

2016 State CASA Conference

Updates on the Laws that Affect Juvenile Courts in Virginia: Legislation from the 2015 and 2016 Sessions of the General Assembly

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I. Judicial Administration

- a. §§ 1-211.1, 8.01-217, 8.01-453, 8.01-454, 64.2-449, and 64.2-505, amended. Posting court notices; circuit court clerk responsibilities.** Current law in § 1-211.1 provides that when any notice, summons, order or other official document is required to be posted at the courthouse, this requirement can be met by posting such document on the local government website. This act provides that the posting requirement can also be met by posting the document on the circuit court clerk's website.

The act also revises certain other circuit court clerk responsibilities, including (i) clarifying that, if a name change is granted to a convicted sex offender, the clerk entering such order shall transmit a certified copy to any agency or department of the Commonwealth that has issued a license using such person's changed name, if known to the court and identified in the court order; (ii) clarifying that the clerk of court is not required to enter partial satisfactions of each installment payment of court costs; and (iii) allowing the clerk of court to compel production of a will or require security. 2015 Chapter 631/HB1780.

- b. § 8.01-15.2, amended. Servicemembers Civil Relief Act; appointment of counsel to represent servicemember.** Requires the plaintiff in a case in which counsel has been appointed under the Servicemembers Civil Relief Act (SCRA) to deliver all documents or information concerning the location of the servicemember to the appointed counsel, if so requested in a subpoena duces tecum. The bill further provides that counsel appointed pursuant to the SCRA shall not be selected by the plaintiff or have any affiliation with the plaintiff, but allows counsel for the plaintiff to provide a list of attorneys familiar with the provisions of the SCRA upon the court's request. 2016 Chapter 643; SB 27.
- c. § 8.01-658, amended. Writ of habeas corpus; service; dismissal of petition.** Specifies the proper respondent to be named in a writ of habeas corpus based upon whether the petitioner is in prison or jail, is on parole or probation, or has a suspended sentence. The act also provides for amendment of the petition if the petitioner does not name a proper respondent and provides that the habeas petition shall be dismissed without prejudice if the petitioner fails to name a proper respondent within the time allotted by the court. 2015 Chapter 554/SB1156.
- d. § 9.1-151, amended. Advisory Committee to the Court-Appointed Special Advocate (CASA) Program.** Adds one juvenile and domestic relations district court or circuit court judge to the membership of the Advisory Committee that advises the Criminal Justice Services Board on matters related to the Court-Appointed Special Advocate Program. 2016 Chapter 202; HB669.
- e. § 16.1-69.33, amended. Committee on District Courts; district court seal.** Permits the Committee on District Courts to adopt an official seal and authorize its use by district court clerks and deputy district clerks. 2015 Chapter 331/SB789.

- f. **§ 16.1-69.48, amended. Local fees and fines.** Directs the clerk of the circuit court to pay local fees and fines collected by the general district or juvenile and domestic relations district courts directly to the local government and not to the state treasury. 2016 Chapter 244; HB 537.
- g. **§§ 16.1-260, 54.1-3900, and 63.2-332, amended. Department of Social Services; unauthorized practice of law.** Allows designated nonattorney employees of a local department of social services to (i) initiate a case on behalf of the local department by appearing before an intake officer and (ii) complete, sign, and file with the clerk of the juvenile and domestic relations district court, on forms approved by the Supreme Court of Virginia, petitions for foster care review, petitions for permanency planning hearings, petitions to establish paternity, motions to establish or modify support, motions to amend or review an order, and motions for a rule to show cause. The bill also directs directors of local departments of social services to designate nonattorney employees who are authorized to perform such tasks. 2016 Chapter 704; SB 417.
- h. **§ 16.1-266.1, amended. Appointed counsel for parents or guardians.** Requires court-appointed counsel for a parent or guardian of a child in cases of alleged abuse or neglect or termination of parental rights to be selected from the list of attorneys who qualify as guardians ad litem compiled and maintained by the Judicial Council of Virginia. If no attorney who is on the list is reasonably available or appropriate considering the circumstances of the parent or case, a judge in his discretion may appoint any discreet and competent attorney who is admitted to practice law in Virginia. 2016 Chapter 182; HB 671/Chapter 509; SB 7.
- i. **§ 18.2-308. Concealed handgun permits; judges.** Provides that a judge or justice of the Commonwealth may carry a concealed handgun throughout the Commonwealth without a permit. Current law allows judges and justices to carry a concealed handgun without a permit only in the discharge of their official duties, due to their role as a conservator of the peace. 2016 Chapter 672; HB 332/Chapter 589; SB 544.
- j. **§ 19.2-182, amended. Fees for court-appointed attorney providing representation in commitment proceedings in a criminal case.** Increases from \$25 to \$150 the fee paid to a court-appointed attorney for providing representation in commitment proceedings in a criminal case. 2016 Chapter 474; HB 364.
- k. **§ 51.1-305, amended. Judicial Retirement System; mandatory judicial retirement.** Broadens the age 73 mandatory retirement provision to include all judges regardless of when elected by the General Assembly. The bill has a delayed effective date of June 1, 2017. 2015 Chapter 667; HB 1245.
- l. **§ 20-124.4; Item 37 #2c, Appropriations Act, Chapter 780; HB30. Mediation.** Provides that, where a referral to mediation includes both custody or visitation and child or spousal support, the referral to mediation is considered to be two separate appointments. The provision in the Appropriations Act, which overrides a contrary provision in the Code, increases the fee from the statutory level of \$100 per appointment to \$120 per appointment. 2016 Chapter 507; HB 287.
- m. **§ 51.1-305, amended. Mandatory judicial retirement. Increases the mandatory retirement age under the Judicial Retirement System from 70 years of age to 73 years of age.** The provisions of this bill apply to justices of the Supreme Court of Virginia and judges of the Court of Appeals of

Virginia effective July 1, 2015, and only to those judges of the circuit, general district, and juvenile and domestic relations district courts who are elected or appointed to an original or subsequent term commencing on or after July 1, 2015. 2015 Chapter 773/SB1196; Chapter 762/HB1984.

II. Jurisdiction

- a. **§§ 20-146.13 and 20-146.14, amended. Uniform Child Custody Jurisdiction and Enforcement Act; exclusive, continuing jurisdiction.** Provides the Commonwealth exclusive, continuing jurisdiction to modify a child custody order that is subject to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) so long as a parent of the child continues to live in the Commonwealth. Current state law is not clear as to whether one or both parents must reside in the Commonwealth for the court to retain exclusive, continuing jurisdiction. The bill conforms the law to the UCCJEA. This bill is a recommendation of the Boyd-Graves Conference. 2016 Chapter 179; HB 497.

