henrico Area Mental Health and Developmental Services* in which the VA Supreme Court held that when a CC finds in a trial de novo that the appellant no longer meets criteria for involuntary commitment and dismissed the petition, the original commitment becomes a nullity. As a result, the forfeiture of the right to possess firearm under §18.2-308.1:3 is no longer in effect.
- Amends §18.2-308.1:3 & 37.2-821



IMMIGRATION STATUS



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Immigration Status; Victims & Witnesses of Crimes

HB 262 (Lopez)

- Prohibits law enforcement from inquiring into immigration status of 1) victims of a crime, or 2) witnesses in the investigation of a crime.
- Does not apply if:
 - Such inquiry is necessary for the enforcement or implementation of certain criminal provisions.
 - A parent or guardian is being investigated, etc., for a crime against the minor victim.
- Adds §19.2-11.02



Immigration Status; Persons Charged or Convicted of Certain Crimes

HB 1150 (Lopez) / SB 491 (Surovell)

- **Limits to felony offenses** provisions requiring (i) jail officers to ascertain the citizenship of any inmate taken into custody at a jail, (ii) officers in charge of correctional facilities to inquire as to the citizenship of any person committed to a correctional facility, and (iii) the mandatory duty of the clerk of a court committing a convicted alien to a correctional facility to furnish related court records to a United States immigration officer.



Immigration Status; Persons Charged or Convicted of Certain Crimes

- Provides that the *clerk of court* report to ICE any juvenile *adjudicated delinquent or found guilty* for a violent juvenile felony when there is evidence the juvenile is in the US illegally.
 - Current law requires the *intake officer* to alert ICE when there is an *allegation* that a juvenile has committed a violent felony and that there is *probable cause* that the juvenile is in the US illegally.
- Amends §§ 16.1-309.1, 19.2-83.2, 53.1-218, and 53.1-219



INVESTIGATIONS



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Custodial Interrogation of a Child; Parental Notification

HB 746 (Watts)

- Prior to the custodial interrogation of a child, the child's parent, guardian, or legal custodian shall be notified of the child's arrest and the child have contact with his parent, guardian, or legal custodian.
- Such notification and contact may be in person, electronically, by telephone, or by video conference.
- Adds §16.1-247.1



Custodial Interrogation of a Child; Parental Notification

Exceptions:

- If the parent, guardian, or legal custodian is:
 - A codefendant,
 - Suspected of committing crime against the child, or
 - Cannot reasonably be located or refuses contact; or
- The law-enforcement officer believes the information sought is necessary to protect life, limb, or property from an imminent danger and the questions are limited to those that are reasonably necessary to obtain that information.



Multi-Jurisdiction Grand Jury; Hate Crimes

HB 787 (Bagby)

- Adds crimes that a multi-jurisdiction grand jury may now investigate when the victim is intentionally selected because of race, religion, gender, disability, gender identity, sexual orientation, color or national origin:
 - simple assault or assault and battery;
 - unlawful entry; and
 - various offenses that tend to cause violence.
- Amends §19.2-215.1



Saliva/Tissue Samples; DNA; Violent Felony Arrest

HB 821 (Jenkins)

- Clarifies that DFS may retain a DNA sample from a person arrested for a violent felony, even if such person is instead convicted of a misdemeanor that would otherwise require the sample to remain in the DNA databank.
- Amends § 19.2-310.2:1



Custodial Interrogations; Audiovisual Recording

HB 1023 (Adams)

- Any law enforcement officer shall, if practicable, make an audiovisual recording of the entirety of any custodial interrogation of a person conducted in a place of detention.
- If an audiovisual recording is unable to be made, the law-enforcement officer shall make an audio recording of the entirety of the custodial interrogation.
- Failure to make such a recording shall not affect the admissibility of the statements made during the custodial interrogation, but the court or jury may consider such failure in determining the weight given to such evidence.
- Adds §19.2-390.04



Cold Case Database

HB 1024 (Roem)

- Requires VSP to establish and maintain a searchable electronic database of cold cases, available to the public through State Police website.
- "Cold case" is an investigation into a homicide, missing person, or unidentified person case that has remained unsolved for at least five years after the crime occurred, the person went missing, or the unidentified body was found, whichever occurred last.



Cold Case Database

- VSP and submitting law-enforcement agencies may withhold such information, in whole or in part, from the database:
 - as they deem necessary for investigative purposes, protection of privacy, or any other lawful reason, or
 - upon request of the victim's or missing person's next of kin.
- Adds § 52-34.13



JUVENILE VICTIMS & OFFENDERS



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Earned Sentence Credits: Adult Serving Juvenile Sentence

HB 61 (Collins) / SB 307 (Stanley, Jr.)

- Provides that an adult sentenced for a juvenile offense can earn good conduct credit at the rate of one day for each one day served on misdemeanors.
- Makes it consistent with good time credit for adults serving adult sentences on misdemeanors.
- Amends §16.2-284



Missing Child with Autism Alert Program

HB 65 (Miyares)

- Creates a program for notification of missing child with autism.
- Applies to missing person when:
 - Diagnosed with autism spectrum disorder, and
 - Under age 18 or a secondary school student of any age, and
 - Disappearance poses a credible threat.
- Adds §§ 52-34.13 – 52-34.15



Eliminates Disorderly Conduct for Students at School

HB 256 (Mullin) / SB 3 (McClellan)

- The crime of disorderly conduct cannot be charged against an elementary or secondary student while on school property during school or during a school sponsored event.
- School property includes the property of the school or on a school bus or wherever an activity being sponsored by the school is being held.
- Amends §18.2-415



Misdemeanor Sex Offenses; Minor Victim; Statute of Limitations

HB 298 (Tran) / SB 724 (McClellan)

- Increases the SOL for prosecuting certain misdemeanors where the victim is a minor from 1 year after the victim reaches the age of majority to 5 years after, if the offender was an adult at the time of the offense and more than 3 years older than the victim.
- Applies to: carnal knowledge of detainee by employee of bail bond company, sexual battery, attempted sexual battery, infected sexual battery, sexual abuse of a child age 13 or 14 by an adult, and tongue penetration by adult of mouth of child under age 13 with lascivious intent.
- Amends §19.2-8



Juveniles; Trial as Adult

HB 477 (Guzman) / SB 546 (Edwards)

- Current law provides that juveniles age 14 to 17 may be tried as an adult for certain enumerated crimes.
- New law does not change the age to be tried as an adult, but changes the procedures depending on the age.
- Amends §§16.1-241, 16.1-269.1, 16.1-269.2, and 16.1-277.1



Juveniles; Trial as Adult

Murder and Aggravated Malicious Wounding

- Limits automatic certification to juveniles age 16 & 17.
- Juveniles 14 & 15 may be transferred on murder and aggravated malicious wounding charges, *but it is no longer automatic.*
 - CA must proceed under §16.1-269.1(A) - motion to transfer, a report is prepared, and a transfer hearing is held to determine whether to keep the case in JDR or transfer to Circuit Court to try the juvenile as an adult.

