

2016 Law Enforcement Legislative Update

6/21/2016



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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, 2016, 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

2016 LEGISLATIVE UPDATE MASTER LIST

to review summaries of
all 2016 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.



Animals Livestock Wildlife

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Feral Hogs; Hunting from Aircraft

HB 0137 (Knight)

- Allows hunting of feral hogs by Dept. of Game & Inland Fisheries, etc., from aircraft.
 - False Cape State Park & Back Bay Wildlife Refuge only.
 - Exception during waterfowl season.
- Adds Chapter 116.



Dogs Chasing Poultry

HB 1231 (Collins)

- Allows the district court to order that a dog that has killed only poultry be microchipped and be:
 - Confined securely, or
 - Transferred to another owner.
- Previously such dog would have to be killed or moved to another state.
- Amends §3.2-6552.



Companion Animal; Forcible Entry of Motor Vehicle; Civil Immunity

SB 9 (Alexander)

- Provides civil immunity to first responders who forcibly enter a motor vehicle to save a companion animal from serious bodily injury or death.
 - Applies to damage to vehicle or to animal.
 - Does not apply in cases of gross negligence or willful or wanton misconduct.
- Adds §3.2-6504.1.



Slingshot; Hunting

HB 1142 (Fariss)

- Allows hunting of wild birds and wild animals, *except* deer, bear, elk and turkey, with a slingshot.
 - Unless expressly prohibited.
- Amends §29.519.



Trespass; Releasing Hunting Dogs

HB 1329 (Fariss)

- Illegal to intentionally release hunting dog on land of another without permission.
- First offense is Class 3 misdemeanor; Second offense within 3 years is Class 1 misdemeanor.
- Property must be posted under §18.2-134.1.
- Dogs simply being on the land is not sufficient evidence to prove intent.
- Adds §18.2-132.1.



Changes to Hunting Regulations

- **SB 344:** Exempts any person who hunts rails (Rallidae family of waterfowl) from the Sunday hunting prohibition (subject to geographical boundaries.)
 - Amends §29.1-521.
- **SB 367:** Allows creation of local ordinances to address hunting of coyotes with a firearm larger than .22 rimfire.
 - Amends §29.1-528.



Asset Forfeiture

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Asset Forfeiture, Roadside Waivers

HB 771 (Gilbert) / SB 423 (Howell)

- Interest in seized property may not be waived until an information has been filed.
- Eliminates roadside waivers that occur when LE seeks waiver of right to property by owner on the side of the road.
- Recommended by Virginia Crime Commission.
- Amends §19.2-386.2.



Asset Forfeiture, Burden of Proof

SB 457 (Carrico)

- Changes standard of proof in asset forfeiture hearings from a “preponderance of the evidence” to “clear and convincing evidence.”
- Amends §19.2-386.10.



Child Abuse

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Child Welfare

HB 600 (Robert Bell)

- Adds to definition of “abused or neglected child” children who have been trafficked.
- Amends §16.1-228.
- HB 600 also creates changes in foster care statutes.



Unlicensed Daycare Provider

HB 1189 (Hester)

- Creates Class 4 felony under Abuse and Neglect of a Child when there is serious injury or death of child under the care of unlicensed daycare provider.
- Failing to secure the license constitutes a willful act or willful omission.
- Amends §18.2-371.1.



Tender Years Hearsay Exception

HB 227 (Albo) / SB 358 (McDougle)

- Tender years – child victim hearsay exception: Allows a hearsay exception for an outcry of abuse by a child under a certain age to be admissible for ***substantive purposes***
- *Ohio v. Clark*, 576 U.S. ___, (2015), SCOTUS held that hearsay statements [admitted under Ohio's statutory tender years hearsay exception] of 3 year old to his teacher regarding his injuries were not testimonial in light of Crawford & 6th Amendment
- Creates §19.2-268.3.