III. Child Abuse and Neglect

- a. **§§ 8.01-401.2 and 8.01-581.1, amended. Nurse practitioners.** Allows a nurse practitioner to testify as an expert witness in a court of law on certain matters within the scope of his activities and adds nurse practitioner to the definition of "health care provider" under the medical malpractice statutes. The act clarifies that its provisions are not a codification of Rule 702 of the Federal Rules of Evidence. 2015 Chapter 295/HB 1476; Chapter 306/SB 861.
- b. **§ 18.2-371.1, amended. Operation of a child welfare agency without a license; child abuse and neglect; penalty.** Provides that operating or engaging in the conduct of a child welfare agency without first obtaining a license when it is known that such license is required or after such license has been revoked or has expired constitutes a willful act or omission for purpose of the crime of abuse and neglect of a child. Under current law, a parent, guardian, or other person responsible for the care of a child who by willful act or omission causes or permits serious injury to the life or health of such child is guilty of abuse and neglect of a child, which is punishable as a Class 4 felony. 2016 Chapter 705; HB 1189.

IV. Foster Care and Adoption

- a. **§§ 2.2-212, amended, 2.2-2101, amended as currently effective and as it shall become effective, and 2.2-2648, 2.2-2649, 2.2-4345, 2.2-5200, 2.2-5201, 2.2-5206, 2.2-5208, 2.2-5210, 2.2-5211.1, 2.2-5213, 2.2-5214, 16.1-286, 37.2-408, 63.2-226, 63.2-410, 63.2-1737, and 66-24 amended. Comprehensive Services Act for At-Risk Youth and Families; name change.** Changes the name of the Comprehensive Services Act for At-Risk Youth and Families to the Children's Services Act. 2015 Chapter 366/SB850.
- b. **§ 2.2-5206, amended. Community policy and management teams.** Directs community policy and management teams to establish, as part of their policies governing referrals and reviews of children and families to the family assessment and planning teams or a collaborative, multidisciplinary team process approved by the State Executive Council for Comprehensive Services for At-Risk Youth and Families, a process for parents and persons who have primary

physical custody of a child to refer children in their care to the teams. 2015 Chapter 305/HB2083; Chapter 88/SB1041.

- c. **§ 16.1-281, amended. Foster care plan.** Removes the provision requiring that the Department of Social Services create a separate section within a foster care plan that describes the reasons why a child cannot be returned home and the alternative chosen and allows such information to be sent to foster parents. 2015 Chapter 120/SB947.
- d. **§§ 16.1-288, 16.1-281, 16.1-282.1, 63.2-100, 63.2-904, 63.2-905.2, 63.2-906, 63.2-908 and 63.2-1502, amended; 63.2-905.3, added. Conforms Virginia Law to the provisions of the Public Law 113-183, the Preventing Sex Trafficking and Strengthening Families Act.** Imposes certain mandates related to the protection and encouragement of children, including a requirement that certain information and options be given to a child in connection with foster care plans, the imposition of certain age-appropriate restrictions, and requirements of both the courts and the Department of Social Services regarding foster care plans. The bill adds to the definition of abused or neglected child any child who has been identified as a victim of sex trafficking or severe forms of trafficking as defined by the federal law. Age-appropriate restrictions include that the permissible plan goals of permanent foster care and another planned permanent living arrangement (“APPLA”) are limited to children who are 16 years of age or older. (See attached Broadcast dated September 30, 2015 that was previously provided by CIP.) When the goal is permanent foster care or APPLA, the judge is required to ask the child about the child’s desired permanency outcome. 2016 Chapter 631; HB600.
- e. **§ 22.1-3, amended. Public schools; residency of children in kinship care.** Allows a child receiving kinship care from an adult relative to enroll in the school division where the kinship care provider resides. The bill also allows local school divisions to require one legal parent and the kinship care provider to sign affidavits detailing the kinship care arrangement as well as a power of attorney authorizing the adult relative to make educational decisions regarding the child. 2016 Chapter 388; SB 776.
- f. **§§ 32.1-261 and 63.2-1220, amended. Post-adoption services.** Requires the State Registrar of Vital Records, when issuing a new certificate of birth pursuant to an adoption, to provide adoptive parents with a document listing all post-adoption services available to adoptive families. The act requires the Department of Social Services to furnish this document to the State Registrar of Vital Records, update the document annually, and make the document available on the Department's website. 2015 Chapter 17/SB834; Chapter 5/HB1821.
- g. **§§ 63.2-900, 63.2-1250, 63.2-1251, and 63.2-1252, amended. Placement of children entering foster care; Putative Father Registry.** Requires local boards of social services to request a search of the Putative Father Registry within 30 days of accepting for foster care placement a child whose father is unknown to determine whether any man has registered as a putative father of the child. If a man has registered, the act directs the local board of social services to contact the man to begin the process to determine paternity. The act requires any man who desires to receive such notification to register with the Putative Father Registry before the birth of the child or within 10 days after the birth. 2015 Chapter 531/SB1423.
- h. **§ 63.2-900.1, amended. Kinship foster care; waiver of foster home approval standards.** Allows local boards of social services, subject to approval by the Commissioner of the

Department of Social Services, to grant a waiver regarding the Board's standards for foster home approval, set forth in regulations, which are not related to safety. 2016 Chapter 25; HB 674.

- i. **§§ 63.2-1232 and 63.2-1237, amended. Adoption; child in custody of prospective adoptive parent(s) for five years or more.** Allows the juvenile and domestic relations district court in a proceeding to accept consent to a parental placement adoption, when a child has been in the continuous physical and legal custody of prospective adoptive parents for 5 years or more, to:
 - (i) waive the requirement that a social worker meet at least once with the prospective adoptive parents before accepting consent to the placement;
 - (ii) waive the requirement that a licensed or duly authorized child placing agency counsel the adoptive parents on a number of matters, including that they intend to file an adoption petition and proceed to a final order of adoption; and
 - (iii) waive the requirement of a home study of the prospective adoptive parents by a licensed or duly authorized child placing agency.

The act authorizes the circuit court when reviewing a petition for adoption also to waive each of these requirements. 2015 Chapter 529/SB1268.

- j. **§ 63.2-1721, amended. Prospective foster parents; barrier crimes.** Allows child-placing agencies to approve as an adoptive or foster parent an applicant convicted of felony possession of drugs with intent to distribute, provided the applicant has had his civil rights restored by the Governor and at least 20 years have elapsed since the conviction. 2015 Chapter 364/SB1095.
- k. **§§ 37.2-408.1, 63.2-1719 and 63.2-1726, amended. Barrier crimes.** Adds conviction or a finding that a person is not guilty by reason of insanity of any offense that results in the offender's requirement to register with the Sex Offender and Crimes Against Minors Registry to the list of crimes that constitute a barrier to licensure as a child welfare agency or assisted living facility, approval as a foster or adoptive parent by a child-placing agency, approval as a family day home by a family day system, or employment or serving as a volunteer at a children's residential facility, assisted living facility, adult day care center, or child welfare agency. 2016 Chapter 580; HB 920.

