

2015 Legislative Update for Law Enforcement

6/19/2015



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More detailed information about individual bills (including the final text and legislative history) is available at the General Assembly website:

<http://lis.virginia.gov>.

New laws are effective on July 1, 2015, unless they include an emergency clause making the law effective upon the Governor's signature.



This PowerPoint presentation has been prepared to assist with law enforcement training. It does NOT include slides for every new law enforcement-related bill.

Please consult the

2015 LEGISLATIVE UPDATE MASTER LIST

to review summaries of
all 2015 bills of interest to law enforcement.



You are encouraged to rely *only* on the final version of the legislation itself.

Carefully read the text of the legislation before taking enforcement action.



Ethics

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General Assembly, State and Local Government Conflicts of Interest Act

HB2070/SB1424

- Any person who knowingly and intentionally makes a false statement of material fact on a Statement of Economic Interest is guilty of a Class 5 felony. §2.2-3117.
- Any legislator who commits this offense also shall be subject to disciplinary action by the house in which he/she sits. §30-111.
- Delayed effective date of January 1, 2016.



Conflicts of Interest Act (con't.)

HB2070/SB1424

- Requires the CA to initiate civil proceedings against persons who knowingly provide a gift after applying for or receiving a grant or loan under the Commonwealth's Development Opportunity Fund. §2.2-115.
- Requires the CA to assess and collect civil penalty from any *local* officer or employee who does not timely file a Statement of Economic Interest. §2.2-3124.
- The AG shall assess and collect civil penalties for any *state* officer or employee's failure to timely file a Disclosure Form.
- Penalties collected will go to General Fund for use by VA Conflict of Interest Advisory Council.
- Delayed effective date of January 1, 2016.



Investigations

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Telecommunications records; warrant requirement

HB1408

- Adds §19.2-70.3 (K).
- If an LEO would be required to get a search warrant to obtain electronic communications or real-time location data, an LEO may not use a *device* to collect such data without first obtaining a search warrant authorizing use of the device.
- Exceptions listed in §19.2-70.3 (E).
- Addresses use of “stingrays”.



Real time location data; search warrant

HB2355

- Provides that a search warrant for real-time location data *shall* be issued if the judge or magistrate is satisfied that PC exists to show that this data is relevant to a crime *or* that there is an arrest warrant for the person sought.
- Amends §19.2-70.3(C).



Search warrants; computers, networks and other devices

SB1307

- A search warrant for a computer, etc., shall be deemed to include its physical components and the electronic or digital information contained therein.
- Any computer search conducted pursuant to a search warrant may be done in any location and is not limited to the location where the evidence was seized.
- States that these provisions are declarative of existing law.
- Amends §19.2-53 (B)(C).



Administrative subpoenas; electronic communication services

HB1946/SB919

- Permits AG's, as well as CA's, to issue administrative subpoenas to electronic communications services if relevant to investigation of certain crimes.
- The subpoena shall order the service provider *not* to disclose existence of subpoena for 30 days upon written certification that: 1) victim is underage, 2) disclosure will endanger an individual, 3) disclosure will lead to flight from prosecution, 4) disclosure will lead to destruction of evidence, 5) disclosure will lead to witness intimidation, *or* 5) disclosure will seriously jeopardize an investigation.
- Amends §19.2-10.2.



Use of unmanned aircraft systems (drones); search warrant required

HB2125/SB1301

- Creates §19.2-60.1.
- Replaces drone moratorium with absolute ban on their use by law enforcement without a warrant.
- Exceptions:
 1. Activation of Amber, Senior or Blue Alerts;
 2. When necessary to alleviate immediate danger to a person;
 3. For training exercises related to these uses; and
 4. Consent given by person with legal authority.



Use of unmanned aircraft systems (drones); search warrant (con't.)

HB2125/SB1301

- Warrant requirement *does not apply for uses other than law enforcement*:
 - Damage, traffic, flood and fire assessment;
 - Private, commercial or recreational use;
 - Research and development; or
 - Military training and readiness.
- No weaponized drone may be used by a Commonwealth agent except at the Space Port and Naval/Aegis facilities at Wallops Island.
- Evidence obtained in violation of this section will be inadmissible in criminal or civil proceeding.



Noncommercial vessels; reasonable suspicion

HB1298

- Requires LEO's to have reasonable suspicion to stop, board or inspect a noncommercial vessel.
- Conservation police officers and Virginia Marine Police can:
 1. Stop, board and inspect for hunting, fishing and trapping licenses or creel and bag limits; and
 2. Conduct safety checkpoints in accordance with established policies of both agencies.
- Amends §§19.2-10.3 and 29.1-745.