Tender Years Hearsay Exception (con't)

- Hearsay statement admissible for substantive purposes in trial for certain felony “offenses against children” under age 13.
- The statute lists the “offenses against children”, e.g., abduction, murder, malicious wounding, strangulation, poison, rape, other felony sexual assaults, sex trafficking, adultery by parent or grandparent, child pornography and child abuse.



SOL for Misdemeanor Sex Offenses

HB 510 (Herring) / SB 354 (Deeds)

- Extends Statute of Limitations for listed misdemeanor sex offenses against a minor to one year after victim turns 18.
- §§ 18.2-64.2 (sex with inmate, probationer, etc.), 18.2-67.4 (sex battery), 18.2-67.4:1 (infected sex battery), 18.2-67.4:2 (sex abuse of 13 or 14 year old), 18.2-67.5 (attempted rape, etc.) and 18.2-370.6 (tongue kissing child under 13).
- Amends §19.2-8.



Sex Offender Registry

- **HB 177 (Albo)** - Adds to sex offender registry:
 - Pimping a minor; and
 - Aggravated malicious wounding by adult of child under 13.
 - Amends §9.1-902.
- **HB 628 (Robert Bell)** – Adds to sex offender registry online information about:
 - Offender's current work address; and
 - Offender's college/university, if enrolled.
 - Amends §9.1-913.



Sex Offender Registry; Common Interest Communities

HB 1101 (Villanueva)

- Provides that a homeowners' association may request and receive from VSP notice of the registration of sex offenders whose registered address is in the same or contiguous zip code.
- Amends §9.1-914.



Courts/Magistrates

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Juvenile Court; Retained Jurisdiction; Procedures in Cases of Adults; Penalties

SB 454 (Stanley)

- Allows intake officer to issue a *capias* for an adult under age 21 for a crime committed before he was 18.
- Proceedings against an adult under 21 for a crime committed as a juvenile shall be commenced by filing a petition.
- Increases maximum jail sentence to 12 mo. for each offense (36 mo. max.) – eligible for good time.
- Amends §§16.1-247, 259, 262, 263, 284, 291, 292.



MJGJ Records

HB 1294 (Cline)

- Expands / clarifies who has access to records of multi-jurisdictional grand juries.
- Amends §19.2-215.9.



Stay of Bail Order

SB 285 (McEachin)

- Lower court shall stay order granting bail when:
 - There was a statutory presumption against bail under §19.2-120; and
 - Court is notified that CA intends to appeal bail decision to Circuit Court.
- Stay limited to 5 days unless defendant requests hearing outside 5 days.
- Amends §19.2-124.



Magistrates; Return of Written Complaint

SB 1275 (Farris)

- A written complaint shall be returned to the complainant if an officer authorized to issue a criminal warrant declines to do so.
- Amends §19.2-72.



DCJS

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DCJS

- **HB 1102:** Requires DCJS to develop multi-disciplinary curricula for trauma-informed sexual assault investigations.
- **HB 1126:** Reorganizes and establishes list of model policies that DCJS is responsible for developing and updating.



Death Penalty

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Death Penalty; DOC; Pharmacies

HB 815 (Miller)

- DOC can enter into contracts with pharmacies for the compounding of drugs for execution by lethal injection under certain conditions.
- Identities of pharmacies and its employees shall be confidential and exempt from FOIA and shall not be discoverable in a civil proceeding unless good cause is shown.
- Amends §53.1-234.



Domestic Violence

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Deferral for Assault of Family or Household Member

HB 485 (McClellan)

- Allows a deferred finding for domestic simple assault when victim is family or household member.
- Previously could only get deferred finding when charged with domestic assault and battery.
- Amends §18.2-57.3.



Defines “No Contact” in EPO

HB 588 (Campbell)

- Adds that “no contact” order in an EPO includes not being in “physical presence” of abused person, family or household members.
- States that “physical presence” includes:
 - Intentionally making direct visual contact; or
 - Unreasonably being within 100 feet of petitioner’s home or work.
- Amends §§16.1-253.4, 19.2-152.8.