- l. **Appropriations Act, 2016, Item 346 #3c; Chapter 780; HB30. Fostering Futures Program.** Authorizes the Virginia Department of Social Services to implement the Fostering Futures program. Limited implementation authority and some funding had already been included in the Budget bill as introduced. The language of the amendment is included in its entirety, as follows:

Item 346 #3c:

"2. In order to implement the Fostering Futures program, the Department of Social Services shall set out the requirements for program participation in accordance with 42 U.S.C. 675 (8) (B) (iv) and shall provide the format of an agreement to be signed by the local department of social services and the youth. The definition of a child for the purpose of the Fostering Futures program shall be any natural person who has reached the age of 18 years but has not reached the age of 21. The Department of Social Services shall develop guidance setting out the requirements for local implementation including a requirement for six-month reviews of each case and reasons for termination of participation by a youth. The guidance shall also include a definition of a supervised independent living arrangement which does not include group homes

or residential facilities. Implementation of this program includes the extension of adoption assistance to age 21 for youth who were adopted at age 16 or older and who meet the program participation requirements set out in guidance by the Department of Social Services.

3. The Department of Social Services shall issue guidance for the program's eligibility requirements and shall be available, on a voluntary basis, to an individual upon reaching the age of 18 who:

(i) was in the custody of a local department of social services either:

(a) prior to reaching 18 years of age, remained in foster care upon turning 18 years of age; or

(b) immediately prior to commitment to the Department of Juvenile Justice and is transitioning from such commitment to self-sufficiency.

(ii) and who is:

(a) completing secondary education or an equivalent credential; or

(b) enrolled in an institution that provides post-secondary or vocational education; or

(c) employed for at least 80 hours per month; or

(d) participating in a program or activity designed to promote employment or remove barriers to employment; or

(e) incapable of doing any of the activities described in subdivisions (a) through (d) due to a medical condition, which incapability is supported by regularly updated information in the program participant's case plan.

4. Implementation of extended foster care services shall be available for those eligible youth reaching age 18 on or after July 1, 2016."

V. Underage Marriage

- a. **§§ 16.1-331, 16.1-333, 20-45.1, 20-48, 20-89.1 and 20-90, amended; 16.1-33.1, added; 20-49, repealed. Legal age for marriage; 18 years of age.** Provides that both parties to a marriage must be 18 years of age or older or emancipated at the time of solemnization by removing exceptions that allow marriage at a minimum age of 16 with the consent of the parent or guardian or younger than 16 in the case of pregnancy and with the consent of the parent or guardian. It also provides that marriages entered into in violation of this law are voidable. The bill also allows a minor to petition the juvenile and domestic relations district court for emancipation based on such minor's desire to enter into a marriage. The bill provides that, to allow emancipation on such minor's desire to enter into a marriage, the court must make certain written findings, including that it is the minor's own will to enter into the marriage, that the individuals to be married are mature enough to make a decision to marry, that the marriage will not endanger the safety of the minor, and that it is in the best interests of the minor to be emancipated. 2016 Chapter 457; HB 703/Chapter 543; SB 415.

VI. Support

- a. **§§ 16.1-278.15, 20-60.3, 20-103, 20-107.2, and 20-124.2, amended. Child support for disabled child over the age of 18 (Conner's Law).** Provides that a court may order child support for any child over the age of 18 who is severely and permanently mentally or physically disabled if such

disability existed prior to the child's reaching the age of 18 or the age of 19 if the child was a full-time high school student, not self-supporting, and was living in the home of the parent seeking child support. Current requirements that the child also be unable to live independently, unable to support himself, and reside in the home of the parent seeking child support remain unchanged. The act also provides that an individual who was denied such support prior to July 1, 2015, is eligible to petition the court for support for a disabled child. 2015 Chapter 654/SB923; Chapter 653/HB 2383.

- b. §§ 18.2-271.1, 46.2-320.1, and 63.2-1952, amended; 63.2-1908.1, added. Child support; arrearage.** Permits the Department of Social Services to establish and administer intensive case monitoring programs for child support, in addition to court-ordered programs. Authorizes restricted driver's licenses to be issued for participants in such VDSS-administered programs. Allows the Department of Social Services to establish and operate an arrears compromise program pursuant to which it may compromise child support arrears and interest accrued thereon owed to the Commonwealth for reimbursement of public assistance paid. 2015 Chapter 506/HB 1783.
- c. §§ 20-60.5, 46.2-320.1, 63.2-527, 63.2-1900, 63.2-1903, 63.2-1916, 63.2-1917, 63.2-1921, 63.2-1923, 63.2-1924, 63.2-1925, 63.2-1929, 63.2-1930, 63.2-1933, 63.2-1937, and 63.2-1942, amended. Department of Social Services; electronic notices.** Allows the Department of Social Services to deliver certain notices by electronic means, which in some cases is access to a secure portal for receipt of such notices. Under current law, such notices generally require service of notice or delivery by certified mail, return receipt requested. The bill allows the delivery by electronic means of notices of (i) intent to suspend a debtor's driver's license due to delinquency in the payment of child support; (ii) the availability of federal and state earned income tax credits to all recipients of public benefits; (iii) an action to enforce certain orders directing the payment of child or spousal support; (iv) an action to review the amount of support ordered; (v) withholding from a noncustodial parent's income for support obligations; (vi) intent to enforce a support lien by distraint, seizure, and sale of the property subject to such lien; (vii) a petition for a court order to suspend any license, certificate, registration, or other authorization to engage in a business, trade, or recreational activity issued to the obligor of a support order by the Commonwealth due to delinquency in payment; (viii) certain administrative decisions of hearing officers; and (ix) payments of public assistance benefits or child support services. 2016 Chapter 29; HB 1026.
- d. § 20-63, amended. Support payments by county or city.** Designates the Department of Social Services as the entity to which a county or city within the boundaries of which a prisoner is put to work on a workhouse, city farm, or work squad shall pay funds for the support of the prisoner's spouse or children. The bill increases the minimum amount that the county or city shall pay from \$5 to \$20 and increases the maximum amount that the county or city shall pay from \$25 to \$40 for each week in the discretion of the court during any part of which any work is performed by the prisoner. 2016 Chapter 220; HB 428.
- e. §§ 20-88.32 through 20-88.35, 20-88.37, 20-88.38, 20-88.40 through 20-88.44, 20-88.47, 20-88.48, 20-88.50, 20-88.51, 20-88.53, 20-88.54, 20-88.56, 20-88.59 through 20-88.64, 20-88.64:3, 20-88.64:4, 20-88.65 through 20-88.73, 20-88.75, 20-88.76, and 20-88.77:3 amended; 20-88.32:1, 20-88.34:1, 20-88.63:1, 20-88.77:4, 20-88.83 through 20-88.95 added; § 20-88.78 §§ 20-88.81 and 20-88.82 repealed. Uniform Interstate Family Support Act.** Amends the

Uniform Interstate Family Support Act (UIFSA) to adopt the amendments approved by the Uniform Law Commission in 2008. The amendments modify the current version of UIFSA's international provisions to comport with the obligations of the United States under the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance.