All Other Felonies

- Law remains the same as current law under §16.1-169(A) to allow transfer of juveniles age 14-17.



Smoking Illegal in Vehicle with Minor Under 15

HB 578 (Guzman)

- Expands the group in the presence of whom it is illegal to smoke in a motor vehicle from minors under age 8 to minors under the age of 15.
- Maintains civil penalty of up to \$100.
- Amends §46.2-810.1



Juveniles; Sentencing When Tried as an Adult

HB744 (Watts)

- Adds provision that when a juvenile is tried as an adult and convicted of a felony, the court may depart from any mandatory minimum sentence required by law and suspend any portion the sentence.
- Also requires the court, when sentencing a juvenile as an adult, to consider the juvenile's exposure to adverse childhood experiences, early childhood trauma, or any child welfare agency and the differences between juvenile and adult offenders.
- Amends § 16.1-272



Custodial Interrogation of a Child; Parental Notification

HB 746 (Watts)

- Prior to the custodial interrogation of a child, the child's parent, guardian, or legal custodian shall be notified of the child's arrest and the child have contact with his parent, guardian, or legal custodian.
- Such notification and contact may be in person, electronically, by telephone, or by video conference.
- Adds §16.1-247.1



Custodial Interrogation of a Child; Parental Notification

Exceptions:

- If the parent, guardian, or legal custodian is:
 - A codefendant,
 - Suspected of committing crime against the child, or
 - Cannot reasonably be located or refuses contact; or
- The law-enforcement officer believes the information sought is necessary to protect life, limb, or property from an imminent danger and the questions are limited to those that are reasonably necessary to obtain that information.



Child Abuse Reporting; Public Sports Programs

HB 904 (Hayes)

- Adds to the list of mandatory child abuse reporters: athletic coaches, directors and other adults employed or volunteering with public sports organizations.
- Current law only applies to private sports organizations.
- Amends § 63.2-1509



School Attendance Officers; Petitions

HB 1081 (Guzman) / SB 237 (Barker)

- Provides that an attendance officer, or a division superintendent, may complete, sign, and file with the intake officer of the J&DR court a petition for a violation of a school attendance order entered by a J&DR judge pursuant to a CHINS petition.
- The bill provides that such actions do not constitute the unauthorized practice of law.
- Amends §§ 22.1-258 and 54.1-3900



Increased Penalty; Allowing Minor's Access to Loaded Gun

HB 1083 (Hayes, Jr.)

- Increases the penalty to a Class 1 misdemeanor for “recklessly leaving” a loaded, unsecured gun in a way “that endangers the life or limb” of a child under 14.
 - Previously a Class 3 misdemeanor (up to a \$500 fine)
- Amends §18.2-56.2



TDO's; Transportation; Transfer to Local Law Enforcement

HB 1118 (R. Bell) /SB 603 (Hanger)

- Establishes procedures for changing a designated transportation provider for a minor or person subject to a TDO.
- When such provider becomes unable to continue, local law enforcement shall take custody and provide transportation to the proper facility.
- Amends §§ 16.1-340.2, 16.1-345, 37.2-810, 37.2-829.



J&DR Intake Procedures

HB 1324 (Foy)

- Makes certain changes to the juvenile intake procedures
- If a juvenile is alleged to be a truant, the intake officer may defer filing a petition in order to develop and allow the juvenile to complete a truancy plan or program
- Adds underage possession of alcohol to the existing offense of possession of marijuana for which, if charged by summons, a juvenile is entitled to have the charge referred to intake for consideration of informal proceedings.



J&DR Intake Procedures

- Changes the notice requirement for circumstances under which informal action has been taken on a complaint alleging that a juvenile is in need of services (CHINS), in need of supervision, or delinquent so that the intake officer advises the juvenile and his parents that any subsequent complaint may result in the filing of a petition with the court.
- Amends § 16.1-260



Child Pornography; Venue

HB 1330 (Byron)

- Provides that venue for a prosecution of child pornography possession, distribution, or production also may be where the alleged offender *resides*.
- Under current law, venue is limited to the jurisdictions where the unlawful act occurs or where any sexually explicit visual material associated with the unlawful act is produced, reproduced, found, stored, or possessed.
- Amends § 18.2-374.1 and § 18.2-374.1:1



Juveniles; Confinement for Violation of Court Order

HB 1437 (Jones)

- Reduces from 10 days to 7 days the maximum allowable period of confinement of a juvenile in a secure facility for a contempt violation.
- Amends § 16.1-292



Child Care Providers; Out-of-State Background Checks

SB 668 (Boysko)

- Allows child care facilities to obtain background checks from any state in which an employee applicant has resided in the preceding 5 years.
- Amends §§ 63.2-1720.1 and 63.2-1721.1.



LAW ENFORCEMENT: *Protections, Requirements & Restrictions*



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Line of Duty Act; Eligible Dependents

HB 51 (Knight)/ SB 40 (DeSteph)

- Provides that children born or adopted after the death or disability of employee covered by Line of Duty Act are eligible for health insurance if their birth or adoption occurred prior to 7/1/2017.
- Amends § 9.1-400.