A&B and Stalking while under PO; Penalty

HB 610 (Bell)

- Removes requirement that bodily injury be *serious* to charge Class 6 felony of A&B resulting in injury while under a protective order (PO).
- Creates Class 6 felony for stalking while under PO.
- Amends §§16.1-253.2, 18.2-60.4.



Protective Orders; Possession of Rental Dwelling

HB 711 (Watts)

- Sets forth procedure under which a protective order petitioner must proceed in order to maintain possession of rental dwelling awarded pursuant to a protective order.
- Amends §§55-225.5, 55-248.18:1.



Notice to Stalker; Prima Facie Evidence

HB 752 (Bell) / SB 339 (Reeves)

- Provides that, in stalking prosecutions, actual notice to stalker that victim wants no contact constitutes prima facie evidence of intent to place victim in fear of injury to victim or victim's family.
 - Notice can be provided by anyone.
 - Notice can be written or oral.
 - Protective order may act as notice.
- Amends §18.2-60.3.



Stalking; 2nd offense

HB 886 (Albo)

- Makes stalking, 2nd offense within 5 years a Class 6 felony (instead of a 3rd offense).
 - Does not require the same victim
- Amends §18.2-60.3.



Treatment Program for Deferral of DV

HB 1334 (Cline)

- Requires that the court order defendant into a treatment program under domestic A&B deferred disposition.
- Amends 18.2-57.3.



Illegal Possession of Firearm while under Protective Order

HB 1391 (Murphy) / SB 49 (Howell)

- Creates a Class 6 felony to possess a firearm while under permanent PO for domestic abuse.
- 24 hour window after service of permanent PO to get rid of firearm(s).
- Continues to be Class 1 misdemeanor to purchase or transport firearm while under any PO.
- This applies to any existing permanent protective order – even if issued before 7/1/16.
- Amends §§18.2-308.09, 18.2-308.1:4, 18.2-308.2:3.



Violation of PO while Armed with Deadly Weapon

HB 1087 (Gilbert) / SB 323 (Favola)

- Creates Class 6 felony when person under a protective order violates the PO while armed with a deadly weapon.
 - Not just firearm, any deadly weapon.
 - Must be “knowingly armed with” deadly weapon, not just “possess deadly weapon”.
- Amends §§16.1-253.2, 18.2-60.4.



Drugs

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Controlled Paraphernalia

HB 170 (Albo)

- Separates into two distinct sections:
 1. possession of paraphernalia; and
 2. distribution of paraphernalia.
- Both remain Class 1 misdemeanors.
- Amends §54.1-3466.



Prescription Drugs; Pharmacies; Drug Disposal Programs

HB 629 (Hodges)

- A pharmacy may participate in a drug disposal program in accordance with state and federal law.
- No one participating in such program shall be liable for theft, etc., or for acts of simple negligence in the collection, storage or destruction of prescription drugs collected through the program, providing pharmacy acted in good faith and according to the law.
- Adds §54.1-3411.2.



Industrial Hemp

HB 699 (Pogge) / SB 691 (Chaffin)

- Clarifies that it is lawful for a person licensed to grow industrial hemp to manufacture industrial hemp products or to engage in related research.
- No licensed person shall be prosecuted for these activities.
- Maximum license fee is \$250.
- Amends §§3.2-4113, 3.2-4117.



Additions to Drug Schedules

- **HB 1077/SB 480:** Adds multiple drugs to Schedule I.
 - Amends §54.1-3446.
- **HB 1292:** Adds eluxadoline to Schedule IV drugs.
 - Amends §54.1-3452.