It is anticipated that ratification by all 50 states and the associated required processes with the Hague Convention will happen in 2016 or 2017, and these provisions will be the law in Virginia and the United States. The amendments facilitate the establishment and enforcement of support orders between countries and create consistency among the states and contracting countries.

There is a new Article 13: "Support Proceeding under Hague Convention." This article will only apply, once the United States ratification process is complete, to cases where one parent lives in one country and the other parent lives in a different country, but both countries must be signatories under the Convention. Also, in this article, § 20-88.90 sets out the only grounds on which a tribunal of the Commonwealth may refuse recognition and enforcement of a registered Convention support order.

It is notable that this act more specifically addresses paternity determinations for a child and the issuance of paternity orders; acknowledges the existence of the Putative Father Registry; includes "electronic mail address" as information the tribunal may require litigants keep up-to-date with the tribunal; and authorizes the use of electronic mail in communications among tribunals "outside the Commonwealth."

With the exception of Article 13, all provisions are effective upon passage. The act contains an emergency clause and became effective on April 15, 2015. See Addendum A – HB 1601 for a listing of the Hague Convention Signatories and Hague Convention Members, which have not yet become signatories. 2015 Chapter 727/HB1601.

- f. § 20-103, amended. Source of pendente lite support award.** Provides that any award or order made by the court pending a suit for divorce, annulment, or separate maintenance shall be paid from the post-separation income of the obligor unless the court, for good cause shown, orders otherwise. The bill also provides that, upon the request of either party, the court may identify the specific source from which the financial obligation imposed is to be paid. 2016 Chapter 352; SB 70.
- g. § 20.107.1, amended. Spousal support factors.** Provides that a court shall consider the circumstances and factors that contributed to the dissolution of the marriage, specifically including any ground for divorce, in determining the nature, amount, and duration of a spousal support award. 2016 Chapter 615; HB 668.
- h. § 20-108.2, amended. Child support; proportionate share of health insurance premiums.** Adds vision care coverage to the cost of health care coverage that shall be added to the basic child support obligation. Provides that only the proportionate share of a health insurance premium for a child who is the subject of a support order shall be added to the child support obligation. The act requires that, if the per child cost is not provided by the insurer, the cost per person shall be determined by subtracting the cost of individual coverage for the policy holder from the total cost of the coverage and dividing the remainder by the number of remaining covered persons. 2015 Chapter 510/HB1951.

- i. **§ 63.2-511, repealed. Proceedings against persons liable for support.** Repeals the authority of a local board of social services to proceed in a manner provided by law against any person who is liable for support of an applicant or recipient of public assistance to require such person, if of sufficient financial ability, to support the applicant or recipient. 2016 Chapter 452; HB 782.
- j. **§§ 63.2-1923, 63.2-1924, and 63.2-1954, amended. Proration of child support.** Clarifies that the Department of Social Services, in allocating child support payments received pursuant to one or more judicial or administrative orders, shall prorate payments on the basis of amounts due for current support. Upon satisfaction of all amounts due for current support, the agency shall prorate the remainder on the basis of amounts due for accrued arrearages. The act directs the Department to allocate payments received pursuant to federal tax refund offset pursuant to subsection h of 45 C.F.R. § 303.72. The act consolidates these directives into a single section of the Code of Virginia to provide consistency across multiple child support orders with regard to the allocation of arrearages. 2015 Chapter 52/HB1602.

VII. Delinquency Matters

- a. **§§ 16.1-247, 16.1-259, 16.1-262, 16.1-263, 16.1-284, 16.1-291 and 16.1-292, amended. Juvenile court; retained jurisdiction; procedures; penalties.** Specifies procedures to be used for adults under the age of 21 who are subject to the retained jurisdiction of the juvenile court for criminal offenses committed as juveniles. The bill authorizes an intake officer to issue a capias for an adult under 21 who is alleged to have committed, before attaining the age of 18, an offense that would be a crime if committed by an adult. The bill requires that a proceeding against such person be commenced by petition and that parents not be notified or involved. The bill specifies dispositional alternatives and a maximum jail sentence. The bill increases the maximum jail sentence to 12 months for each offense, not to exceed a total of 36 months. Under current law, the maximum jail sentence is 12 months for a single offense or multiple offenses. The bill states that such persons are entitled to good conduct credit. The bill also specifies that such persons may be proceeded against for a violation of a court order. As introduced, this bill was a recommendation of the Virginia Criminal Justice Conference. 2016 Chapter 626; SB 454.
- b. **§ 16.1-274.2, added. Minors; education records; evidence.** Provides that in any proceeding where a juvenile is alleged to have committed a delinquent act that would be a misdemeanor if committed by an adult on school property, property solely being used for a school-related or school-sponsored activity, or a school bus, the juvenile may introduce into evidence as relevant to whether he acted intentionally or willfully any document created prior to the commission of the delinquent act that relates to certain educational plans or behavioral assessments. The bill provides that such documents shall be admitted as evidence of the facts stated therein, provided that the minor gives notice of his intent to introduce such evidence and copies of such evidence to the attorney for the Commonwealth at least 10 days before trial. The bill allows such reports or documents to be placed under seal by the court. 2016 Chapter 726; HB 1213.
- c. **§ 16.1-284.1, amended. Detention of delinquent juveniles; offenses causing death.** Provides that a court may order that a juvenile who has been adjudicated delinquent of an offense that would be punishable as a felony or a Class 1 misdemeanor if committed by an adult and who (i) has not previously been and is not currently adjudicated delinquent of a violent juvenile felony

or found guilty of a violent juvenile felony and (ii) has not been released from the custody of the Department of Juvenile Justice within the previous 18 months be confined in a detention home or other secure facility for juveniles for a period not to exceed 12 months if the offense committed by the juvenile resulted in the death of another person. Previously, the length of such confinement could not exceed six months, regardless of whether the offense resulted in the death of another person. 2015 Chapter 391/HB1474.

- d. **§ 16.1-301, amended. Law-enforcement records concerning juveniles; disclosure.** Allows the disclosure of law-enforcement records concerning a juvenile who is referred to a court services unit-authorized diversion program. The bill prohibits further disclosure of such records by the diversion program or participants in the program. Law-enforcement officers may prohibit disclosure to protect a criminal investigation or intelligence information. 2015 Chapter 234; HB 541.

