

# Virginia Legislative Update 2018

for Law Enforcement



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

# Materials

- This PowerPoint attempts to identify the legislation from the 2018 General Assembly session that has the greatest impact on law enforcement and public safety.
- Consult the *2018 Legislative Update Master List* for full listing of bills of interest.



# Materials

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



# 2018 General Assembly Session

- The House of Delegates introduced 1,610 bills.
- The Senate introduced 996 bills.
- After the 8 week session ended, 507 House Bills passed and 474 Senate bills passed.
- The General Assembly also passed over 900 resolutions.



# Alcoholic Beverage Control (ABC)



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# Swim Clubs

## **HB 1520 (Sullivan)**

- Allows any private swim club to let its members bring lawfully acquired alcoholic beverages onto the premises and to consume them there.
- Amends and reenacts § 4.1-201.



# Animals



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# Rabies; Quarantine; Police Dogs

## HB 359 (Rush)

- When determining whether a dog that has bitten a person should be quarantined, the health director shall weigh any proof that the dog has both:
  1. a current rabies vaccination certificate, and
  2. a current certification of special training for police work, military work, or work as a first responder.
- Amends and reenacts § 3.2-6522.





# Animal Abandonment

## **HB 1607 (Fariss)**

- Changes definition of “Abandon” to failing to provide basic care for 4 days (instead of 5 days).
  - Amends § 3.2-6500
- Changes the penalty for abandoning an animal to Class 1 misdemeanor (previously a Class 3 misdemeanor.)
  - Amends § 3.2-6504



# Disclosure of Animal Bite History

## **SB 571 (DeSteph)**

- Requires of a releasing agency, animal control officer, law-enforcement officer, or humane investigator:
  1. When taking custody of a dog or cat, to ask and document whether the dog or cat has bitten a person or other animal and the circumstances and date of such bite.
  2. Upon release of a dog or cat for (i) adoption, (ii) return to a rightful owner, or (iii) transfer to another agency, to disclose that the dog or cat has bitten a person or other animal and the circumstances and date of such bite.
- Violation of such requirements is a Class 3 misdemeanor.
- Creates § 3.2-6509.1.



# Asset Forfeiture



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# Asset Forfeiture; Report to DCJS

## **SB 813(Peake)**

- Requires agency that forfeits money or property to inform DCJS as to:
  1. What offense the forfeiture is based upon,
  2. Whether the owner of the property has been charged, and
  3. The status of any charge.
- Amends and reenacts § 19.2-386.14(F).



# Correctional Facilities



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# Feminine Hygiene Products

## HB 83 (Kory)

- Directs the Department of Corrections to provide feminine hygiene products to female prisoners and inmates *without charge*.



# Correctional Facilities; Disclosure of Health Records

## **HB 301 (Watts)**

- Clarifies that disclosure of health records of a state, local or regional facility inmate to such facility is not subject to general provisions governing disclosure of health records, but is subject to provisions specific to persons committed to such facilities.
- Provides that the person in charge of a correctional facility or his designee is entitled to obtain from a health care provider medical records concerning a person committed to such facility.
- Amends and reenacts §§ 32.1-127.1:03, 53.1-40.10, and 53.1-133.03.



# Correctional Officer Procedural Guarantee Act

## **HB 1418 (Tyler)/ SB 851 (Marsden)**

- Creates the Correctional Officer Procedural Guarantee Act.
- Establishes procedural guarantees for correctional officers when allegations are made against them involving matters that may lead to their dismissal, demotion, suspension, or transfer for punitive reasons.
- Creates §§ 9.1-508 through 9.1-512.





# Courts



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# Judges; Sentencing Guidelines

## HB 1055 (Herring)

- Provides that judicial performance evaluations, which are transmitted to the General Assembly, shall include the number of cases in which a judge *did not file a written explanation* for departing from sentencing guidelines, as required by law.
- Amends and reenacts § 17.1-100.



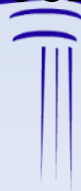
# Crimes



# Reports to School Superintendents

## HB 292 (Collins)

- Adds abduction to the list of offenses that are reported to school division superintendents by a juvenile intake officer when a petition is filed.
- Adds abduction and acts of violence by mobs to the list of offenses reported to school division superintendents by a law-enforcement officer when a student 18+ years of age is arrested for committing such an offense (acts of violence by mob is already on the list reported by an intake officer for a minor student.)
- Adds abduction on school property, on a school bus, or at a school-sponsored activity to the list of incidents to be reported to school division superintendents and principals.
- Amends and reenacts §§ 16.1-260, 19.2-83.1, 22.1-279.3:1



# Fraud Crimes; MJGJ

## HB 304 (Watts)

- Adds to Virginia Consumer Protection Act:
  1. Obtaining money by false pretense,
  2. Financial exploitation of mentally incapacitated persons, and
  3. Construction fraud .
- Allows certain fraud crimes to be investigated by multi-jurisdiction grand jury.
- Amends and reenacts § 59.1-200.



# Larceny Threshold

## History:

- \$100 in 1966
- Raised to \$200 in 1980
- \$200 in 1980 = \$594 in 2017
- \$200 is lowest in the nation; shared only by New Jersey



# Larceny & Other Thresholds Increased to \$500

## **HB 1550 (Adams) / SB 105 (Suetterlein)**

Amends:

- **§18.2-23** (conspiracy)
- **§18.2-80** (arson of unoccupied building)
- **§18.2-81** (arson personal property)
- **§18.2-95** (grand larceny)
- **§18.2-96** (petit larceny)
- **§18.2-96.1** (theft of personal property)
- **§18.2-97** (theft of poultry)
- **§18.2-102** (unauthorized use)
- **§18.2-103** (conceal merchandise)
- **§18.2-108.01** (larceny with intent to sell)



# Larceny & Other Thresholds Increased to \$500 (cont.)

- **§18.2-145.1** (damage or destroy research farm material)
- **§18.2-150** (dispose or destroy ship)
- **§18.2-152.3** (computer fraud)
- **§18.2-162** (destroy or damage public services or utilities)
- **§18.2-181** (bad check)
- **§18.2-181.1** (aggregate bad checks)
- **§18.2-182** (business bad check business)
- **§18.2-186** (false statement to obtain property or credit)
- **§18.2-186.3** (identity theft)
- **§18.2-187.1** (utility theft)
- **§18.2-188** (defraud hotel; restaurant)
- **§18.2-195** (credit card fraud)