Law Enforcement Agencies,; Body-worn Camera Systems

HB 246 (Levine)

- Requires localities to adopt and establish a written policy for the operation of a body-worn camera system, as defined in the bill, that follows identified best practices and is consistent with Virginia law and regulations, using as guidance the model policy established by DCJS *prior* to purchasing or deploying a body-worn camera system.
- Localities to make such policy available for public comment and review prior to its adoption.
- Amends § 9.1-102; adds §15.2-1723.1



MOUs between School Board and Law Enforcement Agency

HB 292 (VanValkenburg) / SB 221 (Locke)

- Shortens from every 5 years to every 2 years the frequency of the review period for memorandums of understanding (MOU) between school boards and local law-enforcement agencies.
- Requires local school boards to conspicuously publish the current division MOU on its division website and provide notice and opportunity for public input during each MOU review period.
- Amends §22.1-280.2:3



Workers' Comp; PTSD; LEO's and Firefighters

HB 438 (Heretick)/SB 561 (Vogel)

- Provides that PTSD incurred by LEO's or firefighters is compensable under VA Workers' Comp Act *under specified circumstances*.
- Sets requirements for resilience and self-care training.
- Amends §§ 9.1-102, 9.1-203.1; adds §65.2-107



Exposure to Decedent's Body Fluids; Testing

HB 664 (R. Bell)

- Provides that when first responders are exposed to a decedent's body fluids in a manner that could transmit HIV, Hepatitis B or C, the next of kin shall be *deemed* to have consented to testing.
- Currently such consent must be obtained.
- Amends §§ 32.1-45.1, 32.1-45.2, 32.1-48.015, 32.1-116.3



Dispatchers; TCPR & Emergency Medical Dispatch Training

HB 727 (Hope)/ SB (McClellan)

- Each public safety answering point (PSAP) to provide training and equipment for each dispatcher in Telecommunicator CPR (TCPR).
- Board of Health to establish standards.
- PSAP's can enter reciprocal agreements with other PSAP's.
- Establishes civil immunity for dispatchers providing TCPR.
- Dispatchers must complete an Emergency Medical Dispatch education program by 7/1/2024.
- Adds § 56-484.16:1.



Services for Former LEO's with a Disability

HB 1025 (Adams)

- Requires Dept. for Aging and Rehabilitative Services to make available to LE agencies information regarding vocational rehabilitation programs and employment services available to assist former LEO's who have a disability as a result of their service.
- Each law enforcement agency to provide such information to officers separating from service because of their disability.
- Adds Chapter 553.



Community Policing Act; Data Collection; Reporting

HB 1250 (Torian)

- Prohibits LEO's and VSP officers from engaging in bias-based profiling while performing their duties.
- Directs VSP to create a Community Policing Database into which LEO's and VSP officers report certain data about motor vehicle and investigatory stops.
- DCJS to access data for analysis related to excessive force complaints and to report annually.
- Adds §§ 9.1-191, 15.2-1609.10, 15.2-1722.1, 52-30.1 to 52-30.4.



School Resource & Security Officers; Training

HB 1419 (Jones) / SB 171 (Locke)

- School resource officers and school security officers are required to receive training specific to the role and responsibility of a law-enforcement officer working with students in a school environment that includes training in current law on:
 - (i) relevant state and federal laws;
 - (ii) school and personal liability issues;
 - (iii) security awareness in the school environment;
 - (iv) disaster and emergency response;



School Resource & Security Officers; Training

- (v) mediation and conflict resolution, including de-escalation techniques such as physical alternatives to restraint;
- (vi) awareness of cultural diversity and implicit bias;
- (vii) working with students with disabilities, mental health needs, substance abuse disorders, or past traumatic experiences; and
- (viii) student behavioral dynamics, including current child and adolescent development and brain research.
- Amends § 9.1-102



VRS; Retired LEO's Employed as School Security Officers

HB 1495 (Torian) / SB 54 (Cosgrove)

- Allows a retired LEO to continue to receive his service retirement allowance if subsequently employed as a school security officer, as long as he:
 - i. Had a break in service of at least 12 months;
 - ii. Did not retire under an early retirement program, and
 - iii. Did not retire under the Workforce Transition Act of 1995.
- Amends § 51.1-155.



Capitol Police; Concurrent Jurisdiction

HB 1626 (Bourne)/SB 996 (Edwards)

- Provides that a Capitol Police Officer who is a detector canine handler has concurrent jurisdiction with another jurisdiction that has requested assistance of Capitol Police in the detection of firearms, ammunition, explosives, propellants or incendiaries.
- Amends § 30-34.2:1.



MENTAL HEALTH, SPECIALTY DOCKETS & DETENTION ORDERS



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Unrestorably Incompetent Defendant; Competency Report

HB 259 (Simon) /SB 670 (Mason)

- Where a defendant is likely to remain incompetent for the foreseeable future due to an ongoing and irreversible medical condition and prior medical or educational records are available to support the diagnosis, a competency report may recommend that the court find the defendant unrestorably incompetent to stand trial, and the court may proceed with the disposition of the case based on such recommendation.



Unrestorably Incompetent Defendant; Competency Report

- Under current law, the defendant is required to undergo treatment to restore his competency before the court can find a defendant unrestorably incompetent to stand trial.
- The bill also provides that such person who is found unrestorably incompetent to stand trial shall be prohibited from purchasing, possessing, or transporting a firearm.
- Amends §§ 18.2-308.1:3 and 19.2-169.1



Emergency/Substantial Risk Orders “Red Flag Law”

HB 674 (Sullivan) / SB 240 (Barker)

- *See Firearms* section, slides # 105-109



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TDO's; Transportation; Transfer to Local Law Enforcement

HB 1118 (R. Bell) /SB 603 (Hanger)

- Establishes procedures for changing a designated transportation provider for a minor or person subject to a TDO.
- When such provider becomes unable to continue, local law enforcement shall take custody and provide transportation to the proper facility.
- Amends §§ 16.1-340.2, 16.1-345, 37.2-810, 37.2-829.



Temporary Detention for Observation and Treatment

HB 1452 (Hope)/SB 738 (Deeds)

- Clarifies that a person can be subject to a TDO for observation & treatment related to intoxication where the person is located, if:
 - i. There is probable cause to believe them incapable of informed decision making, and
 - ii. The medical standard of care calls for observation, testing or treatment to prevent harm to the person.
- Such temporary detention limited to 24 hours.