Seizure of property; inventory required

SB721

- Amends §19.2-386.2.
- When any property is seized, the agency seizing the property shall, *as soon as practicable* after the seizure, conduct an inventory and provide a copy of the inventory to the owner.
- Failure to comply with this requirement does not invalidate the forfeiture.



Missing persons; waiting period before accepting report

HB1808/SB1184

- No local law-enforcement agency shall have a policy that requires a waiting period before accepting a critically missing adult report.
- The Department of Emergency Management shall establish a Coordinator of Search & Rescue (with 11 enumerated duties.)
- DCJS shall establish training standards and develop a model policy for missing children, missing adults and search and rescue protocol.



Per diem medicolegal death investigators

HB1607

- Creates §32.1-282.1.
- The Chief Medical Examiner may appoint per diem medicolegal death investigators to assist the Office of the Chief Medical Examiner.
- Per diem medicolegal death investigators shall be agents of the Commonwealth.



Blood samples; search warrant; civil immunity

SB832

- Adds §19.2-53.1.
- Any person authorized by law to draw blood pursuant to a search warrant shall have civil immunity, except in cases of negligence in the withdrawing of blood or willful misconduct.



Mental Health

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Temporary detention; person subject to emergency custody order

SB1114

- Amends §§ 37.2-808 and 37.2-1104.
- An order may be issued for temporary detention for testing, observation, etc., of a person already the subject of an emergency custody order.
- Upon completion of testing, observation, etc., the ER or temporary detaining facility shall notify CSB.
- CSB shall complete evaluation before expiration of temporary detention order.



Temporary detention order; custody

HB1694/SB966

- Amends §§16.1-340.1:1 and 37.2-809.1.
- Removes the requirement that a person subject to a temporary DO remain in custody of the CSB for the duration of the order.
- Fixes conflict with other Code sections.



Dissemination of criminal history information

SB1264

- Amends §19.2-389.
- Criminal history information requested by law enforcement for criminal justice purposes will now include determinations for the following:
 1. Adjudications of incapacity;
 2. Orders for involuntary or outpatient treatment;
 3. Temporary detention order for person who agreed to voluntary admission.



Campus Sexual Assault

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Campus police; sexual assault reporting

HB1785

- Requires campus police/campus security departments to have mutual aid agreements with local law enforcement or VSP.
- These agreements shall include provision that either campus police or local law enforcement/VSP notify the CA within 48 hours of the commencement of an investigation for a *felony* sexual assault occurring on campus or in a non-campus building.
- Does not require disclosure of victim identifying information.



Higher education; reporting acts of sexual violence

HB1930/SB712

- Adds §§23-9.2:15, 23-9.2:16, 23-9.2:17.
- Note: Sexual violence is a broader term than sexual assault.
- Requires any 'responsible employee' who, in the course of his employment, learns that an act of sexual violence occurred against a student or on campus/in a non-campus building shall report it to the Title IX Coordinator *as soon as practicable* after addressing immediate needs of victim. (Includes exception for privileged communications.)
- The Title IX Coordinator shall report it (including personally identifying information) to a review committee which will meet within 72 hours.



Higher education; reporting acts of sexual violence (con't.)

HB1930/SB712

- If it is determined that the disclosure of the information is necessary for public safety, the rep from law enforcement on review committee shall immediately disclose *all* information to law enforcement agency responsible for investigation.
- The Title IX Coordinator will notify victim of the disclosure.
- If the alleged act is a *felony*, law enforcement or member of the review committee shall consult with the CA (or designated ACA) within 24 hours.
- Victim must be provided with information about options and services.
- Victim is not required to report.



Academic transcripts; higher ed.

SB1193

- Creates §23-9.2-15.
- A *prominent notation* shall be included on a student's academic transcript if they are dismissed, suspended or withdrawn while under investigation for violation(s) of the college or university's code of conduct.
- Bill includes provision for removal of notation under certain conditions.
- Exception for VMI because of demerit system.



Venue

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Criminal cases; venue

SB1290

- Amends §§19.2-244 and 19.2-247.
- If venue cannot be readily determined, it may be had in the county or city in Virginia:
 1. In which the defendant resides;
 2. Where a non-resident defendant is apprehended; or
 3. Where a related offense was committed, if defendant is a non-resident not apprehended in Virginia.
- Venue for homicide cases expanded to include city or county where *any part* of the body was found.



Indecent liberties; venue

SB915

- Cleans up §18.2-359.
- Establishes that venue for indecent liberties is the same - regardless of whether or not there was a custodial or supervisory relationship.



Creation of unlawful images; venue

SB709

- Establishes that venue for creation of unlawful images in violation of §18.2- 386.1 is the same as for violations of the Computer Crimes Act.
- Amends §19.2-249.2.



