



## **2021 Legislative Update** **Regular Session Winter/Spring 2021**

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## **2021 Legislative Update**

### **Regular Session Winter/Spring 2021 Master List**

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#### **[Chapter 6 – Elections; preservation of order at the polls, powers of officers of election.](#)**

Elections; preservation of order at the polls; powers of officers of election. Removes the power of officers of election, in the event that no law-enforcement officer is in attendance, to appoint a person who is not a law-enforcement officer to have all the powers of a law-enforcement officer within the polling place and the prohibited area.

Effective July 1, 2021

#### **[Chapter 29 - Overdoses; prohibits arrest and prosecution when experiencing or reporting.](#)**

Arrest and prosecution when experiencing or reporting overdoses. Prohibits the arrest or prosecution of an individual for the unlawful purchase, possession, or consumption of alcohol, possession of a controlled substance, possession of marijuana, intoxication in public, or possession of controlled paraphernalia if (i) such individual, in good faith, renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing an overdose while another individual seeks or obtains emergency medical attention; (ii) such individual remains at the scene of the overdose or at any location to which he or the individual requiring emergency medical attention has been transported; (iii) such individual identifies himself to the law-enforcement officer who responds; and (iv) the evidence for a prosecution of one of the enumerated offenses would have been obtained only as a result of the individual's rendering emergency care or assistance.

Current law prohibits arrest or prosecution for such offenses only to an individual who seeks or obtains emergency medical attention for himself or another individual or who is experiencing an overdose when another individual seeks or obtains emergency medical attention for him.

Effective July 1, 2021



### **Chapter 30 - Juvenile intake and petition; appeal to a magistrate on a finding of no probable cause.**

Juvenile intake and petition; appeal to a magistrate on a finding of no probable cause. Limits the ability to appeal a decision by an intake officer not to authorize a petition relating to an offense that, if committed by an adult, would be punishable as a Class 1 misdemeanor or felony, when the decision is based solely upon a finding of no probable cause. The bill requires the application for a warrant to the magistrate to be filed within 10 days of the issuance of the written notification from the intake officer to the complainant of the refusal to authorize a petition. The bill also provides that such written notification shall indicate that the intake officer made a finding that no probable cause exists and provide notice that the complainant has 10 days to apply for a warrant to the magistrate. The bill requires the complainant to provide the magistrate with a copy of the written notification upon application to the magistrate. The bill also specifies that if an intake officer finds (i) probable cause and (ii) that the matter is appropriate for diversion, this decision is final, and the complainant shall not have the right to appeal the decision to a magistrate.

Effective July 1, 2021

### **Chapter 31 - Firearms, certain; sale, etc., criminal history record information check delay increased to 5 days.**

Sale or transfer of firearms; criminal history record information check delay. Increases from three business days to five business days the time provided for the Department of State Police to complete a background check before a firearm may be transferred. If a dealer who has otherwise fulfilled all requirements is told by the State Police that a response will not be available by the end of the dealer's fifth business day, the dealer may complete the sale or transfer without being deemed in violation.

Effective July 1, 2021

### **Chapter 34 - Search warrants; date and time of issuance, exceptions.**

Execution of search warrants; emergency. Provides that a search warrant for the search of any place of abode shall be executed by initial entry of the abode only in the daytime hours between 8:00 a.m. and 5:00 p.m. unless (i) a judge or a magistrate, if a judge is not available, authorizes the execution of such search warrant at another time for good cause shown by particularized facts in an affidavit or (ii) prior to the issuance of the search warrant, law-enforcement officers lawfully entered and secured the place to be searched and remained at such place continuously. The bill also provides that a law-enforcement officer shall make reasonable efforts to locate a judge before seeking authorization to execute the warrant at another time, unless circumstances require the issuance of the warrant after 5 p.m., in which case the law-enforcement officer may



seek such authorization from a magistrate without first making reasonable efforts to locate a judge. The bill contains an emergency clause.

Effective March 1, 2021

**Chapter 59 – Objects of antiquity; unlawful to remove from battlefield, penalty.**

Objects of antiquity; removal from battlefield; penalty. Adds land owned by a battlefield preservation organization and land on which such organization holds an easement to the category of lands on which it is unlawful to intentionally damage, disturb, or remove any object of antiquity. Current law prohibits such acts on any designated state archaeological site or on state-controlled land and provides that a violation of the prohibition is a Class 1 misdemeanor.

Effective July 1, 2021

**Chapter 73 - Drug Control Act; adds certain chemicals to Schedule I of Act.**

Drug Control Act; Schedule I. Adds certain chemicals to Schedule I of the Drug Control Act. The Board of Pharmacy has added these substances to Schedule I in an expedited regulatory process. A substance added via this process is removed from the schedule after 18 months unless a general law is enacted adding the substance to the schedule.

Effective July 1, 2021

**Chapter 83 - Communicating threats of death or bodily injury to a person with intent to intimidate; penalty.**

Communicating threats of death or bodily injury to a person with intent to intimidate; penalties. Provides that any person 18 years of age or older who communicates a threat in writing, including an electronically transmitted communication producing a visual or electronic message, to another to kill or to do serious bodily injury to any other person and makes such threat with the intent to (i) intimidate a civilian population at large; (ii) influence the conduct or activities of a government, including the government of the United States, a state, or a locality, through intimidation; or (iii) compel the emergency evacuation, or avoidance, of any place of assembly, any building or other structure, or any means of mass transportation is guilty of a Class 5 felony. The bill provides that any person younger than 18 years of age who commits such offense is guilty of a Class 1 misdemeanor. [This bill is identical to Chapter 84.](#)

Effective July 1, 2021



### **Chapter 110 - Industrial hemp; updates laws to address the new hemp producer license.**

Industrial hemp; federal hemp producer license; emergency. Updates Virginia's industrial hemp laws to address the new hemp producer license issued by the U.S. Department of Agriculture. The bill changes drug laws to exclude the industrial hemp possessed by a federally licensed hemp producer from the definition of "marijuana" and to exclude certain amounts of tetrahydrocannabinol (THC) in such industrial hemp from the prohibition on THC. The bill exempts federally licensed hemp producers from state industrial hemp registration requirements and adds such producers to the list of those eligible to receive funds from the Tobacco Indemnification and Community Revitalization Fund.

The bill provides that no grower, agent of such grower, or federally licensed producer shall be prosecuted for possession of industrial hemp or *Cannabis sativa* with a THC concentration that does not exceed the concentration established in certain federal regulations and prohibits the Commissioner of Agriculture and Consumer Services from deeming a grower negligent if the grower makes reasonable efforts to grow industrial hemp but grows *Cannabis sativa* with a THC concentration that does not exceed the concentration established in federal regulations.

The bill makes other changes to industrial hemp laws, including (i) limiting the application fee for registration of growers, dealers, and producers to \$250; (ii) excluding from the definition of "dealer" any retail establishment that sells a completed product containing industrial hemp; (iii) making optional the monitoring and random testing of industrial hemp by the Commissioner and authorizing the random sampling of such hemp; (iv) removing the requirement that the Attorney General of the United States be notified when a Virginia grower, dealer, or processor exceeds the federal THC limit; and (v) directing the Commissioner to adopt regulations establishing a fee structure for registration.