Cannabidiol Oil and THC-A Oil

SB 701 (Marsden)

- A practitioner may issue a written certification to a patient with intractable epilepsy.
 - Practitioner must be licensed by medical board in neurology or an epilepsy specialist.
- Such patients must register with Board.
- Sets rules for pharmaceutical processors and when/how they may dispense oils.
- Creates affirmative defense for agents of pharmaceutical processors.
- Amends §§18.2-250.1, 54.1-3408.3, 54.1-3442.8. Adds §§54.1-3442.6, 54.1-3442.7.



Firearms

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2016 Historic Gun Compromise

- **HB 1386** (Lingamfelter) / **SB 715** (Edwards)
- **HB 1391** (Murphy) / **SB 49** (Howell)
- **HB 1163** (Webert) / **SB 610** (Reeves/Vogel)
- **HB 1096** (Webert)



Firearms; ID Requirements

- **HB 206 (Webert):** Allows Virginia residents to purchase firearms with just one government-issued photo ID showing residency in Virginia.
 - Member of the armed forces may use a Department of Defense ID and a copy of their permanent duty orders assigning them to a post in Virginia or a copy of their Leave & Earnings Statement.
- **HB 810 (Lingamfelter):** Removes language regarding proof of citizenship.
- Amend §18.2-308.2:2.



Judges Exempt from Permit to Carry Concealed

HB 332 (Miller) / SB 544 (Newman)

- Adds judges to list of people who may carry concealed weapon without a permit.
- Amends §18.2-308.



Restoring Right to Possess Firearm for Certain Felons

HB 784 (Adams)

- Allows certain individuals previously convicted of a felony to possess firearms and to apply for a concealed weapon permits when they:
 1. Were adjudicated delinquent at age 14 or older of a crime that would be felony if committed by adult; and
 2. Have completed 2 year term of enlistment in the military and have been honorably discharged.
- Amends §§18.2-308.09, 18.2-308.2.



Reciprocity of Concealed Handgun Permits

HB 1163 (Webert) / SB 610 (Reeves/Vogel)

- Recognizes concealed carry permits of all states when holder is at least 21 years old and :
 - i. Issuing state has 24/7 verification process;
 - ii. Holder carries government issued photo ID; &
 - iii. Holder has not had a Virginia concealed carry permit revoked.
- Amends §18.2-308.014.



Exceptions to Permit Requirement to Carry Concealed

- **HB 1281(Hugo):** Reduces from 15 years to 10 years the number of years of service required for law enforcement retiree exemption.
- **SB 198 (Lucas):** Adds retired DOC investigators to list of those retired law enforcement officers who may carry concealed weapon without permit.
- Amend §18.2-308.



Retired LEO's; Authority to Carry Concealed

SB 479 (Carrico):

- Adds §18.2-308.016 entitled “Retired law enforcement officers; carrying a concealed handgun”
- Clarifies provisions related to the authority of retired LEO's, State Corporation Commission agents, ABC agents, DMV enforcement agents and VA Lottery investigators to carry concealed without a permit.
- Also amends §§18.2-287.01, 18.2-287.4, 18.2-308, 18.2-308.1 and 22.1-277.07.



Voluntary Background Checks at Gun Shows

HB 1386 (Lingamfelter) / SB 715 (Edwards)

- Requires State Police to be available to conduct voluntary background check for sales by private sellers at firearms shows.
- Amends §54.1-4201.2.



New Requirements for Law Enforcement When Firearm is Recovered

SB 608 (Reeves)

- When LE recovers a firearm, the agency shall:
 - Immediately take steps to trace history of the firearm;
 - Share information about firearm with other VA LEAs and enter information into US DOJ firearms tracing system if it is believed that firearm was used in a crime;
 - Return firearm to the rightful owner if firearm was stolen, unless the owner is prohibited from possessing a firearm or the firearm is needed as evidence in a criminal prosecution.
- Amends §52.25.1.