# Larceny & Other Thresholds Increased to \$500 (cont.)

- **§18.2-195.2** (credit card theft)
- **§18.2-197** (receipt of goods and services fraudulently obtained)
- **§18.2-340.37** (theft of charitable gaming funds)
- **§19.2-289** (in prosecution of GL, jury can find guilty of PL if find value is less than \$500)
- **§19.2-290** (in prosecution for PL, jury can find guilty of PL even the thing stolen has a value of \$500 or more),
- **§19.2-386.16** (forfeiture of vehicle)
- **§29.1-553** (sale of wild bird, wild animal or freshwater fish)



# Female Genital Mutilation (FGM)

## **SB 47 (Black)**

- Changes punishment of FGM from Class 1 misdemeanor to Class 2 felony (20 yrs to life and up to \$100,000 fine).
- Consistent with aggravated malicious wounding.
- Necessary because cannot always prove “malice” when defendant argues it was for “religious purposes” or “with consent”.
- Over 140 million genital mutilations worldwide; most are done on children ages 4 to 12 y.o.; they have no medical value.
- VA is #4 state in country where this occurs.
- Amends and reenacts in §18.2-51.7 .



# Obstruction of Justice; Fleeing from Arrest

## **SB 57(DeSteph)**

- Simply *relocates* existing §18.2-479.1 language (prohibition against fleeing from law enforcement to avoid arrest) to a new subsection in §18.2-460 (Obstructing justice; resisting arrest; fleeing from a law-enforcement officer.)
- §18.2-460 (E) is created; §18.2-479.1 is repealed.



# Criminal Blight on Real Property

## **SB 451 (Dance)/ HB 594 (Carr)**

- Allows local governments to expand criminal blight ordinances to include the regular presence of persons using the property for:
  1. Illegal drug use and sale,
  2. Commercial sex trafficking or prostitution, or
  3. Repeated acts of the malicious discharge of a firearm within a building or dwelling.
- This bill was a recommendation of the Virginia Housing Commission.
- Amends and reenacts § 15.2-907.



# Criminal Background Checks



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# Juvenile Records; EMS Volunteers

## **HB 135 (Bell)/ SB 109 (Black)**

*Juvenile records* maintained in CCRE may be disseminated:

1. To the State Health Commissioner, or his designee, for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency, and
  2. To the chief law-enforcement officer of a locality, or his designee, who shall be an individual employed as a public safety official of the locality, that has adopted an ordinance to conduct investigations of employment applicants for the purpose of screening any person who applies to be a volunteer with or an employee of an emergency medical services agency.
- Amends and reenact § 19.2-389.1.



# Criminal Records; Discovery

## HB 988 (Gilbert)

- Provides that laws precluding dissemination of a person's criminal history record information do *not* preclude dissemination made pursuant to the rules of court for obtaining discovery or for review by the court.
- Amends and reenacts § 19.2-389.



# Data Collection & Dissemination





# Government Data Collection & Dissemination Practices Act

## **HB 1277 (Garrett)**

- Amends the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) to facilitate the sharing of data among agencies of the Commonwealth and between the Commonwealth and political subdivisions.



# Drones



# Trespass; Drones

## HB 638(Collins)/SB 526(Obenshain)

Creates two new code sections to criminalize certain uses of drones:

### 1. §18.2-121.3 Trespass; Use of Unmanned Aircraft

- Prohibits drones on or within 50 ft. of another's dwelling if:
  - It is done with the intent to coerce, intimidate or harass;
  - or*
  - The drone operator has received actual notice to desist.
- Doesn't apply if have consent or authorized by federal regulation.
- Requires knowledge and intent to cause drone to enter property of another and to come within 50 feet of a dwelling.
- Class 1 misd.



# Illegal Uses of Drones

## 2. §18.2-324.2 Use of unmanned aircraft for certain purposes

- Registered sex offenders under §9.1-901 can't use a drone:
  - To follow or contact someone without permission; or
  - To capture images of a person without permission unless the person is unrecognizable.
- Respondent of a protective order under §16.2-279.1 or 19.2-152.10 can't use a drone to:
  - Follow, contact, or capture images of the petitioner or persons named in the protective order.
- Requires knowing and intentional use to follow, contact or capture image.
- Class 1 misd.



# Search Warrant Exceptions for Drones

## **HB 1482(Thomas)/SB 508(Carrico)**

- Allows law enforcement and Department of Transportation to use a drone to record and survey an accident scene without first obtaining a search warrant when a report is required under §46.2-373.
  - When accident involves injury to or death of any person or total property damage to an apparent extent of \$1,500 or more
- Amends § 19.2-60.1

## **SB 186(Black)**

- Extends *to localities* the drone search warrant exceptions listed in §19.2-60.1(D).



# Drugs

## Hemp, CBD Oil, THC-A Oil



# Industrial Hemp Research Programs

## **HB 532 (Freitas) / SB 247 (Dance)**

- Authorizes:
  1. A higher education industrial hemp research program, to be managed by institutions of higher education, and
  2. A Virginia industrial hemp research program.
- The bill classifies all participants in any research program as either growers or processors and replaces the current licensing requirement, which requires a police background check, with a registration requirement.
- The original bill would have essentially legalized marijuana because it would have required law enforcement to *exclude* that the substance was hemp.
- Amends and reenacts §§ 3.2-4112 through 3.2-4119 and 54.1-3401, adds 3.2-4114.1 and 3.2-4114.2; repeals § 3.2-4120.



# CBD and THC-A Oils

## **The Joint Commission on Health Care (JCHC) studied:**

- The therapeutic and detrimental effects of ThC-A and CBD oils at the request of House Courts of Justice, and
- The effects of cannabis pursuant to HJR 578 (Delegate Marshall) from the 2017 session.





# CBD and ThC-A Oils

## Some findings from the JCHC Study:

- Psychoactivity of ThC-A and CBD oils: Neither are “intoxicating” and therefore considered non-psychoactive.
  - However, ThC-A Oil readily changes to ThC, the primary psychoactive substance in cannabis, *when heated*.
- Therapeutic effects of cannabis for medical use: only *patient-reported* symptoms of MS has strong evidence of therapeutic effects.