Finally, the bill exempts employees of the Virginia Department of Agriculture and Consumer Services from prosecution for possession or distribution of industrial hemp when possession is necessary in the performance of their duties. The bill contains an emergency clause.

Effective March 12, 2021

### **Chapter 111 - Pretrial data collection; VCSC to collect and disseminate on an annual basis.**

Pretrial data collection. Requires the Virginia Criminal Sentencing Commission to collect and disseminate, on an annual basis, statewide and locality-level data related to adults charged with criminal offenses punishable by confinement in jail or a term of imprisonment. The bill provides that any personal or case identifying information within





the data shall not be subject to the Virginia Freedom of Information Act and shall not be made publicly available. The bill does not require that the Virginia Criminal Sentencing Commission submit such annual report prior to December 1, 2022. Additionally, the bill requires the Virginia State Crime Commission to provide the Virginia Criminal Sentencing Commission with the final dataset of all adults charged with a criminal offense punishable by confinement in jail or a term of imprisonment in October 2017 and that the Virginia Criminal Sentencing Commission make such statewide and locality-level data publicly available on a website established and maintained by the Virginia Criminal Sentencing Commission as an electronic dataset, excluding any personal and case identifying information, by October 1, 2021, and on an electronic interactive data dashboard tool that displays aggregated data based on characteristics or indicators selected by the user by December 1, 2022. As introduced, this bill was a recommendation of the Virginia State Crime Commission. This bill incorporates HB 1945 and [is identical to SB 1391](#).

Effective July 1, 2021

#### **Chapter 115 - Juveniles; eligibility for commitment to the Department of Juvenile Justice.**

Juveniles; eligibility for commitment to the Department of Juvenile Justice; eligibility for predispositional confinement in a secure facility. Provides that a juvenile may be committed to the Department of Juvenile Justice (the Department) only if he (i) is adjudicated delinquent of a violent juvenile felony and is 11 years of age or older or (ii) is 14 years of age or older. The bill provides that no juvenile younger than 11 years of age may be detained in a secure facility prior to an order of final disposition unless he is alleged to have committed a violent juvenile felony; in such case, the juvenile may only be detained in an approved foster home, a facility operated by a licensed child welfare agency, or another suitable place designated by the court and approved by the Department, but under no circumstances shall such juvenile be detained in a secure detention facility.

Effective July 1, 2021

#### **Chapter 129 - Commissioner of DMV; powers and duties during a declared state of emergency.**

Commissioner of the Department of Motor Vehicles; powers and duties. Authorizes the Commissioner of the Department of Motor Vehicles, for the duration of a declared state of emergency and for up to 90 days after it has been rescinded or expires, to (i) extend the validity or delay the cancellation of driver's licenses, special identification cards, and vehicle registrations; (ii) extend the time frame during which a driver improvement clinic or payment plan may be completed; (iii) extend the maximum number of days of



residency permitted before a new resident must be licensed in Virginia to operate a motor vehicle in the Commonwealth; and (iv) extend the time frame during which a new resident may operate a motor vehicle in the Commonwealth that has been registered in another jurisdiction before registering the vehicle in the Commonwealth.

Effective July 1, 2021.

### **Chapter 132 - License restrictions for minors; prohibition on use of handheld personal communications devices.**

Provisional drivers; use of handheld personal communications devices. Eliminates the provision prohibiting a holder of a provisional driver's license to operate a vehicle while using a wireless communication device. Such provision was specific only to the holder of a provisional license. Under a different current law, all drivers, including those with a provisional driver's license, are prohibited from holding a personal communications device while operating a vehicle.

Effective July 1, 2021

### **Chapter 136 - Commercial driver's licenses; disqualification for life from holding license, human trafficking.**

Commercial driver's licenses. Disqualifies for life from holding a commercial driver's license persons convicted of a felony involving an act or practice of severe forms of trafficking in persons while driving a commercial motor vehicle. The bill prohibits the Department of Motor Vehicles and every district court or circuit court or the clerk thereof from reducing, dismissing, deferring, or otherwise concealing a conviction of any offense committed while operating a commercial motor vehicle or of any holder of a commercial driver's license or permit charged with any offense committed while operating a noncommercial motor vehicle and requires the Department and the courts to comply with federal laws and regulations regarding such convictions. The bill also authorizes Class A driver training schools to administer the commercial driver's license knowledge examinations.

Effective July 1, 2021

### **Chapter 137 - Foreign market vehicles; titling and registration.**

Titling and registration of foreign market vehicles. Authorizes the Department of Motor Vehicles to issue a negotiable title for a foreign market vehicle manufactured 25 or more years ago that does not comply with current federal safety requirements. Current law only allows for a negotiable title to be issued to such vehicles manufactured prior to 1968.



Effective July 1, 2021

**Chapter 154 - Driving privileges, certain; Commissioner of DMV to reinstate privileges and waive fees.**

Reinstatement of certain driving privileges. Directs the Commissioner of the Department of Motor Vehicles to reinstate driving privileges, and to waive fees related to the reinstatement, for individuals whose privileges were suspended prior to July 1, 2019, for failure to pay court fines and costs in other jurisdictions.

Effective July 1, 2021

**Chapter 175 - Disposing of litter; penalty.**

Disposing of litter; penalty. Increases the minimum fine for dumping or disposing of litter, trash, or other unsightly matter on public or private property from \$250 to \$500.

Effective July 1, 2021

**Chapter 176 - Suspension or modification of sentence; transfer to the Department of Corrections.**

Suspension or modification of sentence; transfer to the Department of Corrections. Provides that if a person has been sentenced for a felony to the Department of Corrections (the Department), the court that heard the case, if it appears compatible with the public interest and there are circumstances in mitigation of the offense, may, at any time before the person is transferred to the Department, or within 60 days of such transfer, suspend or otherwise modify the unserved portion of such a sentence. Under current law, the court may only suspend or otherwise modify the unserved portion of such a sentence prior to the transfer of such person to the Department.

Effective July 1, 2021

**Chapter 177 - Court-appointed special advocates; information sharing.**

Court-appointed special advocates; information sharing. Permits court-appointed special advocates to participate in and verbally share information with family partnership meetings and in meetings of family assessment and planning teams, multidisciplinary child sexual abuse response teams, individualized education program teams, and multidisciplinary teams related to child abuse.

Effective July 1, 2021



### **Chapter 178 - Victims of crime; compensation, reporting requirement.**

Compensating victims of crime; reporting requirement; sexual abuse. Provides that the requirement that the Virginia Workers' Compensation Commission find that police records show the crime was promptly reported no more than 120 hours after it occurred in order to award a claimant funds from the Criminal Injuries Compensation Fund does not apply to claims of sexual abuse. Under current law, the exception to such requirement applies only to claims of sexual abuse that occurred while the victim was a minor.