Illegal Possession of Firearm while under Protective Order

HB 1391 (Murphy) / SB 49 (Howell)

- Creates a Class 6 felony to possess a firearm while under permanent PO for domestic abuse.
- 24 hour window after service of permanent PO to get rid of firearm(s).
- Continues to be Class 1 misdemeanor to purchase or transport firearm while under any PO.
- This applies to any existing permanent protective order – even if issued before 7/1/16.
- Amends §§18.2-308.09, 18.2-308.1:4, 18.2-308.2:3.



Fraud

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Financial Exploitation of Adults over 60

HB 248 (Minchew)/SB 249 (Black)

- When a report or social services investigation reveals a financial loss to an exploited adult over 60 (or an incapacitated adult) in excess of \$50,000, DSS or APS immediately shall refer the matter to local law enforcement.
 - Law enforcement investigation to be conducted where victim lives, where exploitation took place, or if unknown, where exploitation was discovered.
- Adds §63.2-1605.



False Representations of Military Status

HB 1319 (Collins)

- Creates Class 1 misdemeanor to fraudulently represent self as former or current member of armed services to obtain services.
- Examples provided: free haircut; discount to get into football game.
- This section does not preclude prosecution under any other statute.
- Adds §18.2-177.1.



Fraudulent Identification of a Service Dog

SB 363 (Reeves)

- Anyone who fits a dog with vest, etc., in order to represent the dog as a service dog with the intent to fraudulently gain public access for the dog is guilty of a Class 4 misdemeanor.
 - Applies to dogs only.
- Adds §51.5-44.1.



Juveniles

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Juveniles; Certain Education Records as Evidence

HB 1213 (Albo)

- Juvenile may introduce into evidence as relevant to whether he acted *intentionally* or *willfully* certain educational plans or behavior assessments.
- Applies ONLY to misdemeanors committed during school events on school property or school bus.
- Worst bill of the 2016 session – creates option of “not guilty by reason of an IEP.”
- Adds §16.1-274.2.



Juveniles; Disclosure of Law Enforcement Records

HB 541 (Watts)

- Allows disclosure of a juvenile's law enforcement records to a CSU-authorized diversion program.
- Diversion program may not disclose information further.
- Law enforcement may prohibit disclosure to protect a criminal investigation.
- Adds §16.1-301(G).



Legal Age for Marriage

HB 703 (McClellan) / SB 415 (Vogel)

- The minimum age for marriage is increased to 18, unless a minor has been emancipated by court order.
- Specific written findings necessary for court to order that a minor is emancipated for purposes of marriage.
- Amends §§16.1-331, 16.1-333, 20-45.1, 20-48, 20-89.1. Adds §16.1-333.1.



Law Enforcement Officer Provisions

6/21/2016



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Purchase of Weapons other than Handguns

HB 51 (Miller) / SB 615 (Chase)

- Allows listed law enforcement officers (not just VSP) to purchase weapons other than guns that were issued for their personal use.
 - Weapon must be of a type that can be purchased at a hardware or sporting goods store without restrictions other than an instant background check.
- Amends §59.1-148.3(A).



School Resource Officers

HB 487 (McClellan)

- Relieves SRO's employed pursuant to the SRO Grants Program from the obligation to enforce school board rules and codes of conduct as a condition of their employment.
- Amends §9.1-110.



Purchase of Police Animals

HB 1238 (Morefield) / SB 38 (Carrico)

- Allows the handler last in control of a police animal to purchase the animal for \$1.
- Also allows the next-of-kin to purchase the animal issued to the officer for \$1 when:
 - Officer died in the line of duty, or
 - Officer died in service with at least 10 years of service.
- Amends §2.2-1124.



A&B on LEO

HB 1226 (Adams)

- Adds DOC employee with internal investigations authority to definition of law enforcement officer purposes of charging A&B on LEO
 - Class 6 felony (6 months mandatory confinement)
- Amends §18.2-57.