Temporary Detention for Observation and Treatment

- Provides that a person subject to emergency custody due to mental illness shall remain in custody until:
 - a) A TDO is issued pursuant to § 37.2-809,
 - b) A TDO for observation, testing or treatment is entered under § 37.2-1104, ending LE custody,
 - c) The person is released, or
 - d) The ECO expires.
- Amends §§ 37.2-808 and 37.2-1104



Specialty Dockets; Veterans Docket

SB 499 (Reeves)

- Provides that any veterans docket authorized and established as a local specialty docket in accordance with the Rules of Supreme Court of Virginia shall be deemed a "Veterans Treatment Court Program," for the purposes of applying for, qualifying for, or receiving any federal grants, other federal money, or money from any other entity designated to assist or fund such state programs.
- The bill contains an emergency clause.
- Amends § 18.2-254.2



Competency to Stand Trial; Outpatient Treatment

SB 683 (Mason)

- Clarifies that, for the purposes of restorative treatment for a person incompetent but restorable to stand trial, outpatient treatment may occur in a local correctional facility or at a location determined by the appropriate community services board or behavioral health authority.
- Amends §§ 19.2-169.1 and 19.2-169.2



Behavioral Health Docket Act

SB 818 (Morrissey)

- Establishes behavioral health courts as specialized court dockets within the existing structure of Virginia's court system.
- They will offer judicial monitoring of intensive treatment and supervision of offenders who have mental illness and co-occurring substance abuse issues.
- The bill gives the Supreme Court of Virginia administrative oversight of the implementation of the Act.



Behavioral Health Docket Act

- Establishes a state behavioral health docket advisory committee and requires localities intending to establish such dockets to establish local behavioral health docket advisory committees.
- The Act is modeled on the Drug Treatment Court Act (§ 18.2-254.1).
- Adds §18.2-254.3



MISCELLANEOUS



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Legal Holidays; Election Day

HB 108 (Lindsey)/SB 601 (Lucas)

- Designates as a state holiday Election Day (first Tuesday after first Monday in November).
- Removes Lee-Jackson Day as a state holiday.
- Amends § 2.2-3300.



Drones; Local Regulation

HB 742 (Bulova)

- Authorizes localities to regulate take-offs and landings of certain drones on locality's property in accordance with Dept. of Aviation rules.
- Locality to provide report and publish a summary on website.
- Delayed effective date of January 1, 2021.
- Amends § 15.2-926.3



Gender-neutral Terms

HB 623 (Simon)

- Replaces terms “husband” and “wife” with gender-neutral terms throughout Code.
- Repeals statutory prohibitions on same-sex marriage.
- Makes similar changes to other provisions involving married people and their rights stemming from marriage.
- Amends numerous Code sections. *See Acts of Assembly for full listing.*



Prohibited Discrimination; Sexual Orientation & Gender Identity

HB 1049 (Levine)

- Prohibits discrimination based on sexual orientation or gender identity in employment, hotels/motels, public contracting, apprenticeship programs, housing, banking and insurance.
- Amends numerous Code sections. *See Acts of Assembly for full listing.*



MOTOR VEHICLES

Driver's Licenses, Driver Privilege
Cards and ID's



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License Suspension for Certain Non-Driving Related Offenses

HB 909 (Hayes, Jr.) / SB 513 (Edwards)

- Can no longer suspend a driver's license for the following:
 - Conviction or deferred disposition on a drug offense;
 - Non-payment of certain fees owed to correctional facility or jail; or
 - Shoplifting motor fuel.
 - Amends §§18.2-251, 46.2-410.1, 46.2-819.2, and 53.1-127.3



License Suspension for Nonpayment of Fines or Costs

HB 1196 (Lopez) / SB 1 (Stanley)

- Repeals the requirement that a driver's license be suspended when a person fails or refuses to pay fines or costs.
- Commissioner of the DMV must return or reinstate any person's driver's license that was suspended prior to July 1, 2019, solely for nonpayment of fines or costs.
 - No reinstatement fee required



License Suspension for Nonpayment of Fines or Costs

- Removes provision allowing the court to require a defendant to present a summary prepared by the DMV of the other courts in which the defendant also owes fines and costs.
- Amends §§19.2-258.1, 19.2-354, 19.2-354.1, 33.2-503, 46.2-203.1, 46.2-301, 46.2-361, 46.2-383, 46.2-391.1, 46.2-416, 46.2-819.1, 46.1-819.3, 46.1-819.3:1, 46.2-819.5, 46.2-940 & 46.2-1200.1; adds §46.2-808.2; repeals §46.2-395 and Article 18 (§§ 46.2-944.1–46.2-947)



Driver Privilege Cards

HB 1211 (Tran) / SB 34 (Surovell)

- Driver privilege cards may be issued by the DMV to an applicant who is not eligible for a regular driver's license but
 - a) has reported income or been claimed as a dependent on an individual tax return, and
 - b) has motor vehicle insurance.
- These cards shall confer the same privileges and shall be subject to the same provisions as driver's licenses and permits; however, they shall **not**:
 - a) Confer voting privileges,
 - b) Permit an individual to waive any part of the driver examination, or
 - c) Have their issuance be contingent upon the applicant's ability to produce proof of legal presence in the US.



Driver Privilege Cards

- Referred to as a “driver’s license”; restriction will appear on back.
- Limits release of certain applicant information from DMV.
- Can receive “Limited duration driver’s license” if special conditions are met.
- Delayed effective date of January 1, 2021.
- Amends multiple code sections and adds § 46.2-328.3



Sex Designation on Application Form

SB 246 (Surovell)

- Department of Motor Vehicles must offer any applicant the option to mark "male," "female," or "non-binary" when designating the applicant's sex on an application for a driver's license or special identification card.
- Amends §§46.2-323, 46.2-341.12, 46.2-345 & 46.2-345.2



Driver's License Designation; Traumatic Brain Injury

SB 289 (Deeds)

- Requires the DMV to designate a brain injury on applicant's driver's license when the request is accompanied by a form completed by a licensed physician confirming applicant's condition.
- Amends §46.2-342.



