

# Selected Victim Related Legislation Considered During the 2012 Session of the General Assembly

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As of 5/4/12

## **Selected Crime Victim Related Bills That Passed During the 2012 Session**

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### **HB 3 Child abuse or neglect; athletic coaches, etc. of private sports teams required to report to DSS.**

*Chief patron:* Marshall, R.G.

Amends § 63.2-1509

Adds athletic coaches, directors or other persons aged 18 years or older employed by or volunteering with private sports organizations and teams and administrators, employees aged 18 years or older of public or private day camps, youth centers, and youth recreation programs to the list of persons required to report suspected child abuse or neglect to the Department of Social Services.

### **HB 74 Child abuse or neglect; reduces mandatory time limit for reporting, requirements of certain persons.**

*Chief patron:* Bell, Richard P.

Amends § 63.2-1509

Reduces the time limit for reporting suspected child abuse or neglect by mandated reporters from 72 hours to as soon as possible but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect. In addition, the bill provides that in cases in which the initial report of suspected abuse or neglect is made by a mandated reporter to the person in charge of the institution or department in which the mandated reporter works, as provided in current law, the person who receives the report shall notify the person who made the initial report when the suspected child abuse or neglect is reported to the local department or state hotline and of the name of the individual receiving the report and shall forward any communications or information about action taken regarding the report to the person who made the initial report.

### **HB 77 Jury sentencing; provides criminal sentencing by different jury when original cannot agree.**

*Chief patron:* Habeeb

Amends § 19.2-295.1

Provides that criminal sentencing by a jury shall be done by a different jury when the original jury cannot agree on punishment, unless the parties and the court agree to sentencing by the court.

**HB 101 Rules of Evidence; adoption of amendments or additions of Rules by Supreme Court of Virginia, etc.**

*Chief patron:* Loupassi

Amends § 8.01-3 and repeals § 30-153

Provides that the Rules of Evidence that have been prepared and adopted by the Supreme Court of Virginia and approved by the Virginia Code Commission shall take effect on July 1, 2012. A rule derived from an evidentiary provision in the Code of Virginia shall note such Code section in the title of the rule. Subsequent amendments or additions to the Rules of Evidence must be adopted by the Supreme Court of Virginia by November 15 and shall become effective on July 1 of the following year unless the General Assembly modifies or annuls such amendments or additions by general law. As introduced, this bill was a recommendation of the Virginia Code Commission. This bill is identical to SB94.

**HB 279 DUI ignition interlock; required on first offense as a condition of a restricted license.**

*Chief patron:* Iaquinto

Amends §§ 18.2-270.1 and 18.2-271.1

Requires a DUI interlock system to be installed on each motor vehicle for persons convicted under § 18.2-51.4, a second or subsequent offense of § 18.2-266 or a substantially similar ordinance of any county, city, or town, or as a condition of license restoration pursuant to subsection C of § 18.2-271.1 or § 46.2-391. The bill prohibits an ignition interlock system from being installed on any motor vehicle owned or operated by a person convicted of DUI until a court issues to the person a restricted license with the ignition interlock restriction.

**HB 305 Higher educational institutions; crisis and emergency management plans.**

*Chief patron:* Crockett-Stark

Amends § 23-9.2:9

Increases the Department of Emergency Management's oversight of institutional crisis and emergency management plans by requiring institutions to certify in writing to the Department that the required annual reviews and functional exercises have been conducted. This bill is identical to SB 346.

**HB 352 Emergency management plans; victims' rights.**

*Chief patron:* Cox, J.A.

Amends §§ 22.1-279.8, 23-9.2:9, 32.1-111.3, 32.1-111.11, 44-146.18, and 44-146.19

Requires the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund to be the lead coordinating agencies for individuals determined to be victims during critical events and emergencies under emergency management plans developed by school boards, institutions of higher education, the Board of Health, the State Emergency Medical Services Advisory Board, the Department of Emergency Management, and political subdivisions.

**HB 546 Gang crimes; includes definition of predicate criminal act.**

*Chief patron:* Comstock

Amends §18.2-46.1

Includes within the definition of "predicate criminal act" the offenses of the taking or detaining of any person into a place for the purpose of prostitution and the receiving of money from earnings of any person engaged in prostitution.