Effective July 1, 2021

### **Chapter 179 - Behavioral health; assessments in local correctional facilities, report.**

Behavioral health services in local correctional facilities. Requires the Board of Local and Regional Jails (the Board) to include in its minimum standards for behavioral health services in local correction facilities requirements for (i) referral of individuals committed to local correctional facilities for whom a behavioral health screening indicates reason to believe the person may have mental illness to a behavioral health service provider for a behavioral health assessment and (ii) in cases in which there is reason to believe an individual is experiencing acute mental health distress or is at risk for suicide, (a) staff of the local correctional facility to consult with the behavioral health service provider to implement immediate interventions and to provide ongoing monitoring to ensure the safety of the individual and (b) the behavioral health assessment to be completed within 72 hours of completion of the behavioral health screening unless the 72-hour period ends on a Saturday, Sunday, or legal holiday, in which case the assessment shall be completed by the close of business on the next working day. The bill requires the Board to (1) review the behavioral health screening and assessment process for individuals committed to local correctional facilities, (2) identify barriers to ensuring that all behavioral health assessments are completed within 72 hours of the behavioral health screening, (3) develop recommendations for addressing such barriers, and (4) report its findings and recommendations to the Secretary of Public Safety and Homeland Security and the Chairmen of the House Committees on Health, Welfare and Institutions and Public Safety and the Senate Committee on Rehabilitation and Social Services by October 1, 2021.

Effective July 1, 2021

### **Chapter 181 - Naloxone or other opioid antagonist; certain employees of DJJ authorized to administer.**

Certain employees of the Department of Juvenile Justice; naloxone or other opioid antagonist. Authorizes employees of the Department of Juvenile Justice designated as



probation and parole officers or as juvenile correctional officers to possess and administer naloxone or other opioid antagonist for overdose reversal pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice.

Effective July 1, 2021

**Chapter 184 - Protective orders; violations of preliminary child protective order, changes punishment, etc.**

Violations of protective orders; preliminary child protective order. Changes the punishment and sentencing requirements for a violation of a preliminary child protective order so that the maximum penalty is a Class 1 misdemeanor and the court is no longer required to enter a permanent family abuse protective order (i.e., a protective order with a maximum duration of two years) upon a conviction of a violation of a preliminary child protective order. The bill provides that a violation of a preliminary child protective order is punishable as contempt of court; however, if the violation involves an act or acts of commission or omission that endanger the child's life, health, or normal development or result in bodily injury to the child, it is punishable as a Class 1 misdemeanor. Under current law, violations of preliminary child protective orders constitute contempt of court and are also subject to the same penalties as violations of preliminary, emergency, and permanent family abuse protective orders, including enhanced penalties for certain violations. As introduced, this bill was a recommendation of the Virginia Criminal Justice Conference.

Effective July 1, 2021

**Chapter 186 - Alcoholic beverage control; license application, locality input.**

Alcoholic beverage control; license application; corrective action. Adds the chief administrative officer of a locality to the list of persons who may be sent notice of certain license applications by the Board of Directors of the Virginia Alcoholic Beverage Control Authority. The bill also expands the definition of "criminal blight" for which the locality may require a property owner to take corrective action to include a condition existing on real property that endangers public health or safety and is caused by (i) the regular presence on the property of persons in possession of controlled substances and (ii) the discharge of a firearm under certain conditions.

Effective July 1, 2021



**Chapter 188 - Prostitution; reorganizes the statute penalizing into two distinct sections.**

Solicitation of prostitution; reorganization. Reorganizes the statute penalizing prostitution into two distinct sections. The penalties for all offenses remain unchanged. This bill is a recommendation of the Virginia State Crime Commission.

Effective July 1, 2021

**Chapter 189 - Va. Missing Child w/ Autism Alert Program; renamed Va. Missing Person w/ Autism Program.**

Virginia Missing Person with Autism Alert Program. Renames the Virginia Missing Child with Autism Alert Program to the Virginia Missing Person with Autism Alert Program and expands it to apply to any missing person with autism, regardless of age. The bill defines a "missing person with autism" as any person (i) whose whereabouts are unknown, (ii) who has been diagnosed with autism spectrum disorder as defined by the Code of Virginia, and (iii) whose disappearance poses a credible threat to the safety and health of the person.

Effective July 1, 2021

**Chapter 192 - Larceny; repeals punishment for conviction of second or subsequent misdemeanor.**

Punishment for conviction of second or subsequent misdemeanor larceny; repeal. Repeals the enhanced penalties for a second or subsequent misdemeanor larceny conviction. Under current law, when a person is convicted of a second larceny offense, he shall be confined in jail not less than 30 days nor more than 12 months, and for a third, or any subsequent offense, he shall be guilty of a Class 6 felony.

Effective July 1, 2021

**Chapter 205 - Cannabis oil; processing and dispensing by pharmaceutical processors.**

Board of Pharmacy; pharmaceutical processors; processing and dispensing cannabis oil. Effects numerous changes to the processing and dispensing of cannabis oil by pharmaceutical processors in the Commonwealth. The bill defines the term "designated caregiver facility" and allows any staff member or employee of a designated caregiver facility to assist with the possession, acquisition, delivery, transfer, transportation, and administration of cannabis oil for any patients residing in the designated caregiver facility. The bill allows written certifications for use of cannabis oil to include an authentic electronic practitioner signature. The bill also eliminates the requirement that a



pharmacist have oversight of the cultivation and processing areas of a pharmaceutical processor, instead requiring pharmaceutical processors to designate a person to oversee cultivation and production areas; removes the requirement that a cannabis dispensing facility undergo quarterly inspections, instead requiring that inspections occur no more than once annually; and allows pharmaceutical processors to remediate cannabis oil that fails any quality testing standard. The bill requires pharmaceutical processors to maintain evidence of criminal background checks for all employees and delivery agents of the pharmaceutical processor. The bill directs the Board of Pharmacy to promulgate regulations implementing the provisions of the bill and regulations creating reasonable restrictions on advertising and promotion by pharmaceutical processors by September 1, 2021.

Effective July 1, 2021

**Chapter 207 - Emergency order for adult protective services; acts of violence, etc., or financial exploitation.**

Emergency order for adult protective services; acts of violence, force, or threat or financial exploitation; penalty. Allows the circuit court, upon a finding that an incapacitated adult has been, within a reasonable period of time, subjected to an act of violence, force, or threat or been subjected to financial exploitation, to include in an emergency order for adult protective services one or more of the following conditions to be imposed on the alleged perpetrator: (i) a prohibition on acts of violence, force, or threat or criminal offenses that may result in injury to person or property; (ii) a prohibition on such other contacts by the alleged perpetrator with the adult or the adult's family or household members as the court deems necessary for the health and safety of such persons; or (iii) such other conditions as the court deems necessary to prevent (a) acts of violence, force, or threat; (b) criminal offenses that may result in injury to persons or property; (c) communication or other contact of any kind by the alleged perpetrator; or (d) financial exploitation by the alleged perpetrator. The bill provides that any person who violates any such condition is guilty of a Class 1 misdemeanor. Also, the bill provides that hearings on emergency orders for adult protective services shall be held no earlier than 24 hours and no later than 72 hours after the notice required has been given, unless such notice has been waived by the court. Current law just requires such hearing be held no earlier than 24 hours. Lastly, the bill provides that if the court enters an order containing any of the aforementioned conditions, the primary law-enforcement agency providing service and entry of protective orders shall enter the name of the perpetrator into the Virginia Criminal Information Network and the order shall be served forthwith on the perpetrator. This bill is identical to [SB 1297](#).