Driving Suspended; Mandatory Minimum Term

SB 711 (McClellan)

- Eliminates the mandatory minimum term of confinement in jail of 10 days for a third or subsequent conviction of driving on a suspended license.
- Amends §46.2-301



DMV; Driver's License Eligibility

SB 761 (Barker)

- Authorizes the DMV to issue a limited-duration driver's license, permit, or special identification card to an applicant with a valid, unexpired Employment Authorization Document.
- Amends §46.2-328.1



MOTOR VEHICLES

Traffic Safety & Impaired Driving



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Refusal of Tests; Restricted License

HB 34 (Lindsey)

- Allows a person convicted of first offense refusal to petition the court thirty (30) days after conviction for a restricted driver's license.
- The court, for good cause shown, may grant a restricted license for the same purposes as a DUI restricted license if the petitioner installs an ignition interlock device and enters into and successfully completes ASAP.
- Does not permit any person to operate a CMV.
- Amends §§ 18.2-268.3 & 46.2-391.2



Circumvention of Ignition Interlock Systems; Venue

HB 663 (Mullin)

- Venue for prosecution of circumvention of interlock device is (a) where the offense took place or (b) the jurisdiction where the court order requiring interlock was entered.
- Amends § 18.2-270.1



Handheld Personal Communications Devices While Driving

HB 874 (Bourne)/SB 160 (Surovell)

- Prohibits any person from holding a handheld personal communications device while driving a motor vehicle.
- Does not apply while lawfully stopped.
- Adds to the exempt list the use of (a) amateur or CB radios and (b) official DOT or traffic incident management.
- Delayed effective date of January 1, 2021.
- Adds § 46.2-818.2; repeals §46.2-1078.1



Reckless Driving; Raises Threshold; Exceeding Speed Limit

HB 885 (Sickles)/SB 63 (Sutterlein)

- Raises per se reckless driving by speed to driving in excess of eighty-five (85) MPH.
- Per se reckless driving for more than 20 MPH over speed limit remains unchanged.
- Amends § 46.2-862



Signals; Overtaking Vehicle

HB 1066 (Adams)

- Removes the requirement that driver of overtaking vehicle use lights or audible signal to driver of a slower vehicle to move to the right.
- Does *not* change requirement that slower-moving vehicle move to the right for overtaking vehicle.
- Amends §§ 46.2-842 & 46.2-842.1



Photo Speed Monitoring Devices; Civil Penalty

HB 1442 (Jones)

- Authorizes use of photo speed monitoring devices in or around school crossing zones and highway work zones for purposes of recording images of vehicles that are traveling at least ten (10) mph over posted speed limit.
- Up to a \$100 civil penalty for violation.
- Summonses issued by mail are not placed on driving record. If summons is issued by LEO, violation is reported.
- Amends §§ 46.2-208, 46.2-882, & 46.2-882.1



Tow Truck Drivers; Criminal History

HB 1577 (Wyatt)

- Authorizes DCJS to issue a tow truck driver registration to a person who was convicted of a violent crime or a crime involving the driving of a tow truck.
- Conviction must have occurred more than fifteen (15) years prior to the date of application and all conditions of probation must have been satisfied.
- Does not change prohibition against sex offenders.
- Amends § 46.2-116



Yielding Right-of-Way to Pedestrians; Stopping

HB 1705 (Kory)

- Clarifies the duties of vehicle drivers to stop when yielding to pedestrians at certain areas.
- Prohibits the driver of another vehicle approaching such stopped vehicle from an adjacent lane or from behind from overtaking and passing the stopped vehicle.
- Amends §46.2-924



Ignition Interlock for First Offense DUI

SB 282 (Deeds)

- Requiring ignition interlock to receive a restricted license is now discretionary for DUI first conviction.
- Ignition interlock was required under the old version of the statute.
- Amends § 18.2-270.1



Bicyclists; Other Vulnerable Road Users; Penalty

SB 437 (Surovell)

- A person who operates a motor vehicle in a careless or distracted manner and is the proximate cause of serious physical injury to a vulnerable road user is guilty of a Class 1 misdemeanor.
- Prohibits the driver of a motor vehicle from crossing into a bicycle lane to pass or attempt to pass another vehicle, except in certain circumstances.
- Introduces negligence standard into the criminal code.
- Prosecution for reckless driving under §46.2-852 is a bar to prosecution under this section and vice-versa.
- Amends § 46.2-841; adds § 46.2-816.1



DUI; Remote Alcohol Monitoring; Penalty

SB 439 (Surovell)

- For adult offenders' first DUI conviction with BAC less than 0.15, upon motion of the offender, sole restriction on license shall be requiring ignition interlock without any violation for one (1) year.
- If not eligible for restricted license, can use remote alcohol monitor, refrain from alcohol use, and complete ASAP.
 - Tampering with remote alcohol device a Class 1 misdemeanor.
- Delayed effective date of July 1, 2021.
- Amends §§ 18.2-270.1, 18.2-270.2, 18.2-271.1, & 18.2-272



Driving After Forfeiture of License; Highways Only

SB 798 (Morrissey)

- Limits any prosecution under this code section to operation of a motor vehicle on a *highway* (previous version of statute did not limit to highways.)
 - Applies to operating a motor vehicle 1) with a revoked license, 2) in violation of a restricted license, 3) without an ignition interlock, if required, 4) with a license restricted in any way because of a DUI.
- Amends §18.2-272



MOTOR VEHICLES

Vehicle Regulations



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Vehicles Used for Agricultural and Farm Purposes

HB 193 (Orrock, Sr.)

- Authorizes the use of vehicles exempt from vehicle registration and used exclusively for agricultural or horticultural purposes to transport the vehicle owner between his residence and the land where such activities take place.
- Clarifies that the same applies to farm motor vehicles.
- Amends § 46.2-665 & 46.2-698



Light Units; Candlepower to Lumens

HB 445 (Robinson)

- States the limits on brightness for certain lights in vehicles in lumens.
- Current law only provides the restrictions in candlepower.
- Amends §§ 46.2-1004, 46.2-1012, 46.2-1020, & 46.2-2099.5



Electric Power-Assisted Bicycles

HB 543 (Carr)/SB 0871 (Marsden)

- Amends the definition to include three (3) classes of such bicycles, based upon the type of motor and maximum MPH.
- Afforded same rights and privileges as bicycles.
- Establishes certain manufacturer requirements.
- Requires persons operating or riding on a class three (3) electric power-assisted bicycle to wear a helmet.
- Amends §§ 46.2-100, 46.2-908.1; adds § 46.2-904.1



Firefighting Equipment; Weight Limitation

HB 991 (Reid)

- Requires firefighting equipment to comply with existing weight limitations for emergency vehicles on interstate highways.
- Prior law provided an exemption.
- Waives fees for overweight permits for certain agencies.
- Amends § 46.2-1102



DMV; Release of Information

HB 1092 (Ayala)

- Mostly relates to DMV records management and distribution.
- Repeals code requiring DMV to furnish a certificate linking a license plate number to an individual and permitting DMV to publish personal information related to certain delinquent accounts online.
- Contains an emergency clause.
- Amends §§ 46.2-203.1, 46.2-208, 46.2-208.1, 46.2-380, & 46.2-208.3



Abandoned, Unattended, or Immobile Vehicles; Weight

HB 1126 (Davis)

- Limits the current prohibition on and remedies for abandoned, unattended, or immobile vehicles to those that weigh at least seventy-five (75) pounds.
- Amends § 46.2-1200 & 46.2-1209



Overweight Permits; Forest Products

HB 1348 (Tyler)/SB 0328 (Lucas)

- Clarifies that the definition of forest products for the purpose of qualifying for an overweight permit for hauling forest products includes wood pellets.
- Amends § 46.2-1148.1



Voluntary Registry for People with Disability that Impairs Communication

HB 1666 (Hayes, Jr.)