Memorial Bridges

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Memorial Bridges

- **HB 213 / SB 107:** Trooper Nathan-Michael W. Smith Memorial Bridge
 - Rt. 301 over Interstate 95
- **SB 448:** Trooper Harry Lee Henderson Memorial Bridge
 - Interstate 66 bridge in Warren County



Mental Health

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Involuntary Psychiatric Treatment; Petition by Sheriff, etc.

HB 543 (Watts) / SB 566 (Barker)

- Petitions for involuntary psychiatric treatment of a local inmate shall be filed by the sheriff or other person in charge of the correctional facility in which the inmate is incarcerated.
- Adds §19.2-169.6(I).



Criminal Defendants; Orders for Mental Health Evaluations & Treatment

HB 645 (Leftwich) / SB 342 (Lucas)

- When a local inmate is ordered to receive involuntary psychiatric treatment pursuant to §19.2-169.6, the petitioner shall provide court with:
 - Name, address and contact information of the appointed evaluator, CSB director, behavioral health authority or hospital,
 - Unless the court or clerk already has the information.
- No person shall be liable for any act or omission related to this duty unless grossly negligent or willful.
- Adds §19.2-169.8.



Temporary Detention; Notice of Recommendation

HB 1110 (Robert Bell) / SB 567 (Barker)

- Magistrate conducting temporary custody hearing shall consider information provided by “person who initiated emergency custody.”
- If CSB evaluator denies temporary detention, they must:
 - Notify LEO initiating emergency custody;
 - Notify LEO that they can facilitate discussion with magistrate; and
 - Arrange for LEO to communicate with magistrate before expiration of emergency custody.
- Adds §§16.1-337, 37.2-804.2, 37.2-809.



Motor Vehicles

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Motorcycles; Illumination

- **HB 10 / SB 25:** Increases from 4 to 5 the maximum number of lights allowable to provide illumination ahead of vehicle.
 - Amends §46.2-1030.
- **HB 939:** Directs VSP to establish guidelines for auxiliary lighting on motorcycles by 1/1/2017 (to be posted on VSP website.)



DMV; Excess Width Permits

HB 117 (Knight) / SB 719 (DeSteph)

- DMV shall issue permits to vehicles transporting a watercraft when the total outside width is between 102 inches & 108 inches.
- Adds §46.2-1149.8.



Motor Vehicle Safety Inspections Exceptions

Amendments to §46.2-1158.01

- **HB 213:** Exempts from safety inspection requirement vehicles that have been submitted for inspection but are waiting on a public highway.
- **HB 507:** Allows purchasers of a vehicle or trailer from an auto auction one day to get their inspection completed (under specific conditions.)



Length of Vehicle Combinations

HB 267 (Marshall)

- Clarifies that provision limiting vehicles coupled together to 65 feet also applies to motor homes and buses.
- Declarative of existing law.
- Amends §46.2-1112.



Drones; Regulation

HB 412 (Kilgore)

- No locality may regulate the use of privately owned, unmanned aircraft within its boundaries.
- These provisions expire on July 1, 2019.
- Adds §15.2-926.3.



TV, Video, etc. in Motor Vehicle

HB 454 (Davis) / SB 286 (DeSteph)

- Restricts a driver's viewing of a "moving image" (TV, video, etc.) by requiring that:
 - The equipment is factory-installed; and
 - Equipment has an interlock device that disables the image when performing a "driving task" as defined in the statute.
 - Prior exceptions for GPS still apply.
- Amends §46.2-1077.



Definitions – Amendments to §46.2-100

- **HB 369:** “Non-resident” for purposes of Title 46.2 includes those in Virginia for full-time church service of not more than 36 months and are not gainfully employed.
- **SB 375:** Clarifies that “pickup or panel trucks” between 7500 – 10,000 lbs. are not “trucks”.
- **SB 464:** “Low speed vehicle” includes gas-powered vehicles with max speeds of 20 to 25 mph.



Smoking in Vehicle with Minors Present

HB 1348 (Pillion)

- Civil penalty of \$100 for smoking in vehicle with child under 8.
- Secondary offense.
- Adds §46.2-112.1.