Effective July 1, 2021



### **Chapter 227 - Pharmaceutical processors; permits processors to produce & distribute cannabis products.**

Pharmaceutical processors; cannabis products. Permits pharmaceutical processors to produce and distribute cannabis products other than cannabis oil and for that purpose defines the terms "botanical cannabis," "cannabis product," and "usable cannabis." The bill requires the Board of Pharmacy to establish testing standards for botanical cannabis and botanical cannabis products, establish a registration process for botanical cannabis products, and promulgate emergency regulations to implement the provisions of the bill. The bill provides that if a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. The bill allows the Board of Pharmacy to assess and collect botanical cannabis regulatory fees to cover costs associated with the implementation of the provisions of the bill, including costs for new personnel, training, promulgation of regulations and guidance documents, and information technology. The bill exempts the Board of Pharmacy's acquisition of a commercially available cannabis-specific software product to implement the provisions of the bill from the Virginia Public Procurement Act. This bill is identical to [SB 1333](#).

Effective July 1, 2021

### **Chapter 279 - Ignition interlock systems; restricted permits to operate a motor vehicle.**

Restricted permits to operate a motor vehicle; ignition interlock systems. Provides that in any criminal case for reckless or improper driving where a defendant's license to operate a motor vehicle, engine, or train is subject to revocation or suspension and the court orders a defendant, as a condition of probation or otherwise, to enter into and successfully complete an alcohol safety action program, the court may issue the defendant a restricted license to operate a motor vehicle where the only restriction is to prohibit the defendant from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for a period of not less than six consecutive months without alcohol-related violations of the interlock requirements.

Effective July 1, 2021

### **Chapter 287 - Parole and conditional release; notice by electronic means and certification.**

Parole and conditional release of geriatric or terminally ill inmates; notice to attorney for the Commonwealth. Provides that the Department of Corrections shall set the release date for an inmate granted discretionary parole or conditional release no sooner than 30





business days from the date that the Department of Corrections receives notification from the Chairman of the Parole Board of the Board's decision to grant discretionary parole or conditional release, except that the Department of Corrections may set an earlier release date in the case of a terminally ill inmate granted conditional release. The bill provides that in the case of an inmate granted parole who was convicted of a felony and sentenced to a term of 10 or more years, or an inmate granted conditional release, the Board shall notify the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced (i) by electronic means at least 21 business days prior to such inmate's release that such inmate has been granted discretionary parole or conditional release or (ii) by telephone or other electronic means prior to release that a terminally ill inmate has been granted conditional release where death is imminent.

Effective July 1, 2021

#### **Chapter 289 - Bribery in correctional facilities; penalty.**

Bribery in correctional facilities; penalty. Provides that any person who receives any pecuniary benefit or other consideration to act in the unlawful delivery of items or contraband to prisoners is guilty of bribery, punishable as a Class 4 felony. The bill also provides that any law-enforcement officer, jail officer, or correctional officer who violates the provisions of the bill shall be decertified and shall be forever ineligible for reemployment as a law-enforcement officer, jail officer, or correctional officer in the Commonwealth.

Effective July 1, 2021

#### **Chapter 310 - "Abused or neglected child"; definition.**

Definition of "abused or neglected child." Conforms the definition of "abused or neglected child" in Title 16.1 (Courts Not of Record) with the definition of the same term in Title 63.2 (Welfare (Social Services)).

Effective July 1, 2021

#### **Chapter 329 - Illegal gambling; skill games, definitions, enforcement by localities and Attorney General.**

Illegal gambling; skill games; civil penalty; enforcement by localities and Attorney General. Provides that any person who conducts, finances, manages, supervises, directs, or owns a gambling device that is located in an unregulated location is subject to a civil penalty of up to \$25,000. The bill provides that the Attorney General, an



attorney for the Commonwealth, or the attorney for any locality may cause an action in equity to be brought in the name of the Commonwealth or of the locality, as applicable, to enjoin the operation of a gambling device in violation of the provisions of the bill and may request attachment against all such devices and any moneys within such devices. The bill provides that any civil penalties brought in the name of the Commonwealth shall be paid into the Literary Fund and that any civil penalties brought in the name of a locality shall be paid into the general fund of the locality.

Effective July 1, 2021

### **Chapter 334 - Victims of sex trafficking; affirmative defense to prosecution for certain offenses.**

Victims of sex trafficking; affirmative defense to prosecution for certain offenses. Provides an affirmative defense to prosecution for prostitution and keeping, residing in, or frequenting a bawdy place if, at the time of the offense leading to such charge, such person was a victim of sex trafficking, as defined in the bill, and (i) was coerced to engage in the offense through the use of force or intimidation or (ii) such offense was committed at the direction of another person other than the individual with whom the person engaged in the acts of prostitution or unlawful sexual intercourse for such money or its equivalent.

Effective July 1, 2021

### **Chapter 335 - Law-enforcement agencies; body-worn camera systems.**

Law-enforcement agencies; body-worn camera systems. Creates a special nonreverting fund to be known as the Body-Worn Camera System Fund to assist state or local law-enforcement agencies with the costs of purchasing, operating, and maintaining body-worn camera systems. The bill has an expiration date of July 1, 2023.

Effective July 1, 2021

### **Chapter 337 - Admission to bail; rebuttable presumptions against bail.**

Admission to bail; rebuttable presumptions against bail. Eliminates provisions regarding the rebuttable presumptions against being admitted to bail. The bill also provides that in making a bail determination, a judicial officer shall consider all relevant information, including a number of factors specified in the bill.

Effective July 1, 2021



### **Chapter 338 - Summons; promises to appear after issuance.**

Promises to appear after the issuance of a summons. Provides that if any person refuses to give a written promise to appear, the arresting officer shall give such person notice of the time and place of the hearing, note such person's refusal to give his written promise to appear on the summons, and forthwith release him from custody. Under current law, any person refusing to give such written promise to appear is required to be taken immediately by the arresting officer before a magistrate or other issuing officer having jurisdiction. *[Editor's Note: Applies to Traffic Offenses Under 46.2-936 and 46.2-940, not Criminal Offenses Under 18.2 and Other Titles]*

Effective July 1, 2021

### **Chapter 339 - Pet shops, dealers, and dog breeders; employees convicted of animal abuse, penalty.**

Pet shops, dealers, and dog breeders; employees convicted of animal cruelty; penalty. Prohibits any person from serving as an owner, director, officer, manager, operator, member of staff, or animal caregiver for a pet shop, dealer, or commercial dog breeder if such person has been convicted of animal cruelty. The bill prohibits pet shops from selling or giving for adoption a dog without first obtaining a signed statement from the purchaser or adopter that such person has never been convicted of animal cruelty. A violation of any such requirement is a Class 1 misdemeanor.