Medicaid violations; venue

SB1086

- Establishes that venue for false statement or application for Medicaid payment, in violation of §32.1-314, shall be in the city/county:
 1. Where any act was performed in furtherance of the offense, or
 2. Where the person charged resided at the time of the offense.
- Amends §32.1-314.



Pretrial

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Strangulation; family or household member; admission to bail

HB2120

- Amends §19.2-120.
- Adds strangulation of a family or household member to list of crimes for which there is a rebuttal presumption against bond.



Capital cases; determination of mental retardation

SB855

- AG's bill in response to *Hall v. Florida* (U.S., May 27, 2014).
- Amends §19.2-264.3:1.1.
- Clarifies procedure to be followed in reporting scores of tests for mental retardation in capital cases.
- Measures shall be reported as a range of scores calculated by adding and subtracting the standard error of measurement identified by the test publisher to the defendant's earned score.



Trial

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Preliminary hearing; certification of ancillary misdemeanors

HB2049

- Adds §19.2-190.1.
- Upon certification of any felony, ancillary misdemeanors also shall be certified if consented to by both the Commonwealth and defense.
- Any misdemeanor certified under this section shall proceed in the same manner as a misdemeanor appeal.



Crimes

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Enticing another into a house with intent to commit certain felonies

HB1493

- Creates §18.2-50.3.
- It is a Class 6 felony to entice, etc., a person into a house with the intent to commit the following felonies:
 1. Murder - § § 18.2-31, 18.2-32, 18.2-32.1;
 2. Abduction - §18.2-48;
 3. Aggravated Malicious Wounding - §18.2-51.2;
 4. Robbery - §18.2-58;
 5. Rape - §18.2-61;
 6. Sodomy - §18.2-67.1; and
 7. Object Sexual Penetration - §18.2-67.2.



A&B; felony

HB1611

- Clarifies §18.2-57 (C).
- It is a Class 6 felony to commit an A&B against a judge, magistrate, law enforcement officer, correctional officer, etc., engaged in the performance of his public duties anywhere in the Commonwealth.
- States that this provision is declarative of existing law.



Child pornography and obscenity offenses; penalties

SB1056

- Amends §§18.2-374.1:1 and 18.2-381.
- Adds mens rea of “knowingly” and removes requirement of proving lascivious intent.
- Clarifies that it is Class 6 felony for 2nd or sub. offenses:
 - §18.2-374 – Production, etc., of obscene materials
 - §18.2-375 – Obscene exhibitions and performances
 - §18.2-376 – Advertising obscene items, exhibitions, etc.
 - §18.2-377 – Placards, posters, etc. for obscene items
 - §18.2-378 – Coercing acceptance of obscene articles, etc.
 - §18.2-379 – Employing minor to assist in these offenses



Cigarette laws; administration and enforcement

HB1955/SB1232

- Amends §§ 58.1-1000, 58.1-1007, adds 3.2-4206.01.
- Modifies several provisions of cigarette laws by:
 - Prohibiting persons convicted of certain offenses from being authorized holders;
 - Requiring OAG to list ineligible holders on their website (CA or LEO may request that an ineligible holder be added - need certified Court order);
 - Authorizing additional entities to audit and inspect records involving cigarettes.



Cigarette trafficking

HB1807/SB1231

- Lowers felony threshold for PWID contraband cigarettes from 500 cartons to 200 cartons.
- Creates criminal and civil penalties for purchasing cigarettes using:
 1. A forged business license;
 2. A business license obtained by false pretenses;
 3. A forged or invalid Virginia sales and use tax exemption certificate; or
 4. A Virginia sales and use tax exemption certificate obtained by false pretenses.
- Amends §58.1-1017.1 and adds §58.1-1017.3.



Purchase of tobacco products by minors; liquid nicotine packaging; penalty

HB2036/SB1325

- Amends §18.2-371.2 and adds Chapter 23.2.
- Provides that an adult must sign for mail ordered tobacco or nicotine vapor products. Current law requires signature of purchaser.
- Provides that no person may sell a liquid nicotine container after 10/1/2015 unless it is in child-resistant packaging. Existing inventory may be sold thru 1/1/2016.
- Violation is a Class 4 misdemeanor.



Powdered or crystalline alcohol; penalty

HB1908/SB1034

- Adds powdered or crystalline alcohol to definition of alcoholic beverage.
- No container sold or shipped into Virginia shall include powdered or crystalline alcohol.
- The possession, sale, purchase and use of powdered or crystalline alcohol shall be a Class 1 misdemeanor.
- Amends §§4.1-100 and 4.1-103 and adds §4.1-302.2.
- Emergency clause added by Governor.



Horse tripping; penalty

SB1081

- Amends §3.2-6570 – Cruelty to Animals.
- Prohibits the rodeo contest of ‘horse tripping’ (which is just like it sounds.)
- First offense is a Class 1 misdemeanor; second or subsequent is a Class 6 felony.
- Exemption for practices used in administration of veterinary care.