- Authorizes an individual with a disability that can impair communication to voluntarily indicate such on motor vehicle registration application.
- DMV must share this indication with criminal justice agencies.
- Adds § 46.2-600.1



Electric Personal Delivery Devices

SB 758 (Marsden)

- Changes weight limit of such devices from fifty (50) to five-hundred (500) pounds.
- Allows localities to regulate use on sidewalks, crosswalks, or roadways but requires localities to allow operation on the side of a roadway with a speed limit of less than twenty-five (25) MPH or less if sidewalk is not available.
- Amends §§ 46.2-100, 46.2-904, 46.2-908.1, 46.2-908.1:1; 46.2-1015 & 46.2-2101



PAROLE/ EARLY RELEASE



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Governor's Budget Amendment; DOC Early Release of Inmates

HB 29 – Caboose Budget Bill – Amendment 21

HB 30 – Biennial Budget Bill – Amendment 101

- Caboose Budget Bill covers the adjustments to fiscal year that ends on June 30, 2020.
- Biennial Budget Bill covers July 1, 2020 – June 30, 2021.
- Typically, there are few revisions; however due to COVID-19, the Governor made multiple suggested changes to respond to the pandemic.
- Amendments 21 & 101 relate to the Dept. of Corrections.



Governor's Budget Amendment; DOC Early Release of Inmates

- “[U]pon the declaration by the Governor of a state of emergency pursuant to § 44-146.17 in response to a communicable disease of public health threat as defined in § 44-146.16, the Director shall, during the duration of the declared emergency, have the authority to
 - (i) discharge from incarceration or
 - (ii) place into a lower level of supervision, including probation supervision, home electronic incarceration, or other forms of community corrections,
- any prisoner committed to the Department who has *less than one year* of his sentence remaining to be served prior to his scheduled release.”



Governor's Budget Amendment; DOC Early Release of Inmates

- Before releasing a prisoner early, the Director must first determine that
 - “(a) any such discharge or placement during the declared emergency will assist in maintaining the health, safety, and welfare of any prisoner discharged or placed or the prisoners remaining in state correctional facilities and
 - (b) any such discharge or placement is compatible with the interests of society and public safety.”



Governor's Budget Amendment; DOC Early Release of Inmates

- Excludes persons convicted of Class 1 Felony (Capital Murder) or a sexually violent offense as defined in § 37.2-900.
- Does not exclude all non-violent felons.
- Both amendments state that the authority is granted during the declared emergency and expires on July 1, 2021.



Parole Eligibility; *Fishback* Bill

HB 33 (Lindsey) / SB 793 (McClellan)

- Provides for parole eligibility for incarcerated defendants sentenced by a jury between the time parole was abolished in 1995 and *Fishback* decision in 2000.
- Exception for defendants convicted of capital murder and certain child sexual abuse offenses.
- Contains emergency clause to make the law effective on passage.
- Amends §53.1-165.1



Parole Eligibility: Juveniles Sentenced to 20 Years to Life

HB 35 (Lindsey) / SB 103 (Marsden)

- Provides that any juvenile sentenced to at least 20 years for a single felony offense or multiple felony offenses is eligible for parole after serving at least **20 years** of the sentence.
- Parole board to adopt rules for granting of parole on the basis of demonstrated maturity and rehabilitation and the lesser culpability of juvenile offenders.
- Amends §§19.2-387, 19.2-389, 19.2-391, 53.1-136 & 53.1-165.1



POST-TRIAL PROVISIONS



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Furloughs; Work Release Programs; Notice to Local Sheriff

HB 369 (R. Bell)

- Provides that if any furlough permitted by a work release program for an offender under the supervision of a regional jail extends the limits of confinement of the offender to a locality not served by that regional jail, notice of such furlough shall be given to the sheriff of such locality.
- Amends § 53.1-132



Deferred Dispositions; Larceny

HB 660 (Mullin) / SB 286 (Deeds)

- Adds misdemeanor crimes of larceny under *Article 3 (§ 18.2-95 et seq.)*, to the crimes eligible for deferred dispositions for property crimes.
- Eliminates deferred disposition for peeping crimes.
- Amends §19.2-303.2



Postrelease Incarceration; Sex Offender Registry Violations

HB 752 (Jones) / SB 312 (Stanley, Jr.)

- Clarifies that offenders convicted of certain Sex Offender Registry violations can be subject to postrelease incarceration.
- Clarifies that “postrelease supervision” is actually a period of incarceration that is added to an active term of incarceration and suspended as the suspended time that may be revoked during supervision after release from the active term of incarceration.
- Amends §§18.2-10, 19.2-295.2 & 19.2-295.2:1



Writ of Actual Innocence

HB 974 (Herring) / SB 511 (Edwards)

- Allows a petition for writ of actual innocence to be filed on any felony conviction or delinquency adjudication based on biological or nonbiological evidence, regardless of the plea that was entered at trial or the seriousness of the offense.
- Expands the Writ of Actual Innocence on nonbiological evidence to allow a writ for evidence that was known but **untested** at the time of conviction and a scientific test supporting innocence has been done on the previously untested evidence.



Writ of Actual Innocence

- Does not impose any limit on number of times a writ can be filed under this chapter.
- Reduces the burden of proof for the court to grant the writ of actual innocence based upon biological evidence from clear & convincing evidence to preponderance of the evidence.
- Amends §§19.2-327.2, 19.2-327.2:1, 19.2-327.3, 19.2-327.5, 19.2-327.10, 19.2-327.10:1, 19.2-327.11 & 19.2-327.13



Community Service in Lieu of Payment during Imprisonment

HB 277 (Price) / SB 736 (Obenshain)

- Provides that a court may permit an inmate to earn credits against any fines and court costs imposed against him by performing community service.
- Under current law, credits may be earned only before or after imprisonment.
- Amends §19.2-354



Deferred Disposition; Autism or Intellectual Disability

SB 133 (Stuart)

- Authorizes a deferred disposition for any criminal offense other than capital murder or other act of violence listed in §19.2-297.1 when the offenders has been diagnosed with autism or an intellectual disability.
- The defendant must present evidence that he has been diagnosed by a psychiatrist or clinical psychologist.
- The court must find by clear and convincing evidence that the criminal conduct was caused by or had a direct and substantial relationship to the person's disorder or disability.