Effective July 1, 2021

### **Chapter 344 - Death penalty; abolition of current penalty.**

Abolition of the death penalty. Abolishes the death penalty, including for those persons currently under a death sentence. The bill provides that no person may be sentenced to death or put to death on or after its effective date for any violation of law. The bill incorporates HB 1779 and is identical to [SB 1165](#).

Effective July 1, 2021

### **Chapter 376 - Restricted licenses; DMV authorized to issue.**

Driver's license suspensions; restricted licenses; drug offenses. Authorizes the Department of Motor Vehicles to issue restricted driving credentials to individuals with driver's license suspensions resulting from drug-related offenses.

Effective July 1, 2021



### **Chapter 381 - Learner's permits; use of personal communication devices, restrictions.**

Learner's permits; use of personal communications device. Eliminates the provisions prohibiting a holder of a learner's permit or a holder of a provisional driver's license from operating a vehicle while using a wireless telecommunications device. Such provisions were specific only to the holder of a learner's permit or a provisional driver's license. Under a different current law, all drivers, including those with a learner's permit or a provisional driver's license, are prohibited from holding a handheld personal communications device while operating a vehicle.

Effective July 1, 2021

### **Chapter 392 - Inmates; Board of Local and Regional Jails to review services provided during pregnancy, etc.**

Board of Local and Regional Jails; review services provided to inmates during pregnancy, pregnancy termination, labor and delivery, and postpartum recovery; report. Directs the Board of Local and Regional Jails (the Board), in consultation with a stakeholder work group, to (i) identify and analyze all obstetric and gynecological services and any other services provided by local and regional jails to inmates during pregnancy, pregnancy termination, labor and delivery, and postpartum recovery; (ii) compare such services to best practices recommended by the American Correctional Association, American Jail Association, National Commission on Correctional Health Care, and American College of Obstetricians and Gynecologists; and (iii) develop recommendations to ensure that proper services are provided to inmates during pregnancy, pregnancy termination, labor and delivery, and postpartum recovery. The bill directs the Board to (a) post its findings and recommendations on its website and report such findings and recommendations to the Secretary of Public Safety and Homeland Security and the Chairmen of the Senate Committee on the Judiciary, Senate Committee on Rehabilitation and Social Services, House Committee for Courts of Justice, and House Committee on Public Safety by July 1, 2022, and (b) adopt regulations consistent with its findings and recommendations.

Effective July 1, 2021

### **Chapter 403 - Virginia Residential Landlord and Tenant Act; tenant remedies for exclusion from dwelling unit.**

Virginia Residential Landlord and Tenant Act; tenant remedies for exclusion from dwelling unit, interruption of services, or actions taken to make premises unsafe. Provides that a general district court shall enter an order upon petition by a tenant that



his landlord has (i) removed or excluded the tenant from the dwelling unit unlawfully, (ii) interrupted or caused the interruption of an essential service to the tenant, or (iii) taken action to make the premises unsafe for habitation. The bill allows entry of a preliminary order ex parte to require the landlord to allow the tenant to recover possession of the dwelling unit, resume any such interrupted essential service, or fix any willful actions taken by the landlord or his agent to make the premises unsafe for habitation if there is good cause to do so and the tenant made reasonable efforts to notify the landlord of the hearing. The bill requires that any ex parte order entered shall further indicate a date for a full hearing on the petition that is no later than 10 days from the initial hearing date. Finally, the bill provides that, at a full hearing on such petition and upon proper evidence presented, the tenant shall recover actual damages, the greater of \$5,000 or four months' rent, and reasonable attorney fees. This bill is identical to [SB 1215](#).

Effective July 1, 2021

#### **Chapter 432 - Muzzleloading rifle and shotgun; clarifies definitions.**

Muzzleloading rifle and shotgun; definitions. Removes the requirement that the propellant be loaded along with the projectile or projectiles in the definitions of muzzleloading rifle and muzzleloading shotgun.

Effective July 1, 2021

#### **Chapter 439 - School board building or property, certain; establishment of gun-free zone permitted.**

Certain school board property; establishment of gun-free zone permitted. Permits any school board to deem any non-school zone building or property that it owns or leases where employees of such school board are regularly present for the purpose of performing their official duties as a gun-free zone and prohibit any individual from knowingly possessing, purchasing, transferring, carrying, storing, or transporting firearms, ammunition, or components or combination thereof while such individual is upon such property, except certain individuals such as law-enforcement officers and qualified retired law-enforcement officers.

Effective July 1, 2021

#### **Chapter 457 - Juvenile offenders; youth justice diversion programs.**

Juvenile offenders; youth justice diversion programs. Authorizes any jurisdiction to establish a youth justice diversion program, defined in the bill as a diversionary program that (i) is monitored by a local youth justice diversion program advisory committee; (ii) uses juvenile volunteers as lawyers, jurors, and other court personnel; (iii) uses



volunteer attorneys as judges; (iv) conducts peer trials, subject to the juvenile and domestic relations court's jurisdiction, of juveniles who are referred to the program by an intake officer; and (v) imposes various sentences emphasizing restitution, rehabilitation, accountability, competency building, and education, but not incarceration. The bill provides that a jurisdiction may establish a youth justice diversion program upon establishment of a local youth justice diversion program advisory committee and approval of the program by the chief judge of the juvenile and domestic relations court that serves such jurisdiction. The bill requires each local youth justice diversion program advisory committee to establish criteria for the eligibility and participation of juveniles alleged to have committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor if committed by an adult, with the consent of the juvenile's parent or legal guardian, and to establish policies and procedures for the operation of such program. The bill provides that whenever an intake officer takes informal action on a complaint alleging that a child committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor if committed by an adult, the intake officer may refer the juvenile to a youth justice diversion program.

Effective July 1, 2021

#### **Chapter 459 - Polling places; prohibited activities, unlawful possession of a firearm, penalty.**

Polling places; prohibited activities; unlawful possession of a firearm; penalty. Prohibits any person from knowingly possessing a firearm within 40 feet of any building, or part thereof, used as a polling place, including one hour before and one hour after its use as a polling place, except for (i) a qualified law-enforcement officer or retired law-enforcement officer, (ii) any person occupying his own private property that falls within 40 feet of the polling place, or (iii) a licensed armed security officer whose employment or performance of his duties occurs within 40 feet of the polling place. The bill further provides that no person shall knowingly possess a firearm within 40 feet of a meeting place for the local electoral board while the electoral board meets to ascertain the results of an election or any place used as the setting for a recount. A violation of the provisions of the bill is a Class 1 misdemeanor.

Effective July 1, 2021

#### **Chapter 462 - Bicycles; traffic regulations, report.**

Traffic regulation; bicycles; report. Requires the driver of a motor vehicle to change lanes when overtaking a bicycle or certain other vehicles when the lane of travel is not wide enough for the overtaking motor vehicle to pass at least three feet to the left of the overtaken vehicle. The bill also removes the limitations on riding bicycles and certain other vehicles two abreast. The Department of State Police is directed to convene a



work group to review issues related to allowing bicyclists to treat stop signs as yield signs, and to report any recommendations to the chairmen of the House and Senate Committees on Transportation.