Wireless communication device; possession by prisoner; penalty

HB2385

- Current law prohibits the conveyance to, or possession of, *cellular telephones* by prisoners.
- This bill expands this prohibition to include *wireless communications devices*.
- Any violation is a Class 6 felony.
- Amends §18.2-431.1.



Commercial Sex Trafficking

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Commercial sex trafficking

HB1964/SB1188

- Amends Title 18.2, Chapter 8, Article 3 – *Commercial Sex Trafficking, Prostitution, etc.*
- Creates §18.2-357.1:
 - Commercial sex trafficking is a Class 5 felony - §18.2-357.1(A).
 - Any person who violates (A) through use of force, threat, intimidation or deception is guilty of a Class 4 felony - §18.2-357.1 (B).
 - Any adult who violates (A) with an underage person is guilty of a Class 3 felony - §18.2-357.1 (C).



Commercial sex trafficking (con't.)

HB1964/SB1188

- Creates Class 3 felony for violations involving minors:
 - §18.2-356 – Receiving money for procuring person
 - §18.2-357 – Receiving money from earnings of a prostitute
- Criminal sex trafficking §18.2-357.1 was added to definition of violent felony for purposes of sentencing guidelines, predicate criminal acts for street gangs, RICO, multi-jurisdictional grand jury, asset forfeiture, and Sex Offender Registry (if minor is solicited.)



Prostitution; pandering, etc.; penalty

HB2040

- Increases from a Class 4 felony to a Class 3 felony the penalty for pandering *involving a minor*.
- Amends §18.2-355.



Firearms

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Firearms, other weapons; possession on school property

SB1191

- Adds *mens rea* of “knowingly” to prohibitions on possession of firearm, stun weapon, knife or certain other weapons on school property.
- Amends §18.2-308.1(A)(B)(C).



Firearms; restoration of rights; venue

HB 1666

- Establishes venue for petitions for restoration of gun rights for current non-residents.
- Non-residents may petition the circuit court where their last felony conviction occurred or where they were adjudicated delinquent.
- Current law does not provide venue for a non-resident's restoration petition.
- Amends §18.2-308.2 (C).



Firearms, etc.; possession by felons; restoration of rights

HB2286

- Prohibition on possession/transportation of firearms, ammunition, stun weapons and explosive materials by felons *does not apply* to a felon whose rights were restored in another state.
- Amends §18.2-308.2 (B).



Transfer, etc., of firearm from licensed dealer; criminal history

HB1702

- Adds §18.2-308.2:2 (Q).
- Provides that a licensed firearm dealer may perform a record check before selling, trading, renting or transferring a firearm that is owned by the dealer but is not in his inventory.
- Current law requires a record check only if the firearm is in the dealer's inventory.



Unclaimed firearms; retention period; donation to DFS

SB936

- Amends §§15.2-1721, 30-34.2:2, 52-11.5.
- Permits law enforcement agencies to donate unclaimed firearms to the Dept. of Forensic Science.
- This bill extends from 60 to 120 days the period for which law enforcement must retain unclaimed firearms before donating or destroying them.



Drugs

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Naloxone; administration by first responders

HB1458/HB1833/SB1186

- LEO's and firefighters who have completed a training program may administer Naloxone.
- A prescriber may issue order for pharmacist to dispense Naloxone to those first responders who are allowed by law to administer it.
- Any person permitted by law to prescribe, dispense or administer Naloxone to person believed to be overdosing shall not be liable for ordinary negligence in rendering such treatment.
- Emergency clause added by Governor.



Safe reporting of overdoses

HB1500/SB892

- Adds §18.2-251.03.
- Creates an affirmative defense to the following offenses if caught while seeking emergency medical attention (for self or others) for an overdose:
 - unlawful possession, purchase or consumption of alcohol,
 - drunk in public, and
 - unlawful possession of drugs and paraphernalia.



Safe reporting of overdoses (con't.)

HB1500/SB892

- To invoke the affirmative defense, defendant must:
 - Remain at scene or where transported for medical attention;
 - Identify himself to law enforcement; and
 - Cooperate with criminal investigation, if requested.
- Affirmative defense cannot be asserted if medical attention was sought during execution of a search warrant or during a lawful search or arrest.



Prescription Monitoring Program (PMP); requirements of dispensers

HB1841

- Every dispenser licensed by the Board of Pharmacy shall register with the PMP.
- Registered prescribers of benzodiazepine or opiates shall, *at the onset* of treatment to last more than 90 days, request information to determine if patient is prescribed other covered substances.
- Amends §54.1-2522.1 and adds §54.1-2522.2.