# CBD and ThC-A Oils

## **HB 1251(Cline)/SB 726(Dunnivant)**

- Takes medical decisions for the use of CBD and ThC-A oils out of the hands of legislators and gives it to doctors.
- This bill permits a practitioner to issue a certification for use of CBD oil and ThC-A Oil for ***any*** diagnosed condition or disease if practitioner thinks patient will benefit from its use.
- The bill contained an emergency clause and became effective upon Governor's signature on 3/9/18.



# CBD and ThC-A Oils

## HB 1251(Cline)/SB 726(Dunnivant) (cont.)

- "Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine ~~who is a neurologist or who specializes in the treatment of epilepsy.~~
- A practitioner in the course of his professional practice may issue a written certification for the use of cannabidiol oil or THC-A oil for treatment or to alleviate the symptoms of ~~a patient's intractable epilepsy~~ *any diagnosed condition or disease determined by the practitioner to benefit from such use.*



# CBD and ThC-A Oils

## **HB 1251(Cline)/SB 726(Dunnivant) (cont.)**

- Affirmative defense to possession of marijuana for possessors who have a certification or for parent or legal guardian of someone with a certification.
- Affirmative defense to distribution of marijuana for practitioners who issue certification.
- Affirmative defense for possession or distribution of marijuana for agents or employees of pharmaceutical processors of the oils.
- Amends and reenacts §§ 18.2-250.1, 54.1-3408.3, 54.1-3442.5, 54.1-3442.7.



# CBD and ThC-A Oils

## **SB 330(Dunnivant)**

- Adds CBD oil and ThC-A oil to list of substances that must be reported to the Prescription Monitoring Program (PMP).
- Requires practitioner to get information from Department of Health about patient's prescription history before issuing written certification.
- Orders Board of Pharmacy to create regulations for pharmaceutical processing and applications to become a processor, including fingerprinting & criminal history.



# CBD and ThC-A Oils

## **SB 330(Dunnivant) (cont.)**

- Requires pharmacist or pharmacy tech who dispenses the oils to do the following:
  - Make copy of written certification to be kept for 2 yrs;
  - Make copy of photo identification of patient, parent or legal guardian; and
  - Verify board registration of the practitioner.
- Requires that the pharmaceutical processor ensure that the ThC level be within a certain percent and requires labeling and stability testing of ThC-A oil.
- Amends §§ 54.1-2519, 54.1-2521, 54.1-2552.1, 54.1-3442.6, 54.1-3442.7



# Marijuana Laws

## No changes to possession or distribution of marijuana.

- Recreational marijuana was not legalized.
- Medical marijuana was not legalized.
  - **Failed**: HB 974(Guzman); HB 1064(Heretik)
- Marijuana was not decriminalized.
  - **Failed**: HB 1063(Heretik); SB 111(Ebbin)
- Jail option for conviction of 1<sup>st</sup> offense possession was not eliminated.
  - **Failed**: SB 954(Norment)



# Drugs

## Opioid Issues; PMP's





# Drugs

## Prescription Monitoring Program (PMP)

### **HB 313(Head)/SB 728(Dunnivant)**

- Requires Department of Health to annually review controlled substance prescribing and dispensing patterns and to report unusual patterns of prescribing and dispensing to Joint Commission on Health Care (JCHC) by 11/1 of each year.
- Amends and reenacts § 54.1-2523.1.



# Naloxone; Authorized Administers

## **HB 322 (Bourne)**

- Adds DOC probation/parole officers and correctional officers to the list of individuals who may possess and administer naloxone or other opioid antagonist, provided that they have completed a training program.
- Amends and reenacts § 54.1-3408.



# Paraphernalia; Naloxone

## HB 842 (LaRock)

- A person who is authorized to train individuals on the administration of naloxone and who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone may dispense or distribute hypodermic needles and syringes in conjunction with such dispensing of naloxone.
  - Such person must first obtain a controlled substances registration from the Board of Pharmacy.
- A person to whom naloxone has been distributed by such individual may possess hypodermic needles and syringes in conjunction with such possession of naloxone.
- The bill also allows the dispensing or distributing of hypodermic needles and syringes by persons authorized to dispense naloxone.
- The bill became effective on March 2, 2018.
- Amends and reenacts §§ 54.1-3466 and 54.1-3467



# Schedule I Drugs

## **HB 1194 (Garrett)**

- Adds laundry list of unpronounceable drugs to Schedule I, many of which end in the word “fentanyl”.
- Amends § 54.1-3446.



# Prescription Monitoring Programs (PMPs)

## **HB 1556 (Pillion)/SB 832 (Carrico)**

- Adds to list of drugs that must be reported to PMP:
  1. Schedule V substances for which a prescription is required, and
  2. Naloxone.
- Amends and reenacts §§ 54.1-2519, 54.1-2520.



# Overdose Fatality Review Teams

## **SB 399 (Lewis)**

Authorizes creation of local or regional overdose fatality review teams to:

1. Conduct contemporaneous reviews of local overdose deaths,
2. Promote cooperation and coordination among agencies involved in investigations of overdose deaths or to provide services to surviving family members,
3. Develop an understanding of the causes and incidence of overdose deaths in the locality,
4. Develop plans for and recommending changes to prevent overdose deaths, and
5. Advise state agencies on changes to law, policy, or practice to prevent overdose deaths.



# Overdose Fatality Review Teams

## **SB 399 (Lewis) (Cont.)**

- Teams can review the death of any Commonwealth resident whose death is suspected to be due to overdose.
- A violation of the confidentiality of the review process is punishable as a Class 3 misdemeanor.
- Amends and reenacts §§ 2.2-3705.5 and 2.2-3711; adds §32.1-283.7.



# Evictions / Landlord-Tenant





# Unlawful Detainer

## Executive of Writ of Possession

### **HB 856 (Peace)**

- Permits a judge, upon request of the plaintiff, to issue a writ of possession immediately upon entry of judgment in an unlawful detainer case.
- Sheriff to serve notice of the writ, including the date and time of eviction, on the defendant at least 72 hours prior to execution of the writ.
- Sheriff shall not evict the defendant sooner than the expiration of the defendant's 10-day appeal period.
- If the defendant appeals, the sheriff shall return the writ to the issuing clerk.
- Amends and reenacts § 8.01-129.