Effective July 1, 2021

**Chapter 463 - Habitual offenders; repeals remaining provisions of Habitual Offender Act.**

Habitual offenders; repeal. Repeals the remaining provisions of the Habitual Offender Act. The bill also requires that the Commissioner of the Department of Motor Vehicles reinstate a person's privilege to drive a motor vehicle that was suspended or revoked solely on the basis that such person was determined to be or adjudicated a habitual offender pursuant to the Habitual Offender Act. The bill also authorizes the Virginia Alcohol and Safety Action Program to continue to administer intervention for individuals who were ordered to attend an intervention interview on or before June 30, 2021.

Effective July 1, 2021

**Chapter 464 - Dangerous dogs; restructures procedure for adjudication, penalty.**

Dangerous dogs; procedure for adjudication; penalty. Restructures the procedure for adjudication of a dog as a dangerous dog to provide for (i) written notice by an animal control officer to the owner of the dog that he has applied for a summons, and a prohibition on disposal of the dog by the owner for 30 days; (ii) the issuance of a summons with an option rather than a requirement that the officer confine the dog, a prohibition on the disposal of the dog other than by euthanasia, and an authorization for the court to compel the implanting of electronic identification; (iii) the holding of a hearing within 30 days unless good cause is shown; (iv) the authority of the court if deferring further proceedings without adjudicating to compel the implanting of electronic identification; and (v) a limit of 30 days for any appeal of a dangerous dog adjudication.

The bill authorizes an officer to obtain a summons for a hearing to determine whether a dog that has been surrendered is a dangerous dog and provides that any dangerous dog not reclaimed from the animal control officer within 10 days of notice shall be considered abandoned.

The bill imposes new requirements for the transfer of dangerous dogs, requiring a releasing agency that is transferring or releasing for adoption a dangerous dog in the Commonwealth to notify the receiving party of the legal requirements for keeping a



dangerous dog. If the agency is transferring the dog outside the Commonwealth, it is required to notify the appropriate animal control officer of the dog's adjudication as dangerous. An owner who is bringing a dog found to be dangerous in another state to reside in the Commonwealth shall notify the local animal control officer. Any owner who disposes of a dangerous dog by gift, sale, transfer, trade, or surrender shall notify the receiver in writing of the dog's adjudication as dangerous, with a violation penalized as a Class 3 misdemeanor.

Finally, the bill provides that if a dangerous dog adjudication occurred within 60 days of the end of the calendar year, the first renewal of the dangerous dog registration shall be included in the initial registration at no additional charge. The bill contains technical amendments.

Effective July 1, 2021

#### **Chapter 465 - Sexually transmitted infections; infected sexual battery, penalty.**

Sexually transmitted infections; infected sexual battery; penalties. Provides that any person who is diagnosed with a sexually transmitted infection and engages in sexual behavior that poses a substantial risk of transmission to another person with the intent to transmit the infection to that person and transmits such infection to that person is guilty of infected sexual battery, punishable as a Class 6 felony. The bill also repeals the crime of donating or selling blood, body fluids, organs, and tissues by persons infected with human immunodeficiency virus and the provisions regarding the testing of certain persons for human immunodeficiency virus or hepatitis B or C viruses. The bill contains technical amendments.

Effective July 1, 2021

#### **Chapter 468 - Victims of crime; certifications for victims of qualifying criminal activity.**

Certifications for victims of qualifying criminal activity. Establishes a process for a state or local law-enforcement agency, an attorney for the Commonwealth, the Attorney General, or any other agency or department employing law-enforcement officers to complete a certification form or declaration that is required by federal immigration law certifying that a person is a victim of qualifying criminal activity.

Effective July 1, 2021





### **Chapter 471 - Absentee voting; procedural and process reforms, availability and accessibility reforms, penalty.**

Absentee voting; procedural and process reforms; availability and accessibility reforms; penalty. Makes various reforms to absentee voting processes and procedures, including those related to availability and accessibility. The bill requires certain actions to be taken to process absentee ballots returned before the day of an election, including verifying the correct completion of the voter affirmation statement, and provides for an opportunity for an absentee voter to make corrections to the statement in certain circumstances. The bill requires the establishment of drop-off locations for the return of voted absentee ballots. Additionally, a central absentee voter precinct is required to be established in each locality; currently, establishment is optional. On the day of the election, officers of election are required to begin processing absentee ballots in the central absentee voter precincts prior to the close of polls, but no ballot vote counts are permitted to be transmitted outside of the central absentee voter precinct before the close of polls; a violation of such prohibition is a Class 1 misdemeanor. When reporting election results to the Department of Elections, the general registrars are required to report absentee ballots cast early in person separately from all other absentee ballots. Additionally, a voter who has applied for and received an absentee ballot may choose to instead vote at his polling place on election day, and such voter shall be entitled to cast a provisional ballot. The bill requires a ballot marking tool with screen reader assistive technology to be made available for absentee voters with a print disability. Restrictions on the availability of absentee voting for first-time voters who registered by mail are repealed. The bill contains technical amendments for organizational and readability purposes.

Effective July 1, 2021

### **Chapter 483 - Virginia Freedom of Information Act; law-enforcement criminal incident information, criminal files.**

Virginia Freedom of Information Act; law-enforcement criminal incident information; criminal investigative files. Adds criminal investigative files, defined in the bill, relating to a criminal investigation or proceeding that is not ongoing, also defined in the bill, to the types of law-enforcement and criminal records required to be released in accordance with the provisions of the Virginia Freedom of Information Act. Under current law, the release of criminal investigative files is discretionary. The bill provides that the mandatory release of criminal incident information relating to felony offenses and criminal investigative files shall not be required if the release of such information would likely effect certain results, outlined in the bill. The bill also extends the amount of additional time a public body has to respond, in the case of a request for certain criminal investigative files, from an additional seven work days to an additional 60 work days as long as the public body has communicated to the requester within the initial allowable



five-work-day response period that it is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period. The bill contains technical amendments. As introduced, this bill was a recommendation of the Virginia Freedom of Information Advisory Council.

Effective July 1, 2021

### **Chapter 522 - Absentee voting; establishment of drop-off locations preprocessing returned absentee ballots.**

Absentee voting; establishment of drop-off locations; preprocessing of returned absentee ballots before election day; cure process; accessibility for voters with visual impairment or print disability. Requires certain actions to be taken to process absentee ballots returned before the day of an election, including verifying the correct completion of the voter affirmation statement, and provides for an opportunity for an absentee voter to make corrections to the statement in certain circumstances. The bill requires the establishment of drop-off locations. Additionally, a central absentee voter precinct is required to be established in each locality; currently, establishment is optional. On the day of the election, officers of election are required to begin processing absentee ballots in the central absentee voter precincts prior to the close of polls, but no ballot vote counts are permitted to be transmitted outside of the central absentee voter precinct prior to the close of polls; a violation of such prohibition is a Class 1 misdemeanor. The bill requires a ballot marking tool with screen reader assistive technology to be made available for absentee voters with a print disability. The Department of Elections is directed to convene a work group to consider and evaluate methods for sorting absentee ballots by precinct and reporting absentee ballot totals by precincts.