Prescription Monitoring Program (PMP); disclosure of information

SB817

- Creates additional exception to confidentiality of PMPs.
- Allows the Dept. of Health Professions to disclose to probation & parole officers information from the PMP regarding their supervisees.
- Amends §54.1-2523.



Prescription Monitoring Program (PMP); disclosure of information

HB1810

- Amends §54.1-2523.
- PMP records:
 - Shall not be subject to civil subpoena;
 - Shall not be disclosed or produced in a civil proceeding; and
 - Shall not be admissible as evidence in a civil proceeding.



Hospices; notice to pharmacies

HB1738

- Adds §32.1-162.5:1.
- Hospices shall notify all pharmacies that have filled prescriptions for Schedule II controlled substances, as authorized by law, *within 48 hours of a patient's death.*



Cannabidiol oil and THC-A oil; possession of marijuana

HB1445/SB1235

- Amends § 18.2-250.1 - Possession of Marijuana
- Creates affirmative defense if possession of cannabidiol oil or THC-A oil is:
 1. Pursuant to a valid certification; *and*
 2. For treatment of intractable epilepsy.
- Written certification form will be developed with Board of Medicine and distributed by OES.
- No practitioner will be prosecuted for dispensing pursuant to a valid certification.
- Signed by Governor; effective February 26, 2015.



Controlled substances; scheduling

HB1839

- Amends §§ 54.1-3450 and 54.1-3452.
- Removes hydrocodone combination products from Schedule III.
- Classifies alfaxalone, suvorexant and tramadol as Schedule IV controlled substances.



Controlled substances; Schedule I

HB1564/SB1380

- Amends §54.1-3446.
- Adds several unpronounceable substances to Schedule I.



Drugs forfeited to law enforcement; research and training

SB1241

- Adds §19.2-386.23.
- Changes requirement that law enforcement destroy drugs forfeited by court order “within 12 months” to “when they are no longer needed for research and training purposes.”



Traffic

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Transportation network companies (TNC's); Uber and Lyft

HB1662/SB1025

- Amends many §46.2 sections.
- Creates new regulations for TNC's. See bill language and materials distributed by DMV.
 - <http://dmvnow.com/webdoc/pdf/dmv279.pdf>
- Will be overseen by DMV and enforced by DMV special agents, VSP and local law enforcement.
- Knowing and willful violation of TNC regulation is a misdemeanor subject to \$5,000 fine per violation and a civil penalty of up to \$1,000 per violation.



Following too closely

HB1342/SB1220

- Amends § 46.2-816.
- Includes non-motor vehicles among vehicles behind which a driver is prohibited from following more closely than is reasonable.
- Examples: bicycles, electric power-assisted bikes, mopeds, electric assistive mobility devices.



Amber flashing lights

HB1344

- Amends § 46.2-1025.
- Allows vehicles assisting with traffic incidents or traffic management to use flashing, blinking or alternating amber warning lights.



HOT lanes; law enforcement use

HB2235

- Amends § 33.2-500.
- Law enforcement may use HOT lanes without paying a toll when:
 - Responding to an emergency incident;
 - Patrolling HOT lanes pursuant to agreement with HOT lane operator;
 - Conducting time-sensitive investigation, surveillance or actual pursuit of criminal suspects.
- NOT while commuting to the workplace.



Antique motor vehicles; exhaust systems

HB1551/SB702

- Amends §46.2-1049.
- Exempts an antique motor vehicle manufactured before 1950 from requirement that the exhaust system “prevent excessive or unusual noise.”
- To qualify for exemption: 1) the engine must be comparable to that designed as standard factory equipment for that vehicle, and 2) the exhaust system must be in “good working order.”



Passing when overtaking a vehicle

HB1379

- Amends §46.2-838.
- A driver overtaking a stationary vehicle displaying flashing, blinking or alternating amber lights shall proceed with due caution and maintain a safe speed for highway conditions.



Passing stationary refuse collection vehicles

HB1649

- Amends §46.2-838.
- On a 4+ lane highway, a driver overtaking a stationary refuse collection vehicle shall yield the right of way by making a lane change into a non-adjacent lane, or
- On a highway of less than 4 lanes, decrease speed to 10 mph below speed limit and pass at least 2 feet to the left of the stationary vehicle.



Motorcycles and autocycles; brake lights

HB1700

- Amends §46.2-1012.
- Repeals the 5 second maximum duration of increased brightness of motorcycles and auto-cycle brake lights when the vehicle's brakes are applied.



Motorcycles; standing on footpegs

SB836

- Amends §46.2-909.
- Allows an operator of a motorcycle (not a 3-wheeled vehicle) to stand on footpegs, for no longer than is necessary, when dictated by safety concerns.