VIII. Traffic Matters

- a. **§§ 15.2-968.1 and 16.1-106, amended. Use of photo-monitoring systems to enforce traffic light signals; appeals.** Provides that an operator of a motor vehicle found in violation of an ordinance created to enforce photo-monitoring systems for traffic lights has a right to appeal to the circuit court in a civil proceeding. The act also reduces from \$50 to \$20 the amount of the matter in controversy above which an appeal of right exists in a civil case. 2015 Chapter 714/HB1355.
- b. **§ 46.2-112.1, added. Smoking in motor vehicles; presence of minor under age eight; civil penalty.** Provides that any person who smokes in a motor vehicle, whether in motion or at rest, when a minor under the age of eight is in the motor vehicle is subject to a civil penalty of \$100. The offense may be charged on a uniform traffic summons. The bill provides that such violation is a secondary offense and no court costs shall be assessed for a violation of this section. 2016 Chapter 515; HB 1348.
- c. **§§ 46.2-323, 46.2-324.1, 46.2-334, 46.2-334.01, 46.2-335, and 46.2-335.2. Learner's permit holder; passenger limits; use of cell phone; licensure requirements for persons under 18.** Prohibits a holder of a learner's permit from (i) using a cell phone while driving and (ii) having more than one passenger under age 21. Current law prohibits the holder of a provisional driver's license who is under the age of 19 from (i) having more than one passenger under age 21 unless a parent is present and (ii) using a cellphone. The bill removes the exception that a provisional driver's license holder under age 18 may have more than one passenger under age 21 if a parent is present. The bill clarifies that the passenger limitations on all provisional driver's licenses do not include household or family members. The bill allows those who are at least 18 years old to be issued a driver's license after holding a learner's permit for 60 days instead of the current holding requirement of nine months for those under 19 years of age. The bill also requires only those driver's license applicants under 18 years of age to show proof of completion of a driver education program. Current law requires such proof of those under 19 years of age. 2016 Chapter 488; SB 555.

IX. Protective Orders and Related

- a. §§ 16.1-253.2 and 18.2-60.4, amended. Violation of protective order; firearm or other deadly weapon; penalty.** Provides that any person who violates a protective order while knowingly armed with a firearm or other deadly weapon is guilty of a Class 6 felony. 2016 Chapter 585; HB 1087/Chapter 638; SB 323.
- b. §§ 16.1-253.2 and 18.2-60.4, amended. Violations of protective orders; penalty.** Provides that it is a Class 6 felony to stalk a party protected by protective order or to commit an assault and battery upon a party protected by a protective order if such assault and battery results in bodily injury. Currently, the Class 6 felony is only applicable if the person commits an assault and battery that results in serious bodily injury to the protected party. 2016 Chapter 583; HB 610.
- c. §§ 16.1-253.4 and 19.1-152.8, amended. Protective orders; contacts.** Provides that an emergency protective order may prohibit the respondent from being in the physical presence of the petitioner or the petitioner's family or household members. The bill provides that the term "physical presence" includes (i) intentionally maintaining direct visual contact with the petitioner or (ii) unreasonably being within 100 feet from the petitioner's residence or place of employment. 2016 Chapter 455; HB 588.
- d. § 16.1-279.1, amended. Family abuse protective orders; extensions.** Corrects a reference to a member of the respondent's family or household to be consistent with the defined term "family or household member," relating to petitioners in proceedings for extensions of protective orders in cases of family abuse. 2016 Chapter 102; HB 1056.
- e. §§ 18.2-308.09, 18.2-308.1:4, and 18.2-308.2:3, amended. Protective orders; possession of firearms; penalty.** Provides that it is a Class 6 felony for a person who is subject to a permanent protective order (i.e., a protective order with a maximum duration of two years) for family abuse to possess a firearm while the order is in effect. The bill also provides that such person may continue to possess and transport a firearm for 24 hours after being served with the order for the purposes of selling or transferring the firearm to another person. Under current law, it is a Class 1 misdemeanor for a person subject to a protective order to purchase or transport a firearm. 2016 Chapter 48; HB 1391/Chapter 49, SB 49.
- f. § 19.2-152.12, added. Protective orders; compensation for required representation of respondents.** In a proceeding for the issuance of a protective order under Chapter 9.1 of Title 19.2 of the Code of Virginia, this act provides for the compensation of counsel when the respondent is subject to the Servicemembers Civil Relief Act or a guardian ad litem is required by law and there is no other provision for the compensation of counsel or the guardian ad litem. Such compensation may then be ordered pursuant to § 19.2-163. This act was a recommendation of Committee on District Courts. 2015 Chapter 556/SB941; Chapter 545/HB2329.
- g. §§ 55.225.5 and 55.248.18:1, amended. Protective orders in cases of family abuse; possession of premises.** Provides that in a protective order in the case of family abuse, a person, who is not a tenant or authorized occupant in the dwelling unit and who has obtained a protective order from a court of competent jurisdiction granting such person possession of the premises to the exclusion of one or more co-tenants or authorized occupants, may provide a copy of such order

to the landlord and submit a rental application to become a tenant in such dwelling unit within 10 days of the entry of such order. If such person's rental application meets the landlord's tenant selection criteria, such person may become a tenant in such dwelling unit under a written rental agreement. If such person submits a rental application and does not meet the landlord's tenant selection criteria, such person shall vacate the dwelling unit no later than 30 days after the date the landlord gives such person written notice that his rental application has been rejected. If such person does not provide a copy of the protective order to the landlord and submit a rental application to the landlord within 10 days as required by this section, such person shall vacate the dwelling unit no later than 30 days after the date of the entry of such order. Such person shall be liable to the landlord for failure to vacate the dwelling unit as required in this section. The bill provides that any tenant obligated on a rental agreement shall pay the rent and otherwise comply with any and all requirements of the rental agreement, and any applicable laws and regulations. The landlord may pursue all of its remedies under the rental agreement and applicable laws and regulations, including filing an unlawful detainer action to obtain a money judgment and to evict any persons residing in such dwelling unit. The bill contains a technical amendment. 2016 Chapter 595; HB 711.

- h. § 32.1-283.3, amended. Family violence fatality review teams; definition of fatal family violence incident.** Specifies that for the purpose of referring such incident to a local family violence fatality review team "fatal family violence incident" means any fatality that occurred or that is suspected of having occurred in the context of abuse between family members or intimate partners. 2016 Chapter 307; SB 162.
- i. § 63.2-104.1. Confidentiality of information about victims of certain crimes.** Provides that, in order to ensure the safety of any adult or child victim of a violation of § 18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1 and their families, programs and individuals providing services to such victims shall protect the confidentiality and privacy of persons receiving services by limiting the disclosure of information about such victims. The bill also clarifies that a person is a victim for purposes of such confidentiality and privacy protections regardless of whether any person has been charged with or convicted of any offense. The bill also provides that an alleged abuser of a minor or incapacitated person or of the minor's other parent may not consent to the release of confidential information. 2016 Chapter 670; HB 373/Chapter 666; SB 253.

X. Crime and Punishment

- a. §§ 9.1-902, 17.1-805, 18.2-46.1, 18.2-356, 18.2-357, 18.2-513, 19.2-215.1, and 19.2-386.35, amended; 18.2-357.1, added. Commercial sex trafficking; penalties.** Creates new felonies for trafficking of persons for commercial sexual activity.