**HB 718 Juveniles; transfer and trial as adults charged with certain offenses.**

*Chief patron:* Kilgore

Amends § 16.1-269.1

*Summary as introduced:*

In most cases in which a juvenile is charged with an offense that would be a felony if committed by an adult, the juvenile domestic and relations district court has discretion as to whether to transfer the case to circuit court for trial of the juvenile as an adult. In some cases, however, the

juvenile and domestic relations district court does not have discretion. For juveniles charged with murder or aggravated malicious wounding, the juvenile and domestic relations court must hold a preliminary hearing to determine whether there is probable cause. For other serious felony offenses, the court must hold a preliminary hearing if the Commonwealth's attorney requests it. If the court finds probable cause after the preliminary hearing, it must transfer the case to the circuit court for trial of the juvenile as an adult.

This bill expands the list of offenses for which a preliminary hearing must be held to include manufacture or distribution of a controlled substance, methamphetamine, or anabolic steroids, if previously convicted two or more times of such Offense.

### **HB 752 Strangulation of another; penalty.**

*Chief patron:* Cline

Adds §18.2-51.6

Provides that any person who, without consent, impedes the blood circulation or respiration of another person by knowingly, intentionally and unlawfully applying pressure to the neck of such person, resulting in the wounding or bodily injury of such person is guilty of strangulation, a Class 6 felony. This bill is identical to SB 459.

### **HB 770 Emergency protective orders; not to be issued against law-enforcement officer performing his duties.**

*Chief patron:* Landes

Amends § 19.2-152.8

Provides that no emergency protective order may be issued against a law-enforcement officer for any action arising out of the lawful performance of his duties.

### **HB 948 Criminal Injuries Compensation Fund; crimes included.**

*Chief patron:* Bell, Robert B.

Amends § 19.2-368.2

Expands the category of crime victims entitled to receive compensation from the Fund to include injured victims of felony vehicular hit and run. Under current law, injuries resulting from the operation of a motor vehicle are not covered unless they were intentionally inflicted or resulted from a violation of DUI or DUI maiming.

**HB 965 Campus police; mutual aid agreements with local law-enforcement agencies and State Police.**

*Chief patron:* Bell, Robert B.

Amend § 23-234

Requires campus police to enter into mutual aid agreements with a local law-enforcement agency or the State Police for cooperation in providing assistance with the investigation of deaths and alleged rapes occurring on college campuses. This bill is identical to SB 302.

**HB 969 Sexual assault response teams; State attorney to invite chiefs of campus police to annual meeting.**

*Chief patron:* Bell, Robert B.

Amends § 15.2-1627.4

Requires each attorney for the Commonwealth to invite any chiefs of campus police of institutions of higher education located within the jurisdiction to the annual SART meeting. This bill is identical to SB 301.

**HB 971 Barrier crimes; adds extortion and felony violations of protective orders to statute.**

*Chief patron:* Bell, Robert B.

Amends §§ 32.1-126.01, 32.1-162.9:1, 37.2-314, 37.2-408.1, 63.2-1719, and 63.2-1726

Adds the following crimes to various barrier crimes statutes: abduction, extortion, and felony violations of protective orders. People who have been convicted of or are the subject of pending charges of one of those crimes will not be able to work in a licensed nursing home, home care organization, or hospice and cannot work, volunteer, or provide services on a regular basis at a children's residential facility that is regulated or operated by the Department of Behavioral Health and Developmental Services, certain structured residential programs for juveniles, or children's residential facilities regulated or operated by the Department of Social Services, Education, or Military Affairs. Persons convicted of such crimes cannot be approved by a child-placing agency as adoptive or foster parents and cannot be adult foster care home providers or providers of home-based adult services. In addition, they cannot work at certain schools, assisted living facilities, adult day care centers, child welfare agencies, or family day homes.

**HB 973 Sex crimes; penalties for offender who is 18 or older for rape, etc. of child under age 13.**

*Chief patron:* Bell, Robert B.