Towing vehicles with occupants

SB793

- Amends §46.2-118.
- Prohibits tow truck drivers and towing & recovery operators from knowingly permitting a person to occupy a vehicle being towed.



Comprehensive changes to commercial motor carrier statutes

HB2038

- Amends several motor carrier and commercial drivers' licensing laws.
- Brings Virginia into compliance with federal regulations.
- See HB2038 for more information.



Off-road motorcycles converted to on-road use; titling & registration; penalty

SB1003

- Adds §46.2-602.4; amends §46.2-625.
- Establishes titling and registration requirements for off-road motorcycles converted for on-road use.
- Owners must certify that the vehicle: 1) passed inspection, 2) meets federal safety standards and 3) is properly labeled.
- Class 1 misdemeanor to falsify certification.



Passing on a double yellow line

SB781

- Amends §46.2-804.
- Allows drivers to cross double yellow line or a solid yellow adjacent to a broken yellow line in order to pass a pedestrian or device moved by human power, *if* such movement is made safely.
- Such devices include bicycles, skateboards and foot-scooters.



Access to DMV accident reports

HB1748

- Amends §46.2-380.
- Grants next of kin of any person injured or killed in an accident (except for minors) access to DMV accident reports.
- Access to reports involving a minor is only available to parents or guardian.



Parking in residential areas; public right of way

HB1593

- Creates §15.2-968.01.
- Localities may by ordinance permit vehicle parking within residential areas in a public right-of-way that constitutes a part of the state highway system *so long as* the vehicle does not obstruct the right-of-way.



DUI; convictions under federal laws or laws of other states

HB 1639

- Persons convicted in federal court of an offense substantially similar to Virginia DUI may petition GDC for ASAP and restricted OL.
- A person convicted under a substantially similar state or federal DUI must install an ignition interlock in order to qualify for a restricted OL.
- Emergency clause added by Governor.
- Amends §§18.2-271.1 and 46.2-391.01.



Post-conviction

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Expungement of police and court records; hearing

SB908

- Within 21 days of service, CA can provide written notice that he/she does not object to a petition for expungement.
 - If charge to be expunged is a felony, notice must stipulate that continued existence of information related to arrest may constitute a manifest injustice to petitioner.
- If such notice is given, Court may enter expungement order *without a hearing*.
- Creates procedure for destruction of fingerprint card.
- Amends §19.2-392.2 (D)(E)(F).



DNA; analysis upon conviction of certain additional misdemeanors

HB1928/SB1187

- DNA collection expanded - shall be collected from every person convicted of the following misdemeanors:
 1. Violation of protective order (§16.2-253.2);
 2. Stalking (§18.2-60.3);
 3. Violation of protective order (§18.2-60.4);
 4. Infected sexual battery (§18.2-67.4:1);
 5. Unauthorized use of vehicle, etc. (§18.2-102);
 6. Unlawful entry (§18.2-121);
 7. Indecent exposure (§18.2-387);
 8. Obscene sexual display (§18.2-387.1); and
 9. Resisting arrest (§18.2-479.1).



Writs of actual innocence; bail

HB1882

- When the AG joins in a petition for a writ of actual innocence, petitioner may move for a bail hearing in the circuit court that entered the felony conviction.
- Amends §17.1-513 and adds §§19.2-327.2:1 and 19.2-327.10:1.



Sexually violent predators (SVP); conditional release plan; notice

HB2303

- Amends §§ 37.2-910, 37.2-911, 37.2- 913, 37.2-914.
- Requires notification of SVP conditional release plan to the CA, the chief LEO and the governing body of the locality that is the proposed location of SVP's residence upon conditional release.
- Adds requirement that petitions for the following must now also be copied to the CA where SVP resides:
 - Modification of conditional release plan;
 - Revocation of conditional release plan;
 - Re-release after a revocation.



Supplement to the Sex Offender Registry – “Robby’s Rule”

HB1353/SB1074

- Requires VSP to create Supplement to Sex Offender Registry that would include information on those convicted between July 1, 1980 and June 30, 1994.
- Information to include: name, birth year, conviction date, jurisdiction of offense, age at conviction and name/code section of offense.
- Supplement to be posted on VSP website.
- Includes procedure for removal of information from Supplement.
- Supplement to be compiled by January 1, 2016.



Sex offender registry; registration verification

HB2228/SB918

- Currently physical verification of registration information is carried out by DOC or community supervisory personnel.
- This bill allows DOC to have this physical verification done by Virginia State Police.
- Amends §9.1-907.



Sex offender registry; collection of DNA samples

HB1578

- Adds §19.2-310.2 (F).
- Requires VSP to verify that sex offender DNA samples are received by DFS.
- Where a sample has not been received, VSP or its designee shall obtain the sample.