# Family Abuse



# Protective Orders & Cell Phones

## HB 262(Miyares)

- Court may grant exclusive use and possession of cell phone to petitioner or family member.
- Court may order respondent not to cancel phone service during the life of the service contract.
- Court may order respondent not to track petitioner on the cell phone.
- Amends §§ 16.2-253.1, 16.1-279.1.



# Resource Lists for DV Victims

## **SB 426** (Wexton)

- Provides that upon issuance of an emergency, preliminary or permanent protective order, the clerk of the court *shall* make available to the petitioner information that is published by DCJS for victims of domestic violence or for petitioners in protective order cases.
- Amends and reenacts §§ 16.1-253.1, 16.1-253.4, 16.1-279.1, 19.2-152.8, 19.2-152.9, and 19.2-152.10.



# Freedom of Information Act (FOIA) & Public Records



Please refer to the *2018  
Legislative Update Master List*  
for full listing of FOIA bills



# Hunting / Fishing



# Sunday Hunting; Raccoons

## **HB 239 (Kilgore) /SB 375 (Chafin)**

- Removes the prohibition on hunting or killing raccoons after 2:00 a.m. on Sunday.
- Amends and reenacts § 29.1-521.





# Hunting Apparel

## **HB 564 (Edmunds)**

- Allows a hunter hunting from an enclosed ground blind during any firearms deer season (except during the special season for hunting deer with a muzzle-loading rifle only) to display attached to or immediately above the blind at least 100 square inches of solid blaze orange or solid blaze pink material visible from 360 degrees in lieu of wearing specified hunting apparel.
- All specified blaze orange or blaze pink hunting apparel or material must be solid in color or fluorescent in hue.
- The bill contains technical amendments.
- Amends and reenacts § 29.1-530.1.



# Tracking Wounded Animal

## HB 995 (Byron)

- Allows a licensed hunter to use tracking dogs to find a wounded or dead *bear, deer, or turkey*.
- Authorizes the hunter to have a weapon in his possession and to use it to humanely kill the tracked animal, including after legal shooting hours.
- Prohibits using the weapon to hunt, wound, or kill any animal other than the animal the hunter is tracking, except in self-defense.
- Current law prohibits a hunter from having a weapon in his possession while tracking.
- Amends and reenacts § 29.1-516.1.



# Arrowgun Hunting; License

## **HB 1393 (Knight)/ SB 859 (Chafin)**

- Authorizes the use of an arrowgun, a pneumatic-powered air gun, for hunting;
- Allows certain disabled hunters to obtain an archery license for hunting with an arrowgun.
- Amends and reenacts §§ 15.2-916, 15.2-1209, 18.2-285, 18.2-286, 29.1-306, 29.1-307, 29.1-519, 29.1-521, 29.1-521.2, 29.1-524, 29.1-525, 29.1-549.



# Disabled Hunters; Tree Stands

## **HB 1328 (Edmunds)**

- Exempts certain disabled hunters from any local ordinance requiring hunting from an elevated platform or tree stand.
- Adds § 29.1-528.2.



# Juveniles / Minors



# Juvenile Confinement

## **HB 35(Hayes) / SB 52(Spruill)**

- When a court determines that a juvenile presents a threat to a secure juvenile facility, this bill removes the requirement that the juvenile be housed entirely separately from adults in an adult facility; however,
- Adult-detention facilities housing juveniles must be approved for detention of juveniles by the State Board of Corrections.
- Amends and reenacts § 16.1-249.



# Child Abuse/Neglect; Venue

## **HB 326 (Campbell)**

- Venue for abuse and neglect cases may lie in:
  1. The city or county where the alleged abuse or neglect occurred, or
  2. The city or county where the child resides, or
  3. Where the child is present when the proceedings are commenced.
- Amends and reenacts § 16.1-243.



# Child Left Alone with Sex Offender

## HB 511 (Bell)

- Adds the complaint that a child has been left alone with a person to whom the child is not related by blood or marriage and who has been convicted of a sexually violent offense against a minor to the list of complaints about which social services is required to notify the Commonwealth's Attorney.
  - Must be done within 2 hours.
- Adds this to the list of complaints that CPS must investigate.
- Amends and reenacts §§ 63.2-1503 and 63.2-1506.





# Child Car Seats

## HB 708 (Filler-Corn)

- Prohibits car seats from being forward-facing until:
  1. The child reaches two years of age or
  2. Until the child reaches the minimum weight limit for a forward-facing car seat as prescribed by the manufacturer of the device.
- The bill expands the reasons that a physician may determine that it is impractical for a child to use a child restraint system, to include the child's height.
- The bill has a delayed effective date of July 1, 2019.
- Amends and reenacts §§ 46.2-1095 and 46.2-1096.



# Detention Orders; Transferring Minors between Facilities

## **HB 1355** (Hope)

- Establishes the same procedure for transferring custody of a minor who is the subject of a temporary detention order from one facility to another facility that already exists for transferring custody of adults.
- Amend and reenacts §§ 16.1-340.1 and 16.1-340.2.



# Involuntary Commitment of Juvenile; Parental Notification

## **SB 392 (Barker)**

- Permits the court to proceed with a hearing for the involuntary commitment of a juvenile in instances where both parents cannot be notified if:
  1. The court determines that copies of the petition for involuntary commitment and notice of the hearing have been served on at least one parent, and
  2. A reasonable effort has been made to serve both parents.
- Amends and reenacts § 16.1-341.



# Juveniles

## Retention of Jurisdiction by J&DR

### **SB 609(Surovell)**

- States that J&DR jurisdiction over a juvenile extends until the person is 21 years old to allow the court to suspend, reduce, modify, or dismiss the disposition of any juvenile adjudication (except when in custody of DJJ or court is divested of jurisdiction).
- Bill states that it is declaratory of existing law.
- Amends and reenacts § 16.1-242.



