

**Virginia Department of Juvenile Justice**  
**2015**  
**Legislative Training Manual**



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\* Legislation is effective on July 1, 2015 unless otherwise noted.

## Table of Contents

### Contents

Comprehensive Services Act.....	5
Crimes .....	6
Criminal Procedure / Civil Offense.....	9
DNA .....	14
Education .....	16
Juvenile Justice.....	24
Mental Health .....	28
Sex Offenses / Sex Offenders.....	31
Social Services .....	34
Traffic / Vehicles .....	36
Venue .....	39
Miscellaneous .....	40

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## Comprehensive Services Act

### **HB 2083 (Peace) / SB 1041 (Hanger) Community policy and management teams; policies governing referrals and reviews.**

**Current Law:** Lists the powers and duties of Community Policy and Management Teams. One of the many powers and duties of the teams is to establish 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, and a process to review recommendations and requests for funding.

**Effect of the Bills:** 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.

### **SB 850 (Favola) Comprehensive Services Act for At-Risk Youth and Families; name change.**

**Current Law:** Authorizes the creation of the Office of Comprehensive Services Act for At-Risk Youth and Families. Describes the powers and duties of the office and its executive counsel.

**Effect of the Bill:** The bill amends §§ [2.2-212](#), [2.2-2101](#), [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](#) of the *Code of Virginia*. The names Office of Comprehensive Services Act for At-Risk Youth and Families, State Executive Council for Comprehensive Services Act for At-Risk Youth and Families, and the Comprehensive Services Act for At-Risk Youth and Families have been struck throughout the *Code* and replaced with the names Children's Services Act, State Executive Council for Children's Services, and Office of Children's Services.

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## Crimes

### **HB 1564 (Garrett) / SB 1380 (Obenshain): Schedule I drugs; adding several substances to list.**

**Current Law:** Provides a list by name and/or chemical compound for substances that qualify as Schedule I controlled substances. The substances are generally grouped by designation as opiates, opium derivatives, hallucinogens, depressants, stimulants, or cannabimimetic agents, but also include certain specific substances that are not included in any particular substance group.

**Effect of the Bill:** The bill amends § **54.1-3446** to revise the way certain substances are notated and adds N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name: AB-CHMINACA), N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-AB-PINACA), to the cannabimimetic agents section and 3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA) to the hallucinogenic section of Schedule I of the Drug Control Act, in accordance with the action of the Board of Pharmacy adding these substances to Schedule I pursuant to § **54.1-3443**.

### **HB 1611 (Miller) Assault and battery is a felony when committed against certain persons anywhere in the Commonwealth.**

**Current Law:** It is 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

**Effect of the Bill:** The bill amends § **18.2-57** of the *Code of Virginia* and clarifies that it is 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 regardless of where the assault or assault and battery occurs within the Commonwealth.

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**HB 1908 (Lopez) / SB 1034 (Puller) Alcoholic beverage control; adds powdered or crystalline alcohol, penalty.**

**Current Law:** Defines the terms used in Title 4.1 the Alcohol and Beverage Control Act. Powdered and crystalline alcohol are not currently defined in § **4.1-100** of the *Code of Virginia*

**Effect of the Bills:** The bill amends §§ **4.1-100** and **4.1-103** of the *Code of Virginia* and adds a section numbered **4.1-302.2** to the *Code of Virginia*. The bill adds powder or crystal to the definition of alcoholic beverages. It restricts the power of the Board and prohibits the sale, shipping, or receipt of containers containing powdered or crystalline alcohol in the Commonwealth.

The new *Code* section prohibits individuals from purchasing or possessing, offering for sale or use, selling, or using any powdered or crystalline alcohol product. A violation is a Class 1 misdemeanor. Additionally it provides a definition of powdered or crystalline alcohol. Powdered or crystalline alcohol is a product that is manufactured into a powdered or crystalline form and that contains any amount of alcohol.

**HB 1964 (Hugo) / SB 1188 (Obenshain) Commercial sex trafficking; penalties.**

**Current Law:**

§ **9.1-902** Identifies the offenses which require an offender to register.

§ **17.1-805** Identifies the discretionary sentencing guideline midpoints.

§ **18.2-46.1** Provides definitions for the following terms: act of violence, criminal street gang, and predicate criminal act.

§ **18.2-356** Prohibits procuring a prostitute.

§ **18.2-357** Prohibits receiving money from earnings of a prostitute.

§ **18.2-513** Provides definitions for the following terms: criminal street gang, enterprise, proceeds, and racketeering activity.

§ **19.2-215.1** Outlines the functions of a multijurisdictional grand jury.

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**Effect of the Bills:** The bill amends §§ **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** of the *Code of Virginia* and adds a section numbered **18.2-357.1** to the *Code of Virginia*.

The new Code section § **18.2-357.1** states, “Any person who, 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 a person from prostitution or unlawful sexual intercourse in violation of subsection A of § **18.2-346**, solicits, invites, recruits, encourages, or otherwise causes or attempts to cause a person to violate subsection A of § **18.2-346** is guilty of a Class 5 felony. Any person who violates subsection A through the use of force, intimidation, or deception is guilty of a Class 4 felony. Any adult who violates subsection A with a person under the age of 18 is guilty of a Class 3 felony.”

