

Selected Victim Related Legislation Passed During the 2018 Session of the General Assembly

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HB 45 Family life education curricula; personal privacy and personal boundaries.

Chief patron: Filler-Corn

Amends and reenacts § 22.1-207.1:1.

Summary as passed House:

Requires any family life education curriculum offered in any elementary school, middle school, or high school to incorporate age-appropriate elements of effective and evidence-based programs on the importance of the personal privacy and personal boundaries of other individuals and tools for a student to use to ensure that he respects the personal privacy and personal boundaries of other individuals.

HB 202 Court fines and costs; community service.

Chief patron: Mullin

Amends and reenacts § 19.2-354

Summary as introduced:

Requires a court assessing fines and costs against a person for conviction of a crime to inform such person of the availability of earning credit toward discharge of the fine or costs through the performance of community service and provide such person with written notice of terms and conditions of the community service program.

HB 262 Protective orders; cases of family abuse, cellular telephone numbers or other electronic device.

Chief patron: Miyares

Amends and reenacts §§ 16.1-253.1 and 16.1-279.1

Summary as passed House:

Provides that as a condition to be imposed by the court on the respondent, a petitioner with a protective order issued in a case that alleges family abuse and, where appropriate, any other family or household member may be granted exclusive use and possession of a cellular telephone number or electronic device. The bill further provides that a respondent may be enjoined from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The bill provides that the court may enjoin the respondent from using a cellular telephone or electronic device to locate the petitioner.

HB 303 Physical evidence recovery kits; submission to Department of Forensic Science.

Chief patron: Watts

Amends and reenacts § 19.2-11.8

Summary as introduced:

Adds as an exception to the requirement that a law-enforcement agency that receives a physical evidence recovery kit submit such kit to the Department for Forensic Science for analysis within 60 days of receipt the circumstance of another law-enforcement agency having taken over responsibility for the investigation related to such kit.

HB 482 Witness testimony; accompanied by certified facility dogs.

Chief patron: Bell, Robert B.

Amends the Code of Virginia by adding 18.2-67.9:1

Summary as passed:

Provides that in any criminal proceeding the attorney for the Commonwealth or the defendant may request and the court may enter an order authorizing the use of a certified facility dog to aid a testifying witness, provided that the use of a certified facility dog will aid the witness in providing testimony and the presence and use of the certified facility dog will not interfere with or distract from the testimony or proceedings. The bill provides that the court may make any orders

necessary to preserve the fairness of the proceeding, including imposing restrictions on and instructing the jury regarding the presence of the certified facility dog. The bill defines "certified facility dog" as a dog that (i) has completed training and been certified by a program accredited by Assistance Dogs International or another organization whose main purpose is to improve training, placement, and utilization of assistance dogs and (ii) is accompanied by a duly trained handler. (See also SB420; McDougle).

HB 483 Criminal Injuries Compensation Fund; restitution owed to victims.

Chief patron: Bell, Robert B.

Amends and reenacts §§ 19.2-305.1, 19.2-349, and 19.2-368.3.

Summary as passed :

Adds to the duties of the Workers' Compensation Commission (the Commission) in its role as administrator of the Criminal Injuries Compensation Fund (Fund) the obligation to (i) identify and locate victims for whom restitution owed to such victims has been deposited into the Fund and (ii) collect and disburse such unclaimed restitution to such victims. The bill directs the Commission to include in its annual report information on all unclaimed restitution that it disburses. The bill provides that clerks shall deposit into the Fund by November 1 of each year restitution collected for victims who can no longer be identified or located, or state that there is no such restitution to be deposited. The bill requires that clerks record the receipt of restitution payments in the automated information system operated by the Supreme Court of Virginia or a system established and maintained by a circuit court. The bill also provides that the restitution form used by the court shall include the victim's contact information, including address, telephone number, and email address. (See also SB562; Obenshain).

HB 484 Restitution; probation.

Chief patron: Bell, Robert B.

Amends and reenacts §§ 9.1-176.1, 19.2-305.1, 19.2-358, 19.2-368.15, and 53.1-145.

Summary as passed:

Establishes procedures to be used by courts to monitor the payment of restitution by defendants. The bill requires that a probation agency ordered to monitor the restitution payments of a defendant placed on supervised probation notify the court and the attorney for the Commonwealth of the amount of unsatisfied restitution (i) 60 days prior to the defendant's release from supervision or (ii) if the agency requests that the defendant be released from supervision, at the time the agency submits its request for the defendant's release. The bill requires that the court conduct a hearing prior to the defendant's release from supervision to review the defendant's compliance with the restitution order. The bill also requires that in the case of a defendant who was not placed on supervised probation, the court must schedule a hearing within two years of the date of the restitution order or release from incarceration to review the defendant's compliance with the restitution order. The bill requires that the court continue to conduct hearings to monitor a defendant's compliance with the restitution order for a period of 10 years from the date of the first review hearing or the period of probation, whichever is longer. The bill provides that a court may discontinue hearings to review a defendant's compliance with the restitution order if the court determines that the defendant is unable to pay and will remain unable to pay restitution for the duration of the review period. The bill also sets forth the remedies available to the court, including contempt, in the case of a defendant who fails to comply with a restitution order. This bill is identical to SB 994 (Obenshain).