Effective July 1, 2021

### **Chapter 523 - Criminal proceedings; consideration of mental condition and intellectual, etc.**

Criminal proceedings; consideration of mental condition and intellectual and developmental disabilities. Permits the admission of evidence by the defendant concerning a defendant's mental condition at the time of an alleged offense, including expert testimony, if such evidence is relevant and is not evidence concerning an ultimate issue of fact and (i) tends to show the defendant did or did not have the intent required for the offense charged and (ii) is otherwise admissible pursuant to the general rules of evidence. The bill provides that to establish a mental condition for such purposes, the defendant must show that his condition existed at the time of the offense and that such condition satisfies the diagnostic criteria for (a) a mental illness, as defined in the bill; (b) an intellectual or developmental disability, as defined in the bill; or (c) an autism spectrum disorder, as defined in the most recent edition of the Diagnostic



and Statistical Manual of Mental Disorders published by the American Psychiatric Association. If a defendant intends to present such evidence, the bill requires him or his counsel to give notice in writing to the attorney for the Commonwealth within specified time periods. The bill also clarifies that a court, in addition to a magistrate, may enter an emergency custody order in such cases if the criteria required under current law for emergency custody orders are met.

The bill clarifies that a diagnosis of an intellectual or developmental disability shall be considered by a judicial officer for the purpose of rebuttal of a presumption against bail and that a court may order that a sentencing report prepared by a probation officer contain any diagnosis of an intellectual or developmental disability. The bill also adds to the requirements to be met for qualification as a court-appointed attorney two hours of continuing legal education, which shall cover the representation of individuals with behavioral or mental health disorders and individuals with intellectual or developmental disabilities.

Finally, the bill requires the Office of the Executive Secretary of the Supreme Court to collect data regarding the cases that use the evidence made permissible in the bill and the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century to study and make recommendations about the standard of danger to self or others that may be appropriately applied for such persons found not guilty under the provisions of the bill in the issuance of emergency custody orders, involuntary temporary detention orders, or the ordering of other mandatory mental health treatments. This bill incorporates SB 1383 and is identical to [HB 2047](#).

Effective July 1, 2021

**[Chapter 524 - Criminal records; sealing of records, Sealing Fee Fund created, penalties, report.](#)**

Sealing of criminal records; penalties. Establishes a process for the automatic sealing of police and court records, defined in the bill, for certain convictions, deferred dispositions, and acquittals and for offenses that have been nolle prossed or otherwise dismissed. The bill also allows a person to petition for the sealing of police and court records relating to certain convictions. The bill has staggered delayed effective dates in order to develop systems for implementing the provisions of the bill. This bill incorporates SB 1283 and SB 1372 and is identical to [HB 2113](#).

Various Effective Dates, from July 1, 2021 through July 1, 2025 (see bill text for details)



### **Chapter 526 - Workers' compensation; presumption of compensability for COVID-19.**

Workers' compensation; presumption of compensability for COVID-19. Establishes a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, correctional officers, and regional jail officers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that such presumption applies to any death or disability occurring on or after July 1, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after July 1, 2020, and prior to December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs and symptoms of COVID-19 that required medical treatment. This bill incorporates SB 1342 and is identical to [HB 2207](#).

Effective July 1, 2025

### **Chapter 527 - Firearm; carrying within Capitol Square and the surrounding area, state-owned bldgs.**

Carrying a firearm or explosive material within Capitol Square and the surrounding area, into a building owned or leased by the Commonwealth, etc.; penalty. Makes it a Class 1 misdemeanor for a person to carry any firearm or explosive material within (i) the Capitol of Virginia; (ii) Capitol Square and the surrounding area; (iii) any building owned or leased by the Commonwealth or any agency thereof; or (iv) any office where employees of the Commonwealth or agency thereof are regularly present for the purpose of performing their official duties. The bill provides exceptions for the following individuals while acting in the conduct of such person's official duties: any law-enforcement officer, any authorized security personnel, any active military personnel, any fire marshal when such fire marshal has been granted police powers, or any member of a cadet corps while such member is participating in an official ceremonial event for the Commonwealth. The prohibitions of the bill that apply to any building owned or leased by the Commonwealth or any office where state employees are performing official duties do not apply to retired law-enforcement officials visiting a gun range owned or leased by the Commonwealth or any of the following while acting in the conduct of official duties: a bail bondsman, an employee of the Department of Corrections or a state juvenile correctional facility, an employee of the Department of Conservation and Recreation, or an employee of the Department of Wildlife Resources. Such prohibitions also do not apply to an individual carrying a weapon into a courthouse who is statutorily exempt, any property owned or operated by a public institution of higher education, any state park, or any magistrate acting in the conduct of the magistrate's official duties. The bill requires that notice of the provisions prohibiting the carrying of such firearms or explosive material be posted at each of the public entrances



to Capitol Square and the other locations where such firearms and explosive material are prohibited in the bill. The bill provides that any firearm or explosive material carried in violation of these provisions is subject to seizure by a law-enforcement officer and forfeiture to the Commonwealth. This bill is identical to [HB 2295](#).

Effective July 1, 2021

**Chapter 529 - Protective orders; violations of preliminary child protective order, changes punishment, etc.**

Violations of protective orders; preliminary child protective order. Changes the punishment and sentencing requirements for a violation of a preliminary child protective order so that the maximum penalty is a Class 1 misdemeanor and the court is no longer required to enter a permanent family abuse protective order (i.e., a protective order with a maximum duration of two years) upon a conviction of a violation of a preliminary child protective order. The bill provides that a violation of a preliminary child protective order is punishable as contempt of court; however, if the violation involves an act or acts of commission or omission that endanger the child's life or health, or results in bodily injury to the child, it is punishable as a Class 1 misdemeanor. Under current law, violations of preliminary child protective orders constitute contempt of court and are also subject to the same penalties as violations of preliminary, emergency, and permanent family abuse protective orders, including enhanced penalties for certain violations. As introduced, this bill was a recommendation of the Virginia Criminal Justice Conference. The bill also provides that it shall supersede and control any provisions of Chapter 184 of the Acts of Assembly of 2021, Special Session I.

Effective July 1, 2021

**Chapter 534 - Robbery; penalties.**

Robbery; penalties. Creates degrees of punishment corresponding to the severity of a robbery offense. Any person who commits a robbery and causes serious bodily injury to or the death of another person is guilty of a Class 2 felony. Any person who commits robbery by using or displaying a firearm in a threatening manner is guilty of a Class 3 felony. Any person who commits robbery by using physical force not resulting in serious bodily injury, or by using or displaying a deadly weapon other than a firearm in a threatening manner, is guilty of a Class 5 felony. Any person who commits robbery by using threat or intimidation or by any other means not involving a deadly weapon is guilty of a Class 6 felony. Under current law, any robbery is punishable by confinement in a state correctional facility for life or any term not less than five years. The bill also provides that if a juvenile is charged with robbery, then a juvenile court shall conduct a preliminary hearing, for purposes of certifying the charge to the grand jury, whenever a juvenile 16 years of age or older is charged with a robbery charge that is punishable as



a Class 2 or Class 3 felony, as provided for in the bill. Under current law, the juvenile court shall conduct such preliminary hearing for all robberies.