Deferred Disposition; Autism or Intellectual Disability

- The defendant must consent to the deferred disposition.
- Before offering the deferred disposition, the court must give “due consideration” to the position of the CA and the views of the victim.
- Amends §§16.2-69.48:1, 17.1-275.2, 17.2-275.7, 19.2-303.4, 19.2-335, & 19.2-336; adds §19.2-303.6



Sentence Reduction

SB 1018 (Stanley, Jr.)

- Adds *grand larceny of a firearm* to the list of crimes for which a defendant may get a sentence reduction for substantial assistance in furtherance of an investigation or prosecution.
- Consistent with current law, consideration for a sentence reduction can occur only upon motion of the attorney for the Commonwealth.
- Amends §19.2-303.01



SCHOOLS



COMMONWEALTH'S ATTORNEYS' SERVICES COUNCIL
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Eliminates Disorderly Conduct for Students at School

HB 256 (Mullin) / SB 3 (McClellan)

- The crime of disorderly conduct cannot be charged against an elementary or secondary student while on school property during school or during a school sponsored event.
- School property includes the property of the school or on a school bus or wherever an activity being sponsored by the school is being held.
- Amends §18.2-415



Principals; Reporting to Law Enforcement

HB 257 (Mullin) / SB 729 (McClellan)

- School principals no longer required to report to law enforcement certain enumerated acts that may constitute a *misdemeanor* offense.
- Requires the principal to tell the parents if the incident has been reported to local law enforcement and, *if the incident is so reported*, that the parents may contact local law enforcement for further information.
- Amends §22.1-279.3:1



Public Schools; Resource Officers; Data

HB 271 (VanValkenburg) / SB 170 (Locke)

- Requires DCJS, the Dept. of Education and the Dept. of Juvenile Justice, to annually collect, report, and publish data related to incidents involving students and school resource officers.
- Requires the Virginia Center for School and Campus Safety to analyze and disseminate submitted data.
- Amends §9.1-184; adds §22.1-279.10



MOUs between School Board and Law Enforcement Agency

HB 292 (VanValkenburg) / SB 221 (Locke)

- Shortens from every 5 years to every 2 years the frequency of the review period for memorandums of understanding (MOU) between school boards and local law-enforcement agencies.
- Requires local school boards to conspicuously publish the current division MOU on its division website and provide notice and opportunity for public input during each MOU review period.
- Amends §22.1-280.2:3



School Attendance Officers; Petitions

HB 1081 (Guzman) / SB 237 (Barker)

- Provides that an attendance officer, or a division superintendent, may complete, sign, and file with the intake officer of the J&DR court a petition for a violation of a school attendance order entered by a J&DR judge pursuant to a CHINS petition.
- The bill provides that such actions do not constitute the unauthorized practice of law.
- Amends §§ 22.1-258 and 54.1-3900



Higher Education; Sexual Violence Policies

HB 913 (Helmer)

- Requires all non-profit and public higher education institutions (except VMI) to include in its sexual violence policies a provision for immunity from disciplinary action based on consumption of drugs or alcohol where such disclosure is made in conjunction with report of sexual violence.
- Amends § 23.1-808



School Resource & Security Officers; Training

HB 1419 (Jones) / SB 171 (Locke)

- School resource officers and school security officers are required to receive training specific to the role and responsibility of a law-enforcement officer working with students in a school environment that includes training in current law on:
 - (i) relevant state and federal laws;
 - (ii) school and personal liability issues;
 - (iii) security awareness in the school environment;
 - (iv) disaster and emergency response;



School Resource & Security Officers; Training

- (v) mediation and conflict resolution, including de-escalation techniques such as physical alternatives to restraint;
 - (vi) awareness of cultural diversity and implicit bias;
 - (vii) working with students with disabilities, mental health needs, substance abuse disorders, or past traumatic experiences; and
 - (viii) student behavioral dynamics, including current child and adolescent development and brain research.
- Amends § 9.1-102



Public Schools; Alternative School Discipline Process

SB 1020 (Stanley)

- A school board may adopt an alternative school discipline process to allow the principal and the parties involved in an incident involving an assault, or A&B without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity, an option to enter into a mutually agreed-upon process to hold the student accountable without reporting such incident to law enforcement.
- HB 271/SB 170 did not remove the requirement to report these offenses on a school bus, on school property, or at a school-sponsored activity to law enforcement.



Public Schools; Alternative School Discipline Process

- A principal in a school division with such an alternative accountability process may attempt to engage the parties involved in such an incident in the process prior to reporting such incident to the local law-enforcement agency.
- Prohibits a principal from reporting a party who successfully completes the alternative school discipline process, if provided for by the school board.
- Adds § 22.1-279.3:3



SEX OFFENSES & HUMAN TRAFFICKING



COMMONWEALTH'S ATTORNEYS' SERVICES COUNCIL
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Repeal of Fornication

HB 245 (Levine)

- Repeals the crime of fornication, i.e., voluntary sexual intercourse by an unmarried person.
- Under current law, it was punished as a Class 4 misdemeanor.
- Amends § 4.1-225, §15.2-907, §15.2-1724, §17.1-275.13, §18.2-67.5:2, §18.2-67.9, §18.2-346, and §18.2-366
- Repeals §18.2-344



Registration; Sex Offender & Crimes Against Minors Registry

HB 253 (Watts)

- Adds a third or subsequent conviction of unlawful dissemination or sale of images of another to the list of offenses requiring registration on the sex offender registry.
- Only applies to offenses committed on or after July 1, 2020.
- Amends § 9.1-902



Misdemeanor Sex Offenses; Minor Victim; Statute of Limitations

HB 298 (Tran) / SB 724 (McClellan)