HB 638 Trespass; use of an unmanned aircraft system, penalty.

Chief patron: Collins

Amends and reenacts § 15.2-926.3; adds 18.2-121.3 and 2-324.2; repeals the second enactment of Chapter 451 of the Acts of Assembly of 2016, relating to trespass.

Summary as enacted with Governor's Recommendations:

Provides that any person who knowingly and intentionally causes an unmanned aircraft system to enter the property of another and come within 50 feet of a dwelling house (i) to coerce, intimidate, or harass another person or (ii) after having been given notice to desist, for any other reason, is guilty of a Class 1 misdemeanor. The bill also provides that any person who is required to register with the Sex Offender and Crimes Against Minors Registry who uses or operates an unmanned aircraft system to knowingly and intentionally (a) follow or contact another person without such person's permission or (b) capture images of another person

without such person's permission when such images render the person recognizable is guilty of a Class 1 misdemeanor. Additionally, any respondent of a permanent protective order who uses or operates an unmanned aircraft system to knowingly and intentionally follow, contact, or capture images of any individual named in the protective order is guilty of a Class 1 misdemeanor. The bill also repeals the expiration of the prohibition on local regulation of privately owned, unmanned aircraft systems, clarifies the scope of such prohibition, and clarifies that such prohibition extends to all political subdivisions and not only to localities. The bill requires the Secretary of Commerce and Trade, in consultation with the Virginia Economic Development Partnership, to submit a report to the Governor and General Assembly no later than November 1, 2019, on the impact of this act on unmanned aircraft research, innovation, and economic development in Virginia. This bill is identical to SB 526.

HB 780 Nonconfidential court records; clerk of court shall make records available to public upon request.

Chief patron: Habeeb

Amends and reenacts §§ 2.2-3703, 17.1-208, and 17.1-292; adds 16.1-69.54:1 and 17.1-293.1.

Summary as passed House:

Provides that a clerk of court or the Executive Secretary of the Supreme Court shall make nonconfidential court records or reports of aggregated, nonconfidential case data available to the public upon request. The bill specifies that such records or reports shall be provided no later than 30 days after the request. The bill further provides that the clerk may charge a fee for responding to such request that shall not exceed the actual cost incurred in accessing, duplicating, reviewing, supplying, or searching for the requested records. Finally, the bill requires the Executive Secretary of the Supreme Court to make available to the public an online case information system of nonconfidential information for criminal cases by July 1, 2019. This bill is identical to SB 564 (Obenshain).

HB 840 Victim telephone numbers and email addresses; confidentiality of information in criminal cases.

Chief patron: Bell, Robert B.

Amends and reenacts §§ 19.2-11.01, 19.2-11.2, and 19.2-269.2.

Summary as introduced:

Provides that upon request of a crime victim or a witness in a criminal prosecution of a violent felony, law enforcement, the attorney for the Commonwealth, counsel for a defendant, and the Department of Corrections are prohibited from disclosing any telephone number or email address of such victim or witness except to the extent that such disclosure is required by law, necessary for law-enforcement purposes, or permitted by the court. The bill also provides that during any criminal proceeding, upon motion of the defendant or the attorney for the Commonwealth, a judge may prohibit testimony as to any telephone number or email address of a victim or witness if the judge determines that this information is not material under the circumstances of the case. This bill is a recommendation of the Virginia State Crime Commission. This bill is identical to SB 457 (Howell).

HB 850 Adult protective services; emergency order, temporary conservator.

Chief patron: Peace

Amends and reenacts § 63.2-1609.

Summary as passed House:

Requires courts issuing an emergency order for adult protective services to (i) appoint, when applicable, a temporary conservator with responsibility and authority limited to managing the adult's estate and financial affairs related to the approved adult protective services until the expiration of the order and (ii) set the bond of the temporary guardian and the bond and surety, if any, of the temporary conservator. The bill allows the temporary conservator to petition the court to have the emergency order set aside or modified upon a substantial change in circumstances and requires the temporary conservator to submit to the court a report describing any services provided to the adult. This bill is identical to SB 543 (Mason).

HB 909 Virginia Freedom of Information Act; disclosure of law-enforcement and criminal records.