Amber Lights on Public Transit Buses

HB 329 (Villanueva) / SB 299 (Ebbin)

- Allows publicly owned or operated transit buses to use flashing amber lights.
- Amends §46.2-1025.



Mutual Aid Agreements

6/21/2016



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Threat Assessment Teams; Sharing of Records and Information; FOIA

HB 1013 (Massie)

- Allows criminal record, juvenile record and health record info to be shared with threat assessment team created by local school board (not just higher education.)
- Information may not be shared beyond original purpose.
- **Limited FOIA exclusion** created.
- Amends §§2.2-3705.2, 2.2-3705.4, 19.2-389, 19.2-389.1, 22.1-79.4, 32-127.1:03.



Higher Ed; MOU's with Law Enforcement; Information Sharing

SB 83 (Favola)

- Requires all MOU's and mutual aid agreements between public and private higher ed and local law enforcement to specify the procedure for sharing information.
- Amends §23-234.



Higher Ed; MOU's with Local Law Enforcement; Sexual Assault

HB 1321 (Massie)

- Clarifies that non-profit private colleges/universities that have security departments are required to enter into an MOU with a law enforcement agency that requires such agency to notify the CA within 48 hours of an investigation of felony sexual assault on or related to the institution.
- Amends §23-234.



Higher Ed; MOU's with Local Law Enforcement

HB 1015 (Massie)

- Permits public and non-profit private colleges and universities to request cooperation from primary local law enforcement in establishing an MOU to address sexual assault.
- Law enforcement must cooperate in establishing such an MOU, if requested.
- Amends §§9.1-102, 9.1-1301. 23-9.2:16.



SART Teams; FOIA Exemption

HB 1016 (Massie)

- Creates **FOIA exclusion** for SART teams.
- Adds college personnel to persons invited to participate in SART team. Must invite:
 - Title IX coordinator;
 - Representatives of student affairs, human resources and counseling services; and
 - Campus security.
- Amends §§2.2-3705.7, 15.2-1627.4.



PERKS

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PERKS for Minors

SB 248 (Black)

- Allows a minor to give consent to a PERK if the parent or guardian refuses to consent to that PERK.
- Amends §54.1-2970.1.



PERKS; Procedure for Handling

HB 1160 (Robert Bell) / SB 291 (Black)

- Establishes a comprehensive procedure for the collection and analysis of PERKs, including “anonymous” PERKs.
- *See DFS Summary of Comprehensive PERK Legislation (included with these Law Enforcement Legal Update materials.)*
- Creates Title 19.2, Chapter 1.2, §§19.2-11.5 through 19.2-11.11.



Property Offenses

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Tampering, etc. with Firefighting Equipment

HB 25 (Habeeb)

- Class 1 misdemeanor to injure, destroy, remove, tamper or interfere with firefighting equipment or EMS vehicle with intent to prevent use.
- Adds § 18.2-151.1.



Sheriffs

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Sheriffs; Vehicle Markings

HB 1182 (Aird) / SB 266 (Dance)

- Allows sheriff's offices to use marked motor vehicles painted in any solid color.
- Previously had to get local government permission to have any color other than dark brown.
- Amends §15.2-1610.



Local Correctional Facilities/Transportation of Prisoners

SB 781 (DeSteph)

- Provides that a sheriff or correctional facility administrator (and their employees) have authority to transport a prisoner for a lawful purpose to:
 - Another jurisdiction inside the Commonwealth and retain authority over such prisoner; or
 - Through or to another state and retain authority over such prisoner.
- Adds § 53.1-70.1.



FTA's; Sheriffs; Process Servers

HB 1310 (Leftwich) / SB 707 (Chafin)

- Provides that a summons for failing to appear on a mailed summons may be served by any person authorized to serve process.
- Amends §19.2-76.3.