# Minors; Access to Firearms

## **SB 669 (Deeds)**

- Provides that a person who, while a minor 14 years of age or older, was ordered to involuntary inpatient or outpatient treatment or was subject to a temporary detention order and agreed to voluntary admission:
  - Is subject to the same restrictions on possessing, purchasing, or transporting a firearm as an adult who was similarly ordered, and
  - May utilize the same procedure as such adult for petitioning for the restoration of firearm rights.



# Minors; Access to Firearms

## SB 669 (Deeds) (Cont)

- Sets out procedures for the submission of any such involuntary treatment order or certification of voluntary admission subsequent to a temporary detention orders to the CCRE.
- Closes loophole for individuals aged 14 to 17.
- The bill became effective on April 18, 2018.
- Amends and reenacts §§ 16.1-337, 16.1-344, and 18.2-308.1:3; adds 16.1-337.1



# Law Enforcement



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# Special Conservators of the Peace (SCOPs)

## **HB 151(Fowler) Revises Powers and Authority of SCOPs**

- Order appointing SCOP must have geographical limitations.
- Order must have a limit as to how far an SCOP can make an arrest following a close pursuit.
- SCOPs can't use the word "police" or the seal of the Commonwealth on uniforms, badges or equipment.
- Exceptions for Shenandoah Valley Regional Airport Commission and the Richmond Metropolitan Transportation Authority, provided that such SCOPs meet all the requirements for law-enforcement officers.
- Amends and reenacts §19.2-13.





# Ashanti Alert

## HB 260 (Jones)

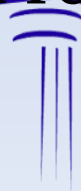
- Creates Va. Critically Missing Adult Alert Program.
- Provides for local, regional or statewide notification of critically missing adult, defined as:
  - Whereabouts unknown;
  - Believed to have been abducted;
  - Disappearance poses credible threat to their safety.
- Similar to Amber Alert.
- Adds §§ 52-34.10, 52-34.11, 52-34.12



# Definition; Law Enforcement Officer

## HB 1599 (Landes)

- Added to the definition of law enforcement officer:
  1. Members of the investigations unit designated by the State Inspector General to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency, and
  2. Employees of DOC or DJJ with internal investigations authority.
- Such members and employees not eligible for Line of Duty Act benefits.
- Amends and reenacts §§ 9.1-101 and 9.1-400.



# Text to 9-1-1

## **SB 418 (Barker)**

- Requires each public safety answering point (PSAP) to be able to receive and process 911 calls sent via text message.
- Deadline: July 1, 2020
- Amends and reenacts § 56-484.16.



# Retired LEO's; Concealed Carry

## **SB 912 (Chase)**

- Clarifies that a retired law-enforcement officer shall surrender his proof of consultation to carry a concealed handgun when he returns to work *as a law-enforcement officer*.
- Current law does not specify that his return to work be as a law-enforcement officer.
- Amends and reenacts § 18.2-308.016.



# Memorials



# LEO Memorials

**HB 1159 Sgt. Lawrence G. Sprader, Jr., Memorial Bridge;** designating as the Middle Road over Interstate 295.

**HB 1395 Trooper Michael Walter Memorial Highway;** designating as a portion of Route 13.



# LEO Memorials

**SB 941 Trooper Berke Bates Bridge;**  
designating as bridge on Route 612 over I-64  
in New Kent County.

**HJ 309/SR 22 VSP Lt. H. Jay Cullen,  
III** – Chesterfield Aviation Base renamed as  
*Lt. H. Jay Cullen Hangar.*



# Mental Health





# Competency & Sanity Evaluations

## HB 52(Hope)

- Introduced to save bed space in hospitals.
- Requires evaluations for competency and sanity to be conducted in jail or on outpatient basis unless:
  - outpatient evaluator opines that an evaluation is needed in a hospital, or
  - person is already confined to hospital.
- Amends and reenacts §§ 19.2-169.1, 19.2-169.5



# Mental Health Evaluations after NGRI

## HB 53(Hope)

- Allows court to *authorize* outpatient evaluation for person acquitted by reason of insanity to determine whether to commit or release.
- If the court authorizes an outpatient evaluation, the decision to evaluate on outpatient basis or in the hospital will be made by the Commissioner of Behavior Health.
- Current law requires hospital inpatient evaluation.
- Amends and reenacts § 19.2-182.2.



# Executive of TDO's; Local Inmates

## HB 364 (Rush)

- Authorizes deputy sheriffs and jail officers employed by a local correctional facility to execute temporary detention orders issued for inmates of the facility.
- Amend and reenacts § 19.2-169.6.



# Definition: Qualified Mental Health Professional

## **HB 1375 (Tyler) / SB 812 (Barker)**

- Broadens the definition of "qualified mental health professional" to include employees and independent contractors of DOC who by education and experience are professionally qualified and registered by the Board of Counseling to provide collaborative mental health services.
- Amends and reenacts §§ 54.1-2400.1 and 54.1-3500.



# Emergency Custody; Time Period

## **SB 673 (Deeds)**

- Permanently authorizes a CSB to continue for up to 4 hours after the period of emergency custody has run to attempt to identify a facility other than a state hospital that is able and willing to provide temporary detention and appropriate care to an individual who is subject to an emergency custody order.
  - Sunset provision repealed.
- Applies to both adults and minors.
- Amends and reenacts §§ 16.1-340 and 37.2-808.



# TDO's; Transferring Minors between Facilities

## **HB 1355 (Hope)**

- Establishes the same procedure for transferring custody of a minor who is the subject of a temporary detention order from one facility to another facility that already exists for transferring custody of adults.
- Amend and reenacts §§ 16.1-340.1 and 16.1-340.2.



# Involuntary Commitment of Juvenile; Parental Notification

## **SB 392 (Barker)**

- Permits the court to proceed with a hearing for the involuntary commitment of a juvenile in instances where both parents cannot be notified if:
  1. The court determines that copies of the petition for involuntary commitment and notice of the hearing have been served on at least one parent, and
  2. A reasonable effort has been made to serve both parents.
- Amends and reenacts § 16.1-341.



# Physical Evidence Recovery Kits (PERKs)





# PERK's; Submission to DFS

## HB 303 (Watts)

- Adds another exception to the requirement that a law-enforcement agency that receives a PERK submit such kit to the DFS for analysis within 60 days of receipt:
  - (v) When another law-enforcement agency has taken over responsibility for the investigation related to such kit.
- Amends and reenacts § 19.2-11.8.