Effective July 1, 2021

**Chapter 537 - Facial recognition technology; authorization of use by local law-enforcement agencies, etc.**

Facial recognition technology; authorization of use by local law-enforcement agencies and campus police departments at public institutions of higher education. Provides that no local law-enforcement agency or campus police department shall purchase or deploy facial recognition technology, defined in the bill, unless such purchase or deployment is expressly authorized by statute. The bill prohibits a local law-enforcement agency or campus police department at a public institution of higher education currently using facial recognition technology from continuing to use such technology without such authorization after July 1, 2021.

Effective July 1, 2021

**Chapter 544 - Identification privilege cards; authorizes DMV to issue, fee, confidentiality, penalties.**

Identification privilege cards; fee; confidentiality; penalties. Authorizes the Department of Motor Vehicles to issue identification privilege cards to applicants who hold a citizenship or legal presence status that is eligible for a special identification card or a limited-duration special identification card and have reported income from Virginia sources or been claimed as a dependent on an individual tax return filed with the Commonwealth in the preceding 12 months. The bill provides that identification privilege cards shall be treated as special identification cards unless otherwise provided in the Code of Virginia. The bill limits the release of certain information stored by the Department.

The bill has a delayed effective date of January 1, 2022.

**Chapter 545 - Parole; notice and certification, monthly reports, discretionary early consideration.**

Parole; notice and certification; monthly reports; discretionary early consideration. Provides that the Department of Corrections shall set the release date for an inmate granted discretionary parole or conditional release no sooner than 30 business days from the date that the Department of Corrections receives notification from the Chairman of the Parole Board of the Board's decision to grant discretionary parole or conditional release, except that the Department of Corrections may set an earlier



release date in the case of a terminally ill inmate granted conditional release. The bill provides that in the case of an inmate granted parole who was convicted of a felony and sentenced to a term of 10 or more years, or an inmate granted conditional release, the Board shall notify the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced (i) by electronic means at least 21 business days prior to such inmate's release that such inmate has been granted discretionary parole or conditional release or (ii) by telephone or other electronic means prior to release that a terminally ill inmate has been granted conditional release where death is imminent.

The bill requires that the monthly reports issued by the Board regarding actions taken on the parole of prisoners (a) be published on the fifteenth day of the month and (b) include the name of each prisoner considered for parole, the offense of which the prisoner was convicted, the jurisdiction in which such offense was committed, the amount of time the prisoner has served, whether the prisoner was granted or denied parole, and the basis for the grant or denial of parole. However, in the case of a prisoner granted parole, the bill provides that such information shall be included in the statement published in the month immediately succeeding the month in which notification of such decision was given to the attorney for the Commonwealth and any victim. The bill also provides that if additional victim research is necessary, electronic notification shall be sent to the attorney for the Commonwealth and the director of the victim/witness program, if one exists, of the jurisdiction in which the offense occurred. The bill requires the Board to implement the provisions regarding monthly reports no later than December 15, 2021.

Effective July 1, 2021

#### **Chapter 549 - Illegal gambling; skill games, enforcement by localities and Attorney General, civil penalty.**

Illegal gambling; skill games; civil penalty; enforcement by localities and Attorney General. Provides that any person who conducts, finances, manages, supervises, directs, or owns a gambling device that is located in an unregulated location is subject to a civil penalty of up to \$25,000. The bill provides that the Attorney General, an attorney for the Commonwealth, or the attorney for any locality may cause an action in equity to be brought in the name of the Commonwealth or of the locality, as applicable, to enjoin the operation of a gambling device in violation of this section and may request attachment against all such devices and any moneys within such devices. The bill provides that any civil penalties brought in the name of the Commonwealth shall be paid into the Literary Fund and that any civil penalties brought in the name of a locality shall be paid into the general fund of the locality.

Effective July 1, 2021



### **Chapter 550 - Marijuana; legalization of simple possession, etc.**

Marijuana; legalization; retail sales; penalties. Eliminates criminal penalties for simple possession of up to one ounce of marijuana by persons 21 years of age or older, modifies several other criminal penalties related to marijuana, and imposes limits on dissemination of criminal history record information related to certain marijuana offenses. The bill creates the Virginia Cannabis Control Authority (the Authority), the Cannabis Oversight Commission, the Cannabis Public Health Advisory Council, the Cannabis Equity Reinvestment Board and Fund, and the Virginia Cannabis Equity Business Loan Program and Fund and establishes a regulatory and licensing structure for the cultivation, manufacture, wholesale, and retail sale of retail marijuana and retail marijuana products, to be administered by the Authority. The bill contains social equity provisions that, among other things, provide support and resources to persons and communities that have been historically and disproportionately affected by drug enforcement. The bill has staggered effective dates, and numerous provisions of the bill are subject to reenactment by the 2022 Session of the General Assembly. This bill incorporates SB 1243 and is identical to [HB 2312](#). See S. B. 1406 Chapter PDF text:

This bill has staggered effective dates, ranging from July 1, 2021 to July 1, 2025, depending on the provisions.

### **Chapter 552 – Budget Bill**

[Editor's Note: This update will not review the details of the budget bill, except as below:

Per DCJS: Amendment #11 clarifies that the 2020 Special Session legislation that regulated law-enforcement acquisition and use of firearms and ammunition of .50 caliber or higher only applies to rifles.

The budget bill, including amendment #11, became effective on April 7, 2021. As a result, law-enforcement agencies in Virginia only need to submit waivers for rifles of .50 caliber or higher and ammunition for use in rifles of .50 caliber or higher; other firearms, including shotguns, do not require a waiver.

Waivers requested for shotguns and shotgun ammunition already submitted are no longer necessary and will not need to be acted upon by the Criminal Justice Services Board.

For reference, amendment #11 reads as follows:

“K. Notwithstanding the provisions of §§ 2.2-5515, 15.2-1721.1, and 52-11.3, a waiver from the Criminal Justice Services Board is only required for the continued use of rifles





of .50 caliber or higher or ammunition of .50 caliber or higher for use in such rifles and not for other types of firearms or ammunition of .50 caliber or higher.”

The text of the amendment can be found here:

<https://lis.virginia.gov/cgi-bin/legp604.exe?212+amd+HB1800AG>

Effective April 7, 2021

**Chapter 555 - Firearms; purchase, etc., following conviction for assault and battery of a family member.**

Purchase, possession, or transportation of firearms following conviction for assault and battery of a family or household member; penalties. Prohibits a person who has been convicted of assault and battery of a family or household member, as defined in the bill, from purchasing, possessing, or transporting a firearm. The prohibition expires three years after the date of conviction, at which point the person's firearms rights are restored, unless he receives another disqualifying conviction. A person who violates the provisions of the bill is guilty of a Class 1 misdemeanor.

Effective July 1, 2021