- Increases the SOL for prosecuting certain misdemeanors where the victim is a minor from 1 year after the victim reaches the age of majority to 5 years after, if the offender was an adult at the time of the offense and more than 3 years older than the victim.
- Applies to: carnal knowledge of detainee by employee of bail bond company, sexual battery, attempted sexual battery, infected sexual battery, sexual abuse of a child age 13 or 14 by an adult, and tongue penetration by adult of mouth of child under age 13 with lascivious intent.
- Amends §19.2-8



Virginia Sexual Assault Forensic Examiner Coordination Program

HB 475 (Mullin) / SB 373 (Deeds)

- Establishes the Virginia sexual assault forensic examiner coordination program within the Department of Criminal Justice Services (DCJS).
- Adds § 9.1-191



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Carnal Knowledge of Pretrial or Posttrial Offender by Bail Bondsmen

HB 557 (Brewer)

- The bill makes it a Class 6 felony for any person who is (a) an owner or employee of the bail bond company that posted the pretrial defendant's or posttrial offender's bond, (b) has the authority to revoke the pretrial defendant's or posttrial offender's bond, and (c) carnally knows, without use of force, threat, or intimidation, a pretrial defendant or posttrial offender.
- Currently a Class 1 misdemeanor.
- Amends § 18.2-64.2



Human Trafficking; Assessments by Local Departments

HB 1006 (Herring) / SB 706 (Obenshain)

- Changes the name of “sex trafficking assessments” to “human trafficking assessments”.
- Allows local departments of social services conducting such human trafficking assessments to interview the alleged child victim or siblings without the consent and outside the presence of such child's or siblings' parent, guardian, legal custodian, or other person standing in loco parentis, or school personnel.
- Amends §63.2-1506.1



Sexual and Domestic Violence Prevention Fund

HB 1015 (Herring) / SB 297 (Favola)

- Creates the Virginia Sexual and Domestic Violence Prevention Fund, administered by the Department of Social Services, with the Department of Health and the Virginia Sexual and Domestic Violence Action Alliance.
- It will be used to develop, support, and evaluate programs that prevent sexual and domestic violence through strategies that (i) promote healthy practices related to relationships, sexuality, and social-emotional development and (ii) counteract the factors associated with the initial perpetration of sexual and domestic violence.
- Adds § 63.2-2300



Sexual Assault Nurse Examiners; Place of Practice

HB 1176 (Poindexter)

- Requires every hospital to report quarterly to the Department of Health information regarding the number of certified sexual assault nurse examiners employed by the hospital and the location, and the street address and contact information for the location at which each certified sexual assault nurse examiner provides services.
- Requires the Dept. of Health to post this information on their website.
- Adds § 32.1-23.2



Child Pornography; Venue

HB 1330 (Byron)

- Provides that venue for a prosecution of child pornography possession, distribution, or production also may be where the alleged offender *resides*.
- Under current law, venue is limited to the jurisdictions where the unlawful act occurs or where any sexually explicit visual material associated with the unlawful act is produced, reproduced, found, stored, or possessed.
- Amends § 18.2-374.1 and § 18.2-374.1:1



Prostitution; Touching the Unclothed Genitals or Anus of Another

HB 1524 (Delaney)

- Any person who touches the unclothed genitals or anus of another with the intent to sexually arouse or gratify for money is guilty of prostitution, which is punishable as a Class 1 misdemeanor.
- Any person who receives money for causing another to engage in this behavior is guilty of a Class 4 felony.
- Amends § 18.2-346, § 18.2-348, and § 18.2-356



Aggravated Sexual Battery; Penalty

SB 42 (DeSteph)

- Provides that any massage therapist, person practicing the healing arts, or physical therapist, or a person purporting to be such practitioner, who sexually abuses another person without the express consent of the complaining witness is guilty of aggravated sexual battery.
- Aggravated sexual battery is a felony punishable by confinement of not less than one nor more than 20 years and by a fine of not more than \$100,000.
- Amends § 18.2-67.3



Sex Offenses Requiring Registration

SB 492 (Surovell)

- Clarifies the registration and reregistration obligations imposed upon a person convicted of a *foreign crime* similar to certain enumerated crimes or convicted of a foreign crime that requires registration in that jurisdiction for the purposes of registration with the Sex Offender and Crimes Against Minors Registry.
- Amends § 9.1-902



Sex Offender and Crimes Against Minors Registry

SB 579 (Howell)

- Makes numerous changes to the provisions governing the Sex Offender and Crimes Against Minors Registry.
- The bill changes the number of classifications of offenders who are required to register under the Registry to match the number of classifications under federal law and re-designates the classifications as Tier I, Tier II, and Tier III offenses.
- The bill also streamlines the reregistration process, eliminates the need for lower-level offenders to reregister annually, and allows offenders to electronically verify their registration information.



Sex Offender and Crimes Against Minors Registry

- Amends §§ 2.2-515.2, 9.1-900, 9.1-901, 9.1-902, 9.1-903, 9.1-904, as it shall become effective, 9.1-906 through 9.1-914, 9.1-918, 15.2-2283.1, 16.1-228, 18.2-348.1, 18.2-370.5, 18.2-472.1, 22.1-79, 23.1-407, 32.1-127, 46.2-116, 46.2-117, 46.2-118, 46.2-323, 46.2-324, 46.2-330, 46.2-345, 46.2-2011.33, 63.2-100, 63.2-1205.1, 63.2-1503, 63.2-1506, and 63.2-1732



VICTIMS' RIGHTS



COMMONWEALTH'S ATTORNEYS' SERVICES COUNCIL
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CICF; Uncompensated Medical Costs; Sexual Assault Victims

HB 806 (Delaney) /SB 949 (Lucas)

- Adds to those persons invited by CA's to annual SART meetings to include (i) local health department district directors; (ii) the administrator of each licensed hospital within the jurisdiction; (iii) the director of each health safety net clinic within the jurisdiction; and (iv) as determined by CA, any other local health care providers.
- CA can use alternate means of attendance including electronic means.
- Sec. of Health & Human Resources to create workgroup to look at expanding expense reimbursements.
- Amends § 15.2-1627.4



Compensating Victims of Crime; Awards; Grandchildren

HB 988 (Batten)

- This bill includes grandchildren of the victim of a crime, who are alive at the time of the commission of the crime, in the list of persons eligible for compensation as a result of the death of the victim (i) as a direct result of the crime or (ii) due to the victim's trying to prevent a crime or attempted crime or trying to apprehend a person who had committed a crime in his presence or had committed a felony.
- Amends § 19.2-368.4



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