# Post-Conviction Issues



# Substantial Assistance

## HB 188 (Collins)/SB 35 (Stanley)

- Allows for sentence reduction when substantial assistance is provided to prosecution *after* final conviction and sentencing.
- Triggered *only* on motion of Commonwealth's Attorney
- The information provided must relate to certain classes of crimes, broadly: violent crimes and drug dealing.
- Adds § 19.2-303.01.



# Restitution/Larceny Compromise

- A compromise was reached that required passage of more robust restitution laws in order for the House of Delegates to agree to increase the larceny threshold .
- This year they agreed to increase the larceny threshold to the lowest proposed amount in exchange for passage of restitution bills.



# Undelivered Restitution

## **HB 483 (Bell)/SB 562 (Obenshain)**

- \$8 million in restitution has been collected from defendants *but never distributed to crime victims*
- Requires clerks to transmit any restitution where the victim cannot be found to the Criminal Injuries Compensation Fund (CICF).
- The bill requires Workers' Comp Commission as administrator of CICF to locate victims and disburse collected unclaimed restitution.
- Office of the Executive Secretary to prepare annual restitution report.
- Amends and reenacts §§ 19.2-305.1, 19.2-349, 19.2-368.3.



# Uncollected Restitution

## **HB 484 (Bell)/SB 994 (Obenshain)**

- A Crime Commission study found that over \$230 million in restitution was unpaid and overdue.
- Requires probation to monitor payment of restitution and provide a status report to the Court and Commonwealth's Attorney prior to defendant's release from probation.
- Requires Courts to review restitution before releasing a defendant from probation or court oversight.
- Sets forth remedies available to the Court for failure to comply.
- Amends and reenacts §§ 9.1-176.1, 19.2-305.1, 19.2-358, 19.2-368.15, 53.1-145



# Post Conviction DNA Samples

## **HB 1249(Toscano)/SB 565(Obenshain)**

- Adds additional misdemeanor convictions that require DNA sample:
  1. Assault & Battery § 18.2-57
  2. Trespass §18.2-119
- Amends § 19.2-310.1



# Weekend Jail for Felonies

## SB 36 (Stanley)

- Allows courts, for good cause and *absent objection by the Commonwealth's Attorney*, to impose non-consecutive or weekend jail time for defendants convicted of non-violent felonies, in addition to other enumerated offenses that allow non-consecutive time.
- Active portion of sentence remaining must be 45 days or less.
- Amends and reenacts § 53.1-131.1.





# No Statute of Limitations on Collection of Restitution Judgments

## **SB 846 (Norment)**

- Enforcement by a victim of order of restitution docketed as a civil judgment as provided in §8.01-446 is *not subject to any statute of limitations*.
- Amends §§ 19.2-305.2, 8.01-446.



# Pretrial Issues



# Pretrial Services Agencies

## **HB 996(Gilbert)/SB 783(Peake)**

- Requires DCJS report on pretrial services agencies
  - Requires annual review and report from pretrial agencies.
- Bill to eliminate pretrial services entirely  
**FAILED – (HB 997 Gilbert)**



# Presumption Against Bail Human Trafficking

## **HB 1260 (Mullin)**

Adds several human trafficking offenses to the list of crimes for which there is a presumption against bail:

- **§18.2-355** (taking or detaining a person for the purposes of prostitution or unlawful sexual intercourse);
- **§18.2-356** (receiving money from procuring or placing a person in a house of prostitution or forced labor);
- **§18.2-357** (receiving money from the earnings of a prostitute); and
- **§18.2-357.1** (commercial sex trafficking).



# Fingerprints; Photos

## **HB 1266 (Toscano)/SB 566(Obenshain)**

- Adds additional misdemeanor arrests that require report to CCRE, fingerprints and photo:
  1. Trespass § 18.2-119
  2. Disorderly conduct § 18.2-415
- Amends § 19.2-390.



# Service of Process CA & IDC Investigators

## **HB 1511 (Mullin)**

- Allows investigator employed by Commonwealth's Attorney or Indigent Defense Commission to serve process.
  - Must be prior VA law enforcement within past 10 years and have left in good standing.
- Requires sheriff where process is to be served to have agreed to allow such investigators to serve process.
  - Some Sheriffs expressed fiscal concerns.
- Amends § 8.01-293.



# Procedure



# Pawnbrokers; ID

## HB 206 (Bell)

- Eliminates the requirement that pawnbrokers make a copy of the form of identification used *if* the form of ID is a U.S. military ID or other form of identification included under 18 U.S.C. § 701.
- The bill requires the person involved in the transaction to present an alternate government-issued ID card bearing a photo or the pawnbroker will have to take a photograph of the person.
- Amends and reenacts § 54.1-4009.





# Schools



# Reports to School Superintendents

## HB 292 (Collins)

- Adds abduction to the list of offenses that are reported to school division superintendents by a juvenile intake officer when a petition is filed alleging a student committed such offense.
- Adds abduction and acts of violence by mob to the list of offenses reported to school division superintendents by a law-enforcement officer when a student 18+ years of age is arrested for committing such an offense (acts of violence by mob is already on the list reported by an intake officer for a minor student.)
- Adds abduction on school property, on a school bus, or at a school-sponsored activity to the list of incidents to be reported to school division superintendents and principals.
- Amends and reenacts §§ 16.1-260, 19.2-83.1, 22.1-279.3:1



# Public Higher Ed; Free Speech

## HB 344 (Landes)

- No public institution of higher education may abridge an individual's constitutional freedom to speak, except as permitted by the 1<sup>st</sup> Amendment.
- The bill requires each such public institution to establish a free speech policy and include that information in its handbook and on its website.
- Each such institution shall submit as specified an annual compliance report.
- Each such institution also shall submit as specified a copy of any lawsuits filed against it or an employee alleging a violation of 1<sup>st</sup> Amendment protections.
- Add § 23.1-401.1 and repeals § 23.1-900.1



# Search Warrants



# Search Warrants Tracking Devices

## **HB 145(Foy)/SB 475 (Reeves)**

- Technical fix to allow the magistrate's *designee* to deliver the search warrant affidavit for a tracking device to the court.
- Amends §19.2-56.2.