Amends §§ 18.2-61, 18.2-67.1, and 18.2-67.2

Amends §§ 18.2-61 (Rape), 18.2-67.1 (Forcible Sodomy), and 18.2-67.2 (Object Sexual Penetration), relating to penalties for certain sex crimes. The bill imposes a mandatory minimum sentence of life imprisonment when these crimes are committed against a victim under the age of 13 and it is alleged in the indictment that the offender was 18 years of age or older at the time of the offense. If the offender was younger than 18 years of age at the time of the offense or the Commonwealth's attorney does not allege that the offender was 18 years of age or older at the time of the offense, the proposed mandatory minimum sentence would not apply. Currently, felony sexual assaults under §§ 18.2-61, 18.2-67.1, and 18.2-67.2 are generally punishable by a term of imprisonment from five years to life. The 2006 General Assembly, however, added a mandatory minimum sentence of 25 years, which applies to offenses involving a victim younger than 13 years of age committed in conjunction with a kidnapping, burglary, or aggravated malicious wounding. If an offender is convicted under § 18.2-67.5:3 of a second or subsequent violent felony sexual assault, a mandatory life sentence applies.

**HB 1033 Protective orders, permanent; provides circuit court jurisdiction to hear petitions to modify.**

*Chief patron:* McClellan

Amends §§ 16.1-279.1, 17.1-513, and 19.2-152.10

Provides a circuit court jurisdiction to hear petitions to modify, dissolve, or extend a permanent protective order if the circuit court issued the order. The bill requires the court, when a protective order is issued, to enter and transfer identifying information to the Virginia Criminal Information Network (VCIN) system. Effective July 1, 2013, any circuit court clerk who does not use the Statewide Case Management System operated and maintained by the Executive Secretary of the Supreme Court shall provide protective orders directly to the Virginia Criminal Information Network. This bill is identical to SB 445.

**HB 1188 Human trafficking; Board of Education to provide information for public schools.**

*Chief patron:* Watts

Adds §§ 22.1-16.5 and 63.2-214.3



Requires the Board of Education, with assistance from the Department of Social Services, to provide awareness and training materials for local school divisions on human trafficking, including strategies for the prevention of trafficking of children. This bill is identical to SB 259.

**HB 1200 Human trafficking hotline; posted notices, civil penalty.**

*Chief patron:* Bulova

Adds § 40.1-11.3

Provides that any employer who operates a business that provides entertainment commonly called strip teasing or topless entertaining or entertainment that has employees who are not clad above or below the waist and who fails to post a specific notice in a clearly visible place on the premises thereof is subject to a \$500 civil penalty. The notice provides the telephone number of the National Human Trafficking Resource Center hotline.

**SB 116 Court costs, fines, etc.; extends from 15 to 30 number of days a person has to pay.**

*Chief patron:* McDougale

Amends §§ 19.2-349, 19.2-354, 46.2-395, and 46.2-416

Extends from 15 to 30 the number of days a person has to pay fines, costs, etc., before collection activity can begin or a driver's license can be suspended.

**SB 158 Admission to bail; notice to State attorney.**

*Chief patron:* Obenshain

Amends § 19.2-120

Provides that a magistrate, clerk or deputy clerk may not admit to bail a person who is charged with an offense giving rise to a rebuttable presumption against bail unless an attorney for the Commonwealth concurs or the bail previously was set by a judge. A judge may set or admit such person to bail after notice and an opportunity to be heard has been provided to the attorney for the Commonwealth.

**SB 251 Circuit court clerks; fees charged and collected.**

*Chief patron:* Obenshain

Amends §§ 17.1-275, 17.1-275.5, 19.2-336, and 19.2-353.3

Provides for the acceptance of debit cards in addition to credit cards and allows the clerk to outsource the processing of credit and debit card transactions. The bill also provides that the clerk may charge a convenience fee for processing credit or debit cards of up to \$2 per transaction or four percent of the amount paid. Currently, such fee may not exceed four percent of the amount paid. The bill also provides that certain court fees collected by the clerk of a shall be deposited into a special revenue fund held by the clerk. The bill also institutes a fee of \$25 for recording an order to celebrate the rites of marriage by a non-minister.