Technology

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Pen Register or Trap and Trace

HB 176 (Albo)

- Expands place where an order for the installation and use of a pen register or trap and trace device can be obtained
 - Where the investigation is being conducted or where there is PC to believe an offense was, is or will be committed.
- Previous law prevented LEO from getting an order when the person did not have a job or fixed address, e.g., gang members or fugitives.
- Amends §19.2-70.2.



Obtaining Electronic Communication Service Records

HB 326 (Albo)

- Creates non-disclosure provision for subpoena, SW or order that directs the service provider not to disclose the issuance of the subpoena, etc. to the subscriber.
- Reason for this bill: Internet services providers, e.g., Apple, have started notifying suspects that LE is investigating them which gives predators time to wipe hard drive and flee.
- Limited to victims under 18.
- Amends §19.2-70.3.



Obtaining Electronic Communication Service Records (con't)

- Requires certification in writing by CA that there is reason to believe:
 - Victim is under 18.
 - Notice to subscriber will endanger life; cause flight or destruction of evidence or intimidation; or otherwise seriously jeopardize an investigation.
- Can extend every 90 days for good cause shown.
- Non-disclosure for *administrative subpoena* only applies to records that provide subscriber information.
 - Additional information, e.g., what activity, requires additional subpoena or warrant.



Disclosure of Real-time Location Data

HB 875 (Hugo)

- Allows law enforcement to get emergency real-time location data from out-of-state provider.
 - Previous law - emergency exception only applied in-state.
- Eliminates the need for provider to believe there is a danger.
- Amends §19.2-70.3.



Admission of Electronic Communication Records

HB 924 (Mason)

- Eliminates requirement that a custodian of records needs to appear to say “this is our record” for communication service provider records, e.g., Facebook, Twitter, etc.
- Allows affidavit from custodian in lieu of live testimony to verify records are true, complete and prepared in the regular course of business.
- Does not replace proof as to who authored the communication or what the records mean.
- Applies equally to Commonwealth and defendant.
- Amends §19.2-70.3.



Traffic

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Passing Stopped School Bus

HB 168 (LaRock) / SB 120 (Carrico) / SB 16 (Favola) / SB 74 (Wexton)

- Authority to mail summons for unlawfully passing stopped school bus when locality uses video-monitoring system.
- Provides way to rebut presumption that registered owner was driver by filing an affidavit containing specified information.
- Allows opportunity to inspect video.
- Amends §46.2-844.



Open Door When Safe

SB 117 (Petersen)

- Drivers must wait until it is reasonably safe to open door on side adjacent to moving traffic.
- Does not apply to passengers.
- Traffic infraction with up to \$50 fine.
- Excludes LEO, firefighter or EMS while in performance of duties.
- Adds §46.2-818.1.



Regulation of Flooded Areas

SB 613 (Locke)

- Authorizes local ordinances to prohibit operation of motor vehicle or boat on flooded streets in a manner that would damage property of others.
- Class 4 misdemeanor.
- Exception for first responders.
- Adds §46.2-800.3.



Learner's Permit/Provisional License Holder

SB Cosgrove (Cosgrove)

- Prohibits a holder of a *learner's permit* from using a cell phone while driving, regardless of whether or not the device is handheld.
- Removes the exception that a *provisional license holder* may have more than one passenger under 21 if parent present.
- Adds first cousins to the family/household member exception to passenger limit.
- Amends §§ 46.2-323, 324.1, 334, 344.01, 335, 335.2



Victim Rights

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Victim Confidentiality

HB 373 (Yancy) / SB 253 (Stanley)

- Expands victim confidentiality law to include victims of abduction & sex trafficking who should receive protection.
- Increase types of services that must comply with nondisclosure rules to include services for dating violence, sex assault, stalking, abduction & sex trafficking.
- Includes clause that someone can be considered a victim whether or not any person has been charged or convicted of any offense.
- Amends § 63.2-104.1.



**Thank you to those who assisted in the
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