# Search Warrants

## Electronic Communication Records

### HB 1164(Ingram)

- Clarifies that a SW for records of a subscriber or customer of an electronic communication service shall be returned to the Circuit Court *where the warrant was executed*, with a copy to the Clerk in the jurisdiction where SW was issued.
- Right now, the SW has to be filed where the magistrate sits rather than where the SW is actually being requested and executed.
- SW executed outside VA to be returned to issuing jurisdiction.
- Amends § 19.56.



# Court Order Exceptions Pen Register/Trap and Trace

## **SB 833(Carrico)**

- Extends to a pen register or trap and trace device the exceptions to the requirement to obtain a court order in §19.2-70.3 that exist for real-time location data:
  - To respond to user's emergency call;
  - By consent of the owner or user;
  - By consent of the legal guardian or next of kin;
  - When law enforcement believes there is immediate danger to someone; or
  - To locate a child believed to have been abducted or missing and endangered.
- Amends §§ 19.2-70.2, 19.2-70.3.



# Search Warrant Exceptions for Drones

## **HB 1482(Thomas)/SB 508(Carrico)**

- Allows law enforcement and Department of Transportation to use a drone to record and survey an accident scene without first obtaining a search warrant when a report is required under §46.2-373
  - If accident involves injury to or death of any person or total property damage to an apparent extent of \$1,500 or more
- Amends § 19.2-60.1

## **SB 186(Black)**

- Extends *to localities* the drone search warrant exceptions listed in §19.2-60.1(D).





# Traffic

## Motor Vehicles /Watercraft



# Overweight Permits; Bridges; Virginia Produce

## **HB 214 (Knight)/SB 73(Cosgrove)**

- Provides that no five-axle-combination vehicle shall be issued an overweight permit for hauling Virginia-grown farm produce unless such vehicle has no less than 42 feet of axle space between extreme axles.
- Provides that no vehicle issued an overweight permit for hauling such produce shall cross any bridge or culvert if the gross weight of such vehicle is greater than the amount posted for the bridge or culvert as its carrying capacity.
- Current law requires specific weight limitations based upon axle weights or axle spacing.
- Amends and reenacts § 46.2-1148.



# Registration; Licensing; Titling Parked Cars

## HB 236 (Collins)

- Adds vehicles ***parked*** on highways to the class of vehicles subject to registration, licensing and titling requirements.
- Amends and reenacts § 46.2-613.



# Flashing Lights; National Guard

## **HB 563 (Fowler)**

- Allows vehicles of the National Guard Chemical, Biological, Radiological, Nuclear and High Yield Explosive (CBRNE) Enhanced Response Force Package (CERFP) to utilize flashing, blinking, or alternating red or red and white combination warning lights when responding to an emergency.
- Amends and reenacts § 46.2-1023.



# Inspection Stations; Appointments

## **HB 581 (Bloxom)**

- *Removes* the requirement that any official inspection station that accepts prescheduled appointments shall have two or more inspection lanes and leave one reserved for first-come, first-served inspections.
- Amends and reenacts § 46.2-1166.



# Child Car Seats

## HB 708 (Filler-Corn)

- Prohibits car seats from being forward-facing until:
  1. The child reaches two years of age or
  2. Until the child reaches the minimum weight limit for a forward-facing car seat as prescribed by the manufacturer of the device.
- The bill expands the reasons that a physician may determine that it is impractical for a child to use a child restraint system, to include the child's height.
- The bill has a delayed effective date of July 1, 2019.
- Amends and reenacts §§ 46.2-1095 and 46.2-1096.



# Motorboats; Wakesurfing

## **HB 751 (Leftwich)/SB 984 (Cosgrove)**

- Also allows a motorboat that is propelled by a means that is below the water line and forward of either the transom or an integrated swim platform to be accompanied by a person in the water (such as a wakesurfer.)
- Current law allows a motorboat to be accompanied by a person in the water *only* if the motorboat is propelled by an inboard motor.
- Amends and reenacts § 29.1-744.3.



# Uber & Lyft; Interior Trade Dress

## **HB 830 (Bagby)/ SB 128 (Cosgrove)**

- Transportation network companies (TNC) partner vehicles (such as Uber & Lyft) may be equipped with removable illuminated interior trade dress devices to identify them.
- The bill limits the display and color of such illuminated interior trade dress devices.
- A TNC that issues such devices is required to file the specifications of the device with the DMV.
- Amends and reenacts § 46.2-2099.50.





# Public Utility Vehicles

## **HB 955** (Yancey)

- Authorizes electric or gas public utility vehicles to use certain high-intensity amber warning lights.
- Provides that if such a vehicle is stationary and displaying such lights, drivers shall, if possible, make a lane change to the lane not adjacent to the vehicle or reduce speed and proceed with caution.
- Amends and reenacts §§ 46.2-921.1 and 46.2-1026.



# Military Surplus Vehicles Registration & Operation

## **HB 1323 (Yancey)**

- Authorizes the DMV to issue registration cards and license plates for military surplus motor vehicles, as defined.
- Strictly limits their allowable uses and travel distances.
- Provides that any law-enforcement officer may require the address at which the vehicle is stored and its destination.
- The bill exempts military surplus motor vehicles from emissions standards.
- Amends and reenacts §§ 46.2-100, 46.2-711, 46.2-1158.01, and 46.2-1179; adds 46.2-730.1.



# Vehicle Lighting Device Covers

## **HB 1354** (Fariss)

- If certain lighting devices are unlit, have a clear lens, and have a clear reflector if the lighting device has a reflector, then a vehicle equipped with such lighting device may be operated on the highways without covering the lighting device.
- Amends and reenacts § 46.2-1020.



# Display of Vehicles for Sale

## **HB 1413 (Helsel)/ SB 532 (Mason)**

- Clarifies that the prohibition on the display of 5 or more used vehicles for sale on real property within any 12-month period applies *per property*.
- Such vehicles must be titled in name of person offering the vehicle for sale (exception for family members)
- A property owner or lessee in violation is guilty of a Class 4 misdemeanor.
- The Motor Vehicle Dealer Board shall create a form to place on a vehicle that is in violation.
- Amends and reenacts § 46.2-1508.2.