Chief patron: Robinson

Amends and reenacts §§ 2.2-3706, 2.2-3711, and 15.2-1713.1.

Summary as introduced:

Clarifies that the discretionary exemptions contained in the Freedom of Information Act pertaining to law-enforcement and criminal records may be used by any public body. Current law only permits such exemptions to be used by public bodies engaged in criminal law-enforcement activities. The bill also restricts the application of the discretionary exemption for those portions of noncriminal incident or other noncriminal investigative reports or materials that contain identifying information of a personal, medical, or financial nature, the release of which would jeopardize the safety or privacy of any person, to only those portions of noncriminal incident or other noncriminal investigative reports or materials that are in the possession of public bodies (i) engaged in emergency medical services, (ii) engaged in fire protection services, (iii) engaged in criminal law-enforcement activities, or (iv) engaged in processing calls for service or other communications to an emergency 911 system or any other equivalent reporting system. This bill is a recommendation of the Freedom of Information Advisory Council.

HB 986 Foster care and adoption; disclosure of information prior to placement.

Chief patron: Gilbert

Amends and reenacts §§ 63.2-900 and 63.2-1208.

Summary as passed House:

Requires local boards of social services, prior to placement, to provide to the foster home or residential facility all known information, including whether the child has been the perpetrator of sexual abuse. The bill also requires that the background information provided to the prospective adoptive parents by a child placing agency or local department of social services include all known information regarding whether the child has been the perpetrator of sexual abuse.

HB 988 Criminal history record information; discovery.

Chief patron: Gilbert

Amends and reenacts § 19.2-389.

Summary as passed:

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.

HB 996 Pretrial services agencies; Department of Criminal Justice Services to review, report.

Chief patron: Gilbert

Amends and reenacts § 19.2-152.7.

Summary as introduced:

Requires the Department of Criminal Justice Services (Department) to annually review each pretrial services agency to determine compliance with its biennial plan and operating standards. Current law requires the Department to review each pretrial services agency periodically. The bill also requires the Department to report annually to the Governor and the General Assembly on the performance of each pretrial services agency. This bill is a recommendation of the Virginia State Crime Commission. This bill is identical to SB 783 (Peake).

HB 1212 Pro se minors; signing of pleading, motion, or other paper by next friend.

Chief patron: Cline

Amends and reenacts § 8.01-271.1.

Summary as passed:

Provides that a minor who is not represented by an attorney shall sign his pleading, motion, or other paper by his next friend. The bill further provides that either or both parents of such minor may sign on such minor's behalf as his next friend, unless such signature is otherwise prohibited by § 64.2-716 of the Uniform Trust Code.

HB 1246 Identity Theft Passport; police reports submitted to the Attorney General.

Chief patron: Toscano

Amends and reenacts § 18.2-186.5.

Summary as passed House:

Provides that a person whose name or other identification has been used without his consent or authorization by another person may file with the Attorney General for the purposes of obtaining an Identity Theft Passport a copy of a police report showing that he has reported to a law-enforcement agency that his name or other identification has been used by another person without his consent or authorization.

HB 1260 Admission to bail; human trafficking.

Chief patron: Mullin

Amends and reenacts § 19.2-120.

Summary as passed House:

Adds the charges of (i) taking or detaining a person for the purposes of prostitution or unlawful sexual intercourse, (ii) receiving money from procuring or placing a person in a house of prostitution or forced labor, (iii) receiving money from the earnings of a prostitute, and (iv) commercial sex trafficking to the list of crimes for which there is a rebuttable presumption against admission to bail.

HB 1277 Government Data Collection and Dissemination Practices Act; sharing and dissemination of data.

Chief patron: Garrett

Amends and reenacts §§ 2.2-3800, 2.2-3801, and 2.2-3803.

Summary as introduced:

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.

HB 1333 Kinship Guardianship Assistance program; established.

Chief patron: Brewer

Amends and reenacts §§ 63.2-100 and 63.2-905; adds 63.2-1305.

Summary as passed House:

Creates the Kinship Guardianship Assistance program (the program) to facilitate child placements with relatives and ensure permanency for children for whom adoption or being returned home are not appropriate permanency options. The bill sets forth eligibility criteria for the program, payment allowances to kinship guardians, and requirements for kinship guardianship assistance agreements. The bill also requires the Board of Social Services to promulgate regulations for the program.

SB 47 Female genital mutilation; increases criminal penalty to Class 2 felony.

Chief patron: Black

Amends and reenacts §§ 18.2-51.7 and 19.2-8.