**SB 300 Protective orders; various changes to provisions governing those issued by court, venue.**

*Chief patron:* Howell

Amends §§ 16.1-241, 16.1-253.2, 16.1-253.4, 16.1-260, and 19.2-152.8; adds § 19.2-152.11

Makes various changes to the provisions governing protective orders issued by a juvenile and domestic relations district court, including (i) clarifying that only violations related to trespass, criminal offenses, acts of abuse, or prohibited contacts are Class 1 misdemeanors; (ii) clarifying that juvenile and domestic relations district courts have jurisdiction over all protective orders that involve juveniles, whether as the alleged victim or as respondent; and (iii) allowing judges to prohibit contact between the respondent and the allegedly abused person or that person's family.

**SJ 232 Commending Polaris Project.**

*Chief patron:* Ebbin

Commends the Polaris Project, which operates the National Human Trafficking Resource Center hotline, for its work in combating human trafficking. Since its inception, the hotline has answered 48,000 calls, connected 5,600 victims to services, and reported more than 2,000 cases to law enforcement.

## List of Selected Crime Victim Related Bills That Failed

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[HB 49](#) DUI; raises penalty for aggravated involuntary manslaughter.

[HB 50](#) DUI; penalty for maiming shall include a mandatory minimum term of confinement of one year.

[HB 89](#) Citizenship of arrestee; if accused is not committed to jail, arresting officer to ascertain. (See also: HB320, HB472, HB958, HB1001, HB1060)

[HB 182](#) License plates, special; issuance of those bearing legend: PEACE BEGINS AT HOME.

[HB 227](#) Nolle prosequi; expungement of police records and court records two years from date taken.

[HB 361](#) Stalking; enhanced penalties.

[HB 363](#) Protective orders; animals.

[HB 409](#) Financial exploitation of elderly or incapacitated adults; penalty. (See also HB690, HB882, HB987)

[HB 435](#) Juveniles; certain persons imprisoned for felony offense eligible for parole.

[HB 436](#) Juveniles; certain persons imprisoned for life eligible for parole.

[HB 489](#) Fees; additional fees for conviction. Domestic violence offenses;

[HB 604](#) License plates, special; issuance of those bearing legend: IN REMEMBRANCE, APRIL 16, 2007.

[HB 607](#) Unlawful filming of another; penalty.

[HB 673](#) Protective orders; Allows general district court to transfer case to appropriate court.

[HB 674](#) Protective orders; minor may petition on his own behalf without consent of parent or guardian.

[HB 700](#) Crimes against incapacitated or elder adults; penalty.

[HB 701](#) Campus police; report of certain incidents to local law-enforcement agency.

[HB 748](#) Expungement of cases; ineligibility for those deferred and dismissed.

[HB 750](#) Inherent authority; deferred disposition in criminal case.

[HB 807](#) Electronic tracking devices; person who uses without consent to track location of another, penalty.

[HB 851](#) Higher education; establishing violence prevention committees and threat assessment teams.

**HB 916** Prisoners; harassment by use of computer, penalty.

**HB 962** DUI; penalty for maiming shall include a mandatory minimum term of confinement of one year.

**HB 992** Assault and battery; Class 1 misdemeanor against a family or household member.

**HB 1074** Prostitution; Class 1 misdemeanor for solicitation from a minor.

**HB 1086** Restitution; allows victim to authorize State attorney to collect.

**HJ 122** Parole; joint subcommittee to study reinstating in State.

**SB 16** Children; raises age for indecent liberties to under age of 16 years, penalty.

**SB 20** Rape; accomplished by ruse or trickery.

**SB 21** Rape; person who has sexual intercourse with complaining witness accomplished by coercion.

**SB 23** Adultery and fornication by persons forbidden to marry; penalty.

**SB 91** Sexually violent predators; civil commitment, report.

**SB 203** Adjudication of certain crimes; penalty.

**SB 205** Forensic evidence; delay in collecting for sexual assault cases.

**SB 290** Geriatric prisoners; removes petition requirement for Parole Board to consider conditional release.

**SB 554** Firearms; possession within residence of victim by persons subject to protective orders.

**SB 624** Higher educational institutions; required to notify parents that student may be suicidal.

**SB 666** Fines and fees; disposition of fines in traffic cases.

Additional information about all bills considered and the state budget is available through the Legislative Information System which can be found at:

<http://leg1.state.va.us/lis.htm>