The act provides that any person who solicits, invites, recruits, encourages, or otherwise causes or attempts to cause a person to engage in prostitution with the intent to receive money or other valuable thing or to assist another in receiving money or other valuable thing from the earnings of the solicited person from an act of prostitution is guilty of a Class 5 felony.

Felonies are increased if such behavior is done by an adult and the person solicited is a minor (Class 3 felony) and if force, intimidation, or deception is used against the person solicited (Class 4 felony).

The new crime was added to the definition of violent felony for the purposes of the sentencing guidelines, predicate criminal acts for street gangs, the Virginia Racketeer Influence and Corrupt Organization Act, multi-jurisdiction grand jury, and asset forfeiture and, if a minor is solicited, the Sex Offender Registry.

The act also amends two existing Code sections on receiving money for procuring a person for prostitution and receiving money from the earnings of a person engaged in prostitution to increase penalties if the crime involves a minor. 2015 Chapter 690/HB1964; Chapter 691 /SB1188.

- b. § 18.2-57, amended. Assault and battery against certain persons.** Amends provision making it a Class 6 felony to commit an assault or an assault and battery against judges, magistrates, law-enforcement officers, correctional officers, firefighters, emergency medical services personnel, and persons directly involved in the care, treatment, or supervision of certain inmates, juvenile offenders, and sexually violent predators when they are engaged in the performance of their public duties to state that the crime occurs *regardless of where in the Commonwealth the public duties are performed*.

The act provides that its provisions are declarative of existing law. 2016 Chapter 196/HB1611.

- c. § 18.2-57.3, amended. Assault; family or household member.** Provides that a first offense of simple assault against a family or household member may be subject to deferral and dismissal. Under current law, first offender status is only available to a person who commits assault and battery against a family or household member. 2016 Chapter 742; HB 485.
- d. § 18.2-57.3, amended. Assault and battery against a family or household member; first offense; education and treatment programs.** Requires a court to order that a person placed on first offender status for assault and battery against a family or household member (i) be placed with a local community-based probation services agency and complete all education and treatment programs required by the agency or (ii) complete any education or treatment program that the court determines is best suited to the needs of the person. Under current law, the court may order that the person complete such education or treatment programs, but is not required to do so. 2016 Chapter 422; HB 1334.
- e. § 18.2-60.3, amended. Stalking; second offense, Class 6 felony.** Provides that a second offense of stalking committed within five years of a prior stalking conviction is punishable as a Class 6 felony. Under current law, a second offense of stalking only qualifies for the Class 6 penalty if the person convicted had also been convicted of certain offenses involving assaults or bodily woundings or of violating a protective order. 2016 Chapter 696; HB 886.
- f. § 18.2-60.3, amended. Stalking; penalty.** Provides that contacting or following or attempting to contact or follow the person at whom stalking conduct is directed after being given actual notice that the person does not want to be contacted or followed, is prima facie evidence that the person intended to place the other person, or reasonably should have known that the other person was placed, in reasonable fear of death, criminal sexual assault, or bodily injury to himself or a family or household member. This bill is a recommendation of the Virginia State Crime Commission. 2016 Chapter 745; HB 752.

- g. **§ 18.2-355, amended. Pandering; minors; penalty.** Increases from a Class 4 felony to a Class 3 felony the penalty for pandering involving a minor. 2015 Chapter 395/HB2040.
- h. **§ 18.2-359, amended. Indecent liberties; venue.** Provides that the venue provisions for taking indecent liberties with a child by a person in a custodial or supervisory relationship will be the same as those for the crime of taking indecent liberties with a child when there is no custodial or supervisory relationship. 2015 Chapter 555/SB915.
- i. **§ 18.2-370.5, amended. Sex offenses prohibiting entry onto school or other property; hearing.** Provides that a sex offender who is prohibited from entering upon school or child day center property who petitions the circuit court for permission to enter such property must cause notice of the time and place of the hearing on his petition to be published once a week for two successive weeks in a newspaper of general circulation. The newspaper notice must contain a provision stating that written comments regarding the petition may be submitted to the clerk of court at least five days prior to the hearing.

The act also requires that for a public school the petitioner must provide notice of his petition to the chairman of the school board in addition to the Superintendent of Public Instruction. 2015 Chapter 688/HB1366.

- j. **§§ 18.2-374.1:1 and 18.2-381, amended. Child pornography; obscenity; penalties.** Adds a mens rea of "knowingly" for the offenses of (i) reproducing child pornography and (ii) soliciting child pornography to gain entry to a group and removes the requirement of lascivious intent for these offenses. The act also amends a penalty section that applies to the obscenity article to correctly reflect the existing penalties. This act was a recommendation of the Virginia State Crime Commission. 2015 Chapter 428/SB1056.
- k. **§ 18.2-431.1, amended. Possession, etc., of wireless telecommunications device by prisoner; penalty.** Provides that a person who provides or causes to be provided a wireless telecommunications device to a prisoner or person committed to a juvenile correctional center, or a prisoner or person committed to a juvenile correctional center who possesses such a device, is guilty of a Class 6 felony. Current law prohibits only such provision or possession of cellular telephones. 2015 Chapter 601/HB2385.

XI. Criminal Procedure

- a. **§ 19.2-8, amended. Statute of limitations; sexual crimes against minors.** Extends the statute of limitations to one year after the victim reaches 18 years of age for misdemeanor violations of the following crimes: carnal knowledge of offender by employee of bail bond company, sexual battery, infected sexual battery, sexual abuse of a child age 13 or 14 by an adult, attempted sexual battery, and tongue penetration by adult of mouth of child under age 13. Under existing law, there is a statute of limitations on most misdemeanors of one year "after there was cause" for prosecution. This bill is a recommendation of the Virginia State Crime Commission. 2016 Chapter 233; HB 510/Chapter 253; SB 354.
- b. **19.2-76.3, amended. Failure to appear; service of process.** Provides that when a person fails to appear on a mailed summons, the summons may be served by any person authorized to serve process. 2016 Chapter 242; HB1310/Chapter 354; SB707.