Sex offenses prohibiting entry onto school property; hearing

HB1366

- Amends §18.2-370.5.
- Sex offenders who petition Circuit Court to enter a school or daycare center must publish a notice of the time and place of their hearing for 2 successive weeks in a newspaper of general circulation, and
- Provide notice to school board chairman and superintendant of public instruction if petition is for a public school.



Transfer of Prisoners

6/19/2015



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DOC; interstate transfer of prisoners

SB1258

- Amends §§53.1-10 and 43.1-31.1.
- Authorizes federal and other states' personnel to retain jurisdiction over any prisoner they transport within Virginia.
- Authorizes Virginia DOC to transport prisoners across state lines.
- Authorizes DOC Director to enter into reciprocal agreements with other states' correction agencies regarding such transports.



Incarcerated persons; transfer to ICE

HB2043/SB1361

- Creates §53.1-220.2.
- DOC Director, sheriff, etc., maintaining custody of an alien may, upon receipt of a detainer from ICE, transfer custody of alien to ICE no more than 5 days prior to the date he would otherwise have been released.
- Upon such transfer, alien will receive credit for number of days remaining before he would otherwise have been released.



Notice required on transfer of prisoner

SB1311

- Amends §§53.1-133.02 and 53.1-160.
- Requires the sheriff, superintendent or DOC to notify a crime victim *as soon as practicable* following the transfer of a prisoner to another facility.
- Currently, such notice must be provided at least 15 days prior to the transfer.
- Notice shall be provided by first-class mail or telephone.



SCOPS

6/19/2015



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Special Conservators of the Peace

HB2206/SB1195

- Amends §§9.1-150.2, 15.2-1748, and 19.2-13.
- Makes changes to SCOPS statutes, including:
 - i. 98 hours of training for unarmed SCOPS/130 hours for armed SCOPS;
 - ii. Court retains jurisdiction over SCOPS throughout appointment;
 - iii. SCOP applications will be copied to CA and chief LEO;
 - iv. Creates appointment revocation process;
 - v. Restricts corporate SCOPS to corporate property or immediately adjacent property;



Special Conservators of the Peace

HB2206/SB1195

- vi. Appointment may allow use of Commonwealth seal and “Police” upon request and for good cause;
- vii. Prohibition on use of blue lights, but allows for use of flashing lights upon request and for good cause;
- viii. Appointment order must specify geographical limits;
- ix. Requires all applicants for temporary registration to submit background check to DCJS;
- x. Prohibits registered sex offenders from qualifying;
- xi. Must report arrests for certain misdemeanors and felonies within 3 days;



Special Conservators of the Peace

HB2206/SB1195

- xii. Removes option for SCOP to be covered by a bond in lieu of insurance;
- xiii. All SCOPS must register with DCJS;
- xiv. Permits localities to enter into mutual aid agreements with any entity employing SCOPS.
- Existing SCOPS have 36 months to comply with new training standards.



Special Conservators of the Peace; revocation or suspension

HB2369

- Amends §19.2-13.
- Clarifies that CC judge retains jurisdiction after SCOP appointment order is entered.
- CC judge may revoke SCOP appointment for good cause shown (after notice and hearing.)
 - CC judge may suspend SCOP appointment pending such hearing.
- An SCOP is eligible for suspension and revocation if convicted of offense that would have made him ineligible for appointment initially.



Civil Matters

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Arrest photos on internet; civil action

SB720

- Adds §8.01-40.3.
- Creates a civil action against any person who disseminates, publishes, etc., the criminal history of a charged or arrested individual when such person then solicits money to remove such information.
- Penalty is actual damages or \$500, whichever is greater, plus attorneys fees and costs.



Emergency care; forcible entry of motor vehicle; civil immunity

HB2082

- Expands §8.01-225.
- Civil immunity for rendering emergency care includes the forcible entry into a vehicle to remove an at-risk unattended minor, provided that the person attempted to get assistance from 911, law enforcement, fire services, etc., if feasible.



Civil immunity for volunteer first responders

SB845

- Adds §8.01-225.3.
- No volunteer firefighter or volunteer EMS personnel shall be civilly liable for injuries arising out of the operation of emergency vehicle's lights and sirens while responding to an emergency *unless* such injuries result from gross negligence or willful or wanton misconduct.
- See §8.01-225.3 for specific details.



Miscellaneous

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Private Police Departments; definition

HB1606/SB1217

- Defines 'private police dept.' as any police dept. that employs private police officers operated by an entity authorized by statute to establish a private police dept.
- Their authority is limited to property controlled by entity or contiguous property, if approved by local law enforcement.
- Private police are subject to same laws, regulations and training requirements as law enforcement officers.
- Aquia Harbor PD, Kingsmill PD, Kings Dominion Park PD, Wintergreen PD, Massanutten PD, Bridgewater Airpark PD, Babcock & Wilcox PD, Carilion PD, Lake Monticello PD.
- Amends §§2.2-3701 and 9.1-101.