# Motorcycles; Lighting

## HB 1464 (Robinson)

- Motorcycles and autocycles may be equipped with red or amber standard bulb running lights or light-emitting diode (LED) pods or strips as auxiliary lighting.
- Such lights must: (i) be directed at the ground, (ii) be designed for vehicular use, (iii) not emit a beam of light greater than 25 candlepower per bulb, (iv) not be attached to wheels, and (v) not be blinking, flashing, oscillating, or rotating.
- Such lighting is not subject to approval by the Superintendent of State Police.
- Amends and reenacts § 46.2-1012.



# Motorcycles; Inspection Stickers

## HB 1499 (Rush)

- Motorcycle inspection stickers can be affixed to either:
  1. A plate securely fastened to the motorcycle for the purpose of displaying the sticker, or
  2. Directly to the motorcycle.
- Amends and reenacts t § 46.2-1163.



# Texting/Emailing in Work Zones

## **HB 1525(Yancey)**

- Adds a mandatory \$250 fine for reading or writing any emails or texts while driving through a highway work zone when workers are present.
- Amends and reenacts §46.2-1078.1 (use of handheld personal communications devices.)



# Steady-burning Red & Blue Lights; Law Enforcement Vehicles

## **SB 410 (McDougle)**

- Permits law-enforcement vehicles to be equipped with *steady-burning* blue or red lights, in addition to flashing, blinking, or alternating red, blue and white lights as approved by the Superintendent of State Police.
- Amends and reenacts § 46.2-1022.





# Antique Vehicles; Exhaust Systems

## **SB 586 (DeSteph)**

- Excludes *any* vehicles licensed as antique motor vehicles from the requirement that they be equipped with an exhaust system in good working order and in constant operation to prevent excessive or unusual levels of noise.
- Current law only excludes antique motor vehicles manufactured prior to 1950 from such requirements.
- Amends and reenacts § 46.2-1049.



# Venue



# Venue

## **HB 77 (Habeeb)**

Creates concurrent jurisdiction for a locality and an adjoining locality when:

- A crime is committed within the bounds of the locality but against an officer, agency or department of the adjoining locality, or
- When a crime is committed within the bounds of the locality but in or upon property that is owned or occupied by the adjoining locality.



# Venue

## HB 77 (Habeeb) (Cont.)

- Addresses issues raised in:
  - [Dillon v. Commonwealth](#) (forged deed at the Roanoke County Circuit Court clerk's office, which is located within the City of Salem), and
  - [Gerald v. Commonwealth](#) (Defendant committed perjury in Albemarle County Courthouse, which is located within the City of Charlottesville).
- Now either jurisdiction can investigate and prosecute.
- Amends and reenacts §§ 16.1-69.8, 16.1-69.31, 16.1-69.46, 17.1-515.1, 19.2-45, 19.2-244.



# Venue; Child Abuse/Neglect

## **HB 326 (Campbell)**

- Venue for abuse and neglect cases may lie in:
  1. The city or county where the alleged abuse or neglect occurred, or
  2. The city or county where the child resides, or
  3. Where the child is present when the proceedings are commenced.
- Amends and reenacts § 16.1-243.



# Victim Protections & Rights



# Ashanti Alert

## HB 260 (Jones)

- Creates Va. Critically Missing Adult Alert Program.
- Provides for local, regional or statewide notification of critically missing adult, defined as:
  - Whereabouts unknown;
  - Believed to have been abducted;
  - Disappearance poses credible threat to their safety.
- Similar to Amber Alert.
- Adds §§ 52-34.10, 52-34.11, 52-34.12



# Facility Dogs in Court

## **HB 482(Bell) and SB 420(McDougle)**

- Allows a certified facility dog to accompany a witness in any criminal proceeding while testifying on request of the attorney for the Commonwealth or the defendant.
- The dog may not interfere with or distract from the testimony or proceedings.
- The judge may impose restrictions or instruct the jury on the dog's presence.
- Must be certified by Assistance Dogs International or other equivalent organization and accompanied by trained handler.
- Creates §18.2-67.9:1.





# Victim & Witness Privacy Rights

## HB 840 (Bell)/SB 457 (Howell)

- *Any phone number and email address of a victim/witness are added to the current prohibitions against disclosure.*
  - Like current law, it is triggered upon written request of victim or witness.
  - Like current law, the information may be disclosed if otherwise required by law.
- Amends and reenacts §§ 19.2-11.01, 19.2-11.2, 19.2-269.2.



# Identity Theft Passport

## HB 1246 (Toscano)

- Any person whose name or other ID has been stolen may file a copy of the police report with the Attorney General's Office.
- Upon receipt of the report by the AG, the AG may issue an Identity Theft Passport stating that such a police report has been submitted.
- The AG's Office shall provide access to identity theft information to (i) criminal justice agencies and (ii) individuals who have submitted a copy of a police report.
- Amends and reenacts § 18.2-186.5.



# Weapons



# Minors; Access to Firearms

## **SB 669 (Deeds)**

- Provides that a person who, while a minor 14 years of age or older, was ordered to involuntary inpatient or outpatient treatment or was subject to a temporary detention order and agreed to voluntary admission:
  - Is subject to the same restrictions on possessing, purchasing, or transporting a firearm as an adult who was similarly ordered, and
  - May utilize the same procedure as such adult for petitioning for the restoration of firearm rights.



# Minors; Access to Firearms

## **SB 669 (Deeds) (Cont.)**

- Sets out procedures for the submission of any such involuntary treatment order or certification of voluntary admission subsequent to a temporary detention orders to the CCRE.
- The bill became *effective on April 18, 2018.*
- Amends and reenacts §§ 16.1-337, 16.1-344, and 18.2-308.1:3; adds 16.1-337.1



# Retired LEO's; Concealed Carry

## **SB 912 (Chase)**

- Clarifies that a retired law-enforcement officer shall surrender his proof of consultation to carry a concealed handgun when he returns to work *as a law-enforcement officer*.
- Current law does not specify that his return to work be as a law-enforcement officer.
- Amends and reenacts § 18.2-308.016.



# REMINDER!

- This PowerPoint attempts to identify the legislation from the 2018 General Assembly session that has the greatest impact on law enforcement and public safety.
- Consult the *2018 Legislative Update Master List* for full listing of bills of interest.



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