- c. § 19.2-70.3, amended. Electronic communications; admissibility of written reports or records.** Allows the provider of an electronic communication service or remote computing service to verify the authenticity of written reports or records that it discloses by providing an affidavit from the custodian of the written records (or the person to whom the custodian reports) certifying that they are true and complete copies of the reports or records and were prepared in the regular course of business. When so authenticated, no other evidence of authenticity is necessary, and the reports or records shall be considered business records for the purposes of the business records exception to the hearsay rule. The bill specifies that the contents of electronic communications shall not be considered part of such business records. 2016 Chapter 549; HB 924.
- d. § 19.2-120, amended. Admission to bail; strangulation.** Adds strangulation, as defined in § 18.2-51.6, where the alleged victim is a family or household member to the list of crimes charged for which there is a rebuttable presumption against admission to bail. 2015 Chapter 413/HB2120.
- e. § 19.2-124. Bail appeal; presumption against bail.** Requires a district court to stay the imposition of its order granting bail in cases where there was a presumption against bail, if the court receives notice of the Commonwealth's appeal of the district court decision. The stay is limited to five days but can be waived if the defendant requests a hearing outside the five days. 2016 Chapter 621; SB 285.
- f. § 19.2-149, amended. Surety on a bond; discharge from liability; magistrates.** Allows a bail bondsman or his licensed bail enforcement agent to request the issuance of a capias for the arrest of his principal from a magistrate, which capias may be executed by the bondsman, his agent, or a law-enforcement officer. Currently, a bondsman can request the issuance of a capias only from the court or clerk thereof.
- The act also requires a magistrate who issues a capias to transmit a copy of the capias to the court before which such principal's appearance is required by the close of business on the next day that the court is open. 2015 Chapter 622/HB2396.
- g. §§ 19.2-168.1, 19.2-169.1, and 19.2-169.5, amended. Criminal defendants; evaluation for insanity or competence.** Sets qualifications for persons who conduct evaluations of criminal defendants where there is an issue of sanity or competency to stand trial. Evaluators will be required to send redacted copies of their reports to the Commissioner of Behavioral Health and Developmental Services for peer review in order to establish and maintain the list of approved evaluators. 2016 Chapter 445; HB 582.
- h. § 19.2-169.8, added. Criminal defendants; orders for competency and sanity evaluations and hospitalization.** Requires the clerk of court to provide a copy of the order for an evaluation for sanity, competency to stand trial, and competency restoration to the appointed evaluator or hospital as soon as practicable but no later than the close of business on the next business day following entry of the order. The party requesting the evaluation pursuant to § 19.2-168.1, 19.2-169.1, or 19.2-169.5, the attorney for the Commonwealth if treatment is ordered pursuant to § 19.2-169.2, or the petitioner if treatment is ordered pursuant to § 19.2-169.6 shall be responsible for providing to the court the name, address, and other contact information for the appointed evaluator or the director of the community services board, behavioral health

authority, or hospital unless the court or clerk already has this information. The evaluator or hospital must acknowledge receipt of the order to the clerk on a form developed by the Office of the Executive Secretary of the Supreme Court of Virginia. The bill also requires the same verification of receipt procedures for an order for psychiatric hospitalization of an inmate from a local correctional facility. The bill also provides that no person will be liable for any act or omission relating to any requirement in the bill unless the person was grossly negligent or engaged in willful misconduct. 2016 Chapter 446; HB 645/Chapter 449; SB 342.

- i. § 19.2-190.1, added. Preliminary hearing; certification of ancillary misdemeanor offenses.** Provides that if, pursuant to a preliminary hearing, a district court certifies felony offenses to be tried in a circuit court, the court shall also certify any ancillary misdemeanor offense for trial in circuit court if the accused and the attorney for the Commonwealth consent to such certification. 2015 Chapter 548/HB2049.
- j. §§ 19.2-244 and 19.2-247, amended. Venue in criminal cases.** Provides that if it cannot readily be determined where a crime was committed in the Commonwealth, venue for the prosecution of the crime may be had in any county or city (i) in which the defendant resides or (ii) in which the defendant is apprehended if he is a nonresident. The act also provides that venue for offenses related to a homicide offense may be had in the same county or city as venue for the homicide offense. The act further provides that venue for homicide offenses may be had in any county or city where any part of the victim's body is found. 2015 Chapter 632/HB1927.
- k. §§ 19.2-244 and 19.2-247 amended. Venue in criminal cases.** Provides that venue for the prosecution of a crime may be had in any county or city in which the defendant resides or is apprehended or in which any related offense was committed if the county or city where the offense is alleged to have occurred cannot be determined. The act also provides that venue for offenses related to a homicide offense may be had in the same county or city as venue for the homicide offense. The act further provides that venue for homicide offenses may be had in any county or city where any part of the victim's body is found. 2015 Chapter 637/SB1290.
- l. § 19.2-249.2, amended. Creation of unlawful images; venue.** Provides that venue for prosecution of the crime of creating unlawful images of a nonconsenting person is the same as venue for the Virginia Computer Crimes Act. The act clarifies a venue provision in the Virginia Computer Crimes Act. 2015 Chapter 423/SB709.
- m. § 19.2-268.3, added. Hearsay; exception; children; abuse and neglect.** Establishes a hearsay exception to certain out-of-court statements made by a child under the age of 13 at the time of trial in cases involving a violation or attempted violation of "an offense against children." The bill contains a list of certain felony sex offenses and certain felony offenses resulting in physical injury that fall within the definition of "an offense against children." The court must hold a hearing prior to trial and find that the time, content, and totality of the circumstances provide sufficient indicia of reliability so as to render it inherently trustworthy. The bill provides factors for the court to consider in making such a determination. Notice of intent to offer the statement and the particulars of the statement must be given to the adverse party at least 14 days in advance of the proceedings. 2016 Chapter 542; SB 358/Chapter 553; HB 227.

- n. **§ 19.2-271, amended. Testimony of certain judicial personnel.** Clarifies that certain persons who have the power to issue warrants are competent to testify in a criminal proceeding in which the defendant is charged with perjury. 2015 Chapter 635/SB794.
- o. **§ 19.2-306, amended. Restitution; revocation of probation or suspended sentence.** Provides that a court may conduct a hearing to revoke a person's probation or suspended sentence within three years after the expiration of the period of probation or suspension, if the person has failed to pay restitution before such expiration. Under current law, such a hearing must be conducted within one year after the expiration of the period of probation or suspension. 2016 Chapter 718; HB 605.
- p. **§ 19.2-310.2, amended. DNA data bank; State Police to verify receipt of samples from persons on the Sex Offender and Crimes Against Minors Registry.** Requires the Department of State Police to verify receipt of DNA samples by the Department of Forensic Science for persons required to register on the Sex Offender and Crimes Against Minors Registry. The act also requires the State Police to obtain a DNA sample for such persons if one has not been received by the Department of Forensic Science. 2015 Chapter 193/HB1578.
- q. **§§ 19.2-310.2 and 19.2-310.7, amended. DNA analysis upon conviction of certain misdemeanors.** The act adds misdemeanor violations 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 follows:

- § 16.1-253.2 (violation of a protective order),
- § 18.2-60.3 (stalking),
- § 18.2-60.4 (violation of a stalking protective order),
- § 18.2-67.4:1 (infected sexual battery),
- § 18.2-102 (unauthorized use of animal, aircraft, vehicle, or boat valued at less than \$200),
- § 18.2-121 (entering property of another for purpose of damaging it),
- § 18.2-387 (indecent exposure),
- § 18.2-387.1 (obscene sexual display), and
- § 18.2-479.1 (resisting arrest).