Summary as passed:

Increases from a Class 1 misdemeanor to a Class 2 felony the penalty for any person to knowingly circumcise, excise, or infibulate the labia majora, labia minora, or clitoris of a minor; for any parent or guardian charged with the care of a minor to consent to such circumcision, excision, or infibulation; or for any parent or guardian charged with the care of a minor to knowingly remove or cause or permit the removal of such minor from the Commonwealth for the purposes of performing such circumcision, excision, or infibulation.

SB 89 Child abuse or neglect; civil proceedings, testimony of children.

Chief patron: Surovell

Amends and reenacts § 63.2-1521.

Summary as introduced:

Adds proceedings involving family abuse protective orders to the list of civil proceedings involving alleged abuse and neglect of a child for which a court may order that the testimony of certain child victims or witnesses be taken outside the courtroom via two-way closed-circuit television.

SB 101 Family life education; age-appropriate elements of effective programs.

Chief patron: McClellan

Amends and reenacts § 22.1-207.1:1.

Summary as passed:

Requires any high school family life education curriculum offered by a local school division to incorporate age-appropriate elements of effective and evidence-based programs on sexual harassment using electronic means. The bill permits any family life education curriculum offered by a local school division to incorporate age-appropriate elements of effective and evidence-based programs on the prevention, recognition, and awareness of child abduction, child abuse, child sexual exploitation, and child sexual abuse.

SB 183 Child abuse and neglect; notice of founded reports to Superintendent of Public Instruction.

Chief patron: Favola

Amends and reenacts § 63.2-1503.

Summary as passed:

Requires local departments of social services to notify the Superintendent of Public Instruction without delay (i) when an individual holding a license issued by the Board of Education is the subject of a founded complaint of child abuse or neglect and (ii) if the founded complaint of child abuse or neglect is dismissed on appeal. This bill is identical to HB 389.

SB 184 Child abuse and neglect; founded reports regarding former school employees.

Chief patron: Favola

Amends and reenacts § 63.2-1505.

Summary as introduced:

Requires local departments of social services to notify the appropriate school board without delay if the subject of a founded complaint of child abuse or neglect was, at the time of the investigation or the conduct that led to the report, an employee of a school division located within the Commonwealth. Currently, such reporting is only required if the subject of the complaint is an employee of a school division at the time the complaint is determined to be founded. (See also HB150 Bulova).

SB 418 Public safety answering points; deployment of text-to-9-1-1.

Chief patron: Barker

Amends and reenact § 56-484.16.

Summary as introduced:

Requires each public safety answering point (PSAP), by July 1, 2020, to be able to receive and process calls for emergency assistance sent via text message.

SB 426 Victims of domestic violence; clerk of court shall make certain information available to petitioner.

Chief patron: Wexton

Amends and reenact §§ 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.

Summary as passed:

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 the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases.

SB 565 DNA; analysis upon conviction of certain misdemeanors.

Chief patron: Obenshain

Amends and reenacts § 19.2-310.2 .

Summary as passed Senate:

Adds misdemeanor violations of §§ 18.2-57 (assault and battery) and 18.2-119 (trespass) to the list of offenses for which an adult convicted of such offense must have a sample of his blood, saliva, or tissue taken for DNA analysis. As introduced, this bill was a recommendation of the Virginia State Crime Commission. This bill is identical to HB 1249. (See also HB1249 Obenshain)

SB 670 Mental health awareness; training for firefighters and emergency medical services personnel.

Chief patron: Deeds

Adds sections numbered 9.1-203.1 and 32.1-111.5:1.

Summary as introduced:

Requires fire departments and emergency medical services agencies to develop curricula for mental health awareness training for their personnel. The bill provides that such personnel who receive the training shall receive appropriate continuing education credits. This bill is identical to HB 1412 (Helsel).

SB 725 Human trafficking; posting hotline information, civil penalty.

Chief patron: Dunnavant

Adds 32.1-34.2 and 32.1-133.1 and 33.2-267.1.

Summary as passed:

Requires local departments of health, the Department of Transportation, at each rest area in the Commonwealth, and certain health care facilities to post notice of the existence of a human trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a means to report crimes or gain assistance.

SB 846 Restitution; penalties other than fines, limitations on actions.

Chief patron: Norment

Amends and reenacts §§ 19.2-305.2 and 19.2-341.

Summary as introduced:

Provides that the enforcement of an order of restitution docketed as a civil judgment is not subject to any statute of limitations. The bill also provides that the recovery of penalties or costs due the Commonwealth or any political subdivision thereof may be enforced within 60 years from the date of the offense or delinquency giving rise to imposition of such penalty if imposed by a circuit court or within 30 years if imposed by a general district court. Current law provides that such recovery of penalties or costs due shall occur within 20 years from the date of the offense or delinquency giving rise to imposition of such penalty if imposed by a circuit court or within 10 years if imposed by a general district court.