Lynchburg airport; police department

HB2035

- Allows Lynchburg by ordinance to establish an airport police at Lynchburg Regional Airport.
- Its authority will be limited to real property owned, leased or controlled by airport.
- Its authority shall not supersede authority, duties or jurisdiction of local law enforcement.
- Any airport police officer must complete the minimum compulsory training requirements for LEO's.



Private investigators; personal protection specialist

HB1718

- Amends §§9.1-139 and 9.1-144.
- Allows a licensed private security business to hire as an independent contractor a personal protection specialist or private investigator who is registered with DCJS.
- Requires such independent contractors to maintain comprehensive general liability insurance.



Right to breastfeed

HB1499/SB1427

- Creates §32.1-370.
- A mother may breastfeed in any place where she is lawfully present.



Employers; social media information

HB2081

- Creates §40.1-28.7:5.
- An employer may not require disclosure of a current or prospective employee's social media username and password.
- An employer may not require an employee to add employer to list of contacts associated with employee's social media account.



DCJS; training standards for undercover work

HB2112

- Eliminates §9.1-102(6).
- Eliminates requirement that DCJS establish compulsory training for LEO's who have not completed the compulsory minimum training standards prior to assigning such officer to undercover investigation work.
- Such training is not offered by academies due to liability and officer safety issues.



Bail bondsmen; felony arrest; reporting

HB2314

- Amends §§9.1-185.8, 9.1-185.14, 9.1-186.11.
- A bail bondsman shall report his/her felony arrest to DCJS within 10 days of arrest.
- Such bondsman shall not issue any new bonds pending outcome of DCJS investigation.
- Reduces from 30 to 10 calendar days the time within which a bail bondsmen must report certain information to DCJS.



Industrial Hemp

HB1277/SB955

- Adds Title 3.2, chapter 41.1, which governs the *licensed* production and manufacture of industrial hemp (§§3.2-4112 – 3.2-4120.)
- Industrial hemp has a concentration of THC not greater than that allowed by federal law.
- Federal law will control in the event of a conflict of laws.
- In a criminal proceeding, burden is on defendant to prove an exemption to the Drug Control Act.
- Amends §54.1-3401 to state that marijuana shall not include industrial hemp.



Disposition of dead bodies

SB1434

- Amends §§32.1-309.1 and 32.1-309.2.
- Changes responsibility for who identifies a body and notifies next of kin **from** law enforcement in the city/county where body *is located* **to** law enforcement in the city/county *where decedent resided*.



Mischief Managed

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Asset Forfeiture

HB1287/SB684

- Bills were introduced to restrict asset forfeiture to post-conviction and appeal.
 - Only exception: when forfeiture agreed to as part of a plea agreement.
- Bills were sent to the Crime Commission for study.



Search of electronic evidence

HB1274/HB1349/SB1110

- Bills were introduced to require a search warrant for *any* person to search *any* device for *any* reason.
- Claimed to codify *Riley v. California*, 573 U.S. ____ (2014).
- Went far beyond the U.S. Supreme Court decision in *Riley*.
- Died in committee.



Government Data Collection and Dissemination Practices Act

HB1673/SB965

- Governor vetoed bills that would have prohibited law enforcement from using surveillance technology to collect or maintain personal information that was of unknown relevance and was not intended for prompt evaluation *unless a criminal or administrative warrant had been issued.*
- Law enforcement would have been allowed to use license plate readers *if* 1) data was purged in 7 days, unless it was needed for an ongoing investigation, and 2) data was used only to investigate a crime or missing person.



Constitutional Amendment to Search & Seizure

HJ578/SJ302

- Resolutions to radically change the Virginia Constitution by replacing the state equivalent of the Fourth Amendment.
- These resolutions got an alarming amount of traction but were ultimately left in committee.
- Stayed tuned for next year.



Body-worn cameras

HB1521/HB1534/HB2280

- Three separate bills were offered to require LEO's to operate body-worn camera systems.
- The bills took different approaches to usage, retention and access to the recordings.
- The bills were sent to the Secure Commonwealth Panel (§2.2-222.3) for study.



One that got away...



Felony homicide

HB1427/HB1937/HB1638/SB1035

- Felony homicide bills were introduced to overrule Woodard v. Commonwealth, 61 Va. App. 567 (2014).
- All House bills rolled into HB1427 to create felony homicide for person who distributed Schedule I/II drugs to person who died from their use.
 - Passed both houses, but died in conference committee.
- SB1035 did not make it out of the Senate.



**Thank you to those who assisted in the
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