Under current law, a sample is taken for DNA analysis from adults convicted of only five misdemeanor sex offenses:

- § 18.2-67.4 (sexual battery),
- § 18.2-67.4:2 (sexual abuse of a child 13 years of age or older but under 15),
- § 18.2-67.5 (attempted sexual battery),
- § 18.2-130 (peeping), or
- § 18.2-370.6 (penetrating the mouth of a child under 13 with the tongue).

The act increases the fee collected for the withdrawal of the DNA sample from \$25 to \$53.

The provisions of the act apply only to persons convicted on or after July 1, 2015. 2015 Chapter 209/HB1928; Chapter 437 /SB1187.

- r. **§§ 19.2-353.5, 19.2-354, and 46.2-395, amended. Fines and costs; interest; statutes of limitation on collection; minimum payments.** Provides that a person may move any court in which he owes fines and costs imposed in a criminal case to waive any interest that accrued on such fines and costs during any term of incarceration and that such waiver shall be granted upon

certification of the person's incarceration by the official in charge of the facility where such person was incarcerated. The bill clarifies that the general statutes of limitation apply to collection of fines and costs. The bill also requires that the provisions of deferred or installment payment agreements, including any required minimum payments, be consistent with the Rules of Supreme Court of Virginia. 2016 Chapter 282; HB 572.

- s. **§ 19.2-354, amended. Deferred and installment payments for fines, costs, etc.; posting.** Requires that the guidelines for conditions of all deferred or installment payment agreements for the payment of court-ordered fines or other penalties be reduced to writing as well as posted in the clerk's office and on the court's website, if a website is available. 2015 Chapter 265/HB1506.
- t. **§ 19.2-389, amended. Department of Juvenile Justice; access to criminal history record information.** Adds the Department of Juvenile Justice (DJJ) to the list of entities authorized to receive information from the Virginia Criminal Information Network (VCIN). The act specifies that DJJ may receive background checks from VCIN:
 - on any parent, guardian or other adult members of a juvenile's household in order to complete predispositional and postdispositional reports required by law; or
 - pursuant to regulations of the Board of Juvenile Justice for purposes of meeting its obligations in the oversight of Court Services Units. 2015 Chapter 343/SB961.

XII. Sex Offender Registry and Related

- a. **§ 9.1-102, amended; §§ 9.1-116.2 and 9.1-116.3, added. Sexual and domestic violence; establishment of committees.** Establishes the Virginia Sexual and Domestic Violence Program Professional Standards Committee and requires the Department of Criminal Justice Services to administer its activities by providing technical assistance and administrative support. This Committee is tasked with establishing voluntary accreditation standards and procedures by which local sexual and domestic violence programs can be systematically measured and evaluated with a peer-reviewed process.

An Advisory Committee on Sexual and Domestic Violence is also established and has the responsibility for advising and assisting state and local entities on matters related to the prevention and reduction of sexual and domestic violence and for promoting the efficient administration of grant funds. This act was a recommendation of the Virginia State Crime Commission. 2015 Chapter 222/SB1094; Chapter 402/HB2092.

- b. **§ 9.1-902, amended. Sex Offender and Crimes Against Minors Registry Act; penalty.** Adds to the offenses for which registration is required on the Sex Offender and Crimes Against Minors Registry the crimes of (i) procuring a person for prostitution and receiving money from the earnings of a person engaged in prostitution if the crime involves a minor and (ii) aggravated malicious wounding if the perpetrator of the crime was an adult and the victim was under the age of 13. The bill also provides that only persons who committed these crimes on or after July 1, 2016, are required to register. 2016 Chapter 586; HB 177.
- c. **§ 9.1-913, amended. Sex Offender and Crimes Against Minors Registry Act; public dissemination.** Adds to the information that must be made publicly available by means of the

Internet for a person convicted of an offense for which registration on the Sex Offender and Crimes Against Minors Registry is required the current work address and the name of any institution of higher education at which he is currently enrolled. 2016 Chapter 335; HB 628.

- d. **§ 9.1-918, amended; 9.1-923, added. Supplement to the Sex Offender and Crimes Against Minors Registry (Robby's Rule).** Requires the Superintendent of State Police to establish a Supplement to the Sex Offender and Crimes Against Minors Registry (the Registry) that would include information on persons who were convicted of certain sexual offenses on or after July 1, 1980, and before July 1, 1994, who are not currently on the Registry. The Supplement will be available to the public on the Department of State Police website. Persons whose information is on the Supplement who would be able to petition for removal of their information if they were on the Registry will be able to petition for removal of their information from the Supplement. 2015 Chapter 594/HB 1353; Chapter 603/SB1074.

XIII. Psychiatric Treatment

- a. **§§ 16.1-338 and 16.1-339, amended. Psychiatric treatment of minors; objecting minor; criteria.** Amends the criteria for admitting an objecting minor 14 years of age or older for psychiatric treatment to match the criteria for determining whether a nonobjecting minor or a minor younger than 14 years of age should be admitted. The qualified mental health evaluator shall prepare a report for both objecting and non-objecting minors that shall include written findings as to whether:

1. The minor *appears to have a mental illness serious enough to warrant inpatient treatment and is reasonably likely to benefit from the treatment;*
2. *The minor has been provided with a clinically appropriate explanation of the nature and purpose of the treatment; and*
3. *All available modalities of treatment less restrictive than inpatient treatment have been considered and no less restrictive alternative is available that would offer comparable benefits to the minor.*

The act also provides that if a minor 14 years of age or older who did not initially object to treatment objects to further treatment, the mental health facility where the minor is being treated shall immediately notify the parent who consented to the minor's treatment and provide to such parent a summary, prepared by the Office of the Attorney General, of the procedures for requesting continued treatment of the minor. 2015 Chapter 543/ SB773; Chapter 504 /HB1717.

- b. **§ 16.1-339, amended. Psychiatric treatment of minors; duration of admission.** Increases from 96 to 120 hours the length of time a minor 14 years of age or older who objects to admission for inpatient treatment or who is incapable of making an informed decision may be admitted to a willing mental health facility. 2015 Chapter 535/SB779.
- c. **§§ 16.1-340, 16.1-340.2, 16.1-345, 37.2-808, 37.2-810, and 37.2-829, amended. Civil admission process; alternative transportation.** Provides that a magistrate may authorize alternative transportation for a person subject to an emergency custody order or temporary detention order when there exists a substantial likelihood that the person will cause serious physical harm to himself or others. Current law prohibits the use of alternative transportation when there

exists a substantial likelihood that the person will cause serious physical harm to himself or others. The act also provides liability protection for alternative transportation providers. 2015 Chapter 297/HB1693; Chapter 308 /SB1263.

- d. **§§ 16.1-340.1:1 and 37.2-809.1, amended. Temporary detention order; custody.** Removes the requirement that a person subject to a temporary detention order remain in the custody of the community services board for the duration of the order. This requirement was in conflict with other Code sections that require that such person remain in the custody of law enforcement until custody is transferred to a facility or to an alternative transportation provider. Chapter309/HB1694; 2016 Chapter 121/SB966.