§§ **9.1-902, 17.1-805, 18.2-46.1, 19.2-215.1**

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, multijurisdiction grand jury, and asset forfeiture and, if a minor is solicited, the Sex Offender Registry.

§ **18.2-356** and § **18.2-357**

The bill 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.

## **HB 2298 / SB 707 (Carrico) Capitol Square; payment of restitution for any damage to Square or any building**

**Current Law:** Prohibits individuals convicted of a crime in violation of any provision in Title 18.2, of the *Code of Virginia* which resulted in property damage or loss from being placed on probation or having his sentence suspended unless the person makes at least partial restitution for the property damage or loss, or require the individual to perform community services, or both, or submit a plan for doing that which appears to the court to be feasible under the circumstances. Additional conditions for requesting restitution are described.

**Effect of the Bills:** The bill amends § **19.2-305.1** of the *Code of Virginia* and defines the term Capitol Square. The bill also requires an individual damaging Capitol Square or any building, monument, statuary, artwork, or other state property in Capitol Square, or any other property assigned to the Capitol Police, to pay restitution for damages if the

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individual was convicted of participating in a riot (**18.2-405**), remaining at the place of a riot or unlawful assembly (**18.2-407**), or conspiracy or incitement to produce a riot (**18.2-408**) and damage occurs in the course of the illegal actions.

In any prosecution under § **18.2-138**, **18.2-405**, **18.2-407**, or **18.2-408**, the testimony of the Division of Engineering and Buildings of the Department of General Services or the Division of Risk Management is admissible as evidence of the value or extent of the damages or cost of repairs.

## Criminal Procedure / Civil Offense

**HB 1298 (Morris): All law-enforcement officers must have reasonable suspicion that a violation of law or regulation exists before stopping, boarding, or inspecting a noncommercial vessel (e.g. boat, ferry, canoe).**

**Current Law:** Authorizes all conservation police officers, Marine Resources Commission inspectors, and every other law-enforcement officer of the Commonwealth and its subdivisions to stop, board, and inspect any water-going vessel subject to boating laws, after having identified himself in his official capacity. The officer is only required to identify himself. There is no requirement that the officer have reasonable suspicion prior to stopping, boarding, or inspecting a noncommercial watercraft.

**Effect of the Bill:** The bill amends § **29.1-745** of the *Code of Virginia* and adds a new section numbered **19.2-10.3**. Law enforcement, including conservation police officers, officers of the Virginia Marine Police, and all other law enforcement officers of the Commonwealth and its subdivisions, are prohibited from stopping, boarding, or inspecting a noncommercial watercraft on the waterways of the Commonwealth without reasonable suspicion.

**HB 1308 (Marshall) Violations of Virginia wiretapping laws.**

**Current Law:** Permits any person whose wire, electronic, or oral communication is intercepted, disclosed, or used illegally to (i) have a civil cause of action against any person who intercepts, discloses, uses, or procures any other person to intercept, disclose, or use such communications, and (ii) be entitled to recover punitive damages and

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attorney's fees and litigation costs from any such person. The rate of actual damages is \$400 a day for each day of the violation or \$4,000, which is higher.

**Effect of the Bill:** The bill amends § 19.2-69 of the *Code of Virginia* to provide for computation of liquidated damages. Liquidated damages shall be computed at the rate of \$800 a day for each day of violation or \$8,000, whichever is higher, if the wire, electronic, or oral communication intercepted, disclosed, or used is between certain parties whose communication is considered privileged or protected. The categories of parties include: (i) a husband and wife; (ii) an attorney and client; (iii) a licensed practitioner of the healing arts and patient; (iv) a licensed professional counselor, licensed clinical social worker, licensed psychologist, or licensed marriage and family therapist and client; or (v) a clergy member and person seeking spiritual counsel or advice. The injured party may still recover actual, punitive, and attorney fees and litigation costs.

#### **HB 1408 (Marshall) (Incorporates HB 1348) Telecommunication records; warrant requirement.**

**Current Law:** Identifies for providers of electronic communication services or remote computing services the circumstances under which the provider is permitted and prohibited from disclosing records or other information pertaining to a subscriber or customer to an investigative or law enforcement officer.

**Effect of the Bill:** This bill amends § 19.2-70.3 of the *Code of Virginia* and adds a new section prohibiting an investigative or law enforcement officer from using any device to obtain electronic communications or collect real-time location data from an electronic device without first obtaining a search warrant authorizing the use of the device. The requirement to obtain a warrant applies if, in order to obtain the contents of such electronic communications or such real-time location data from the provider of electronic communication service or remote computing service, the officer would be required to obtain a search warrant. However, an investigative or law-enforcement officer may use a device without first obtaining a search warrant in the following circumstances:

1. To respond to the user's call for emergency services;
2. With the informed, affirmative consent of the owner or user of the electronic device concerned if (i) the device is in his possession; (ii) the owner or user knows or believes that the device is in the possession of an employee or agent of the owner or user with the owner's or user's consent; or (iii) the owner or user knows or believes

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- that the device has been taken by a third party without the consent of the owner or user;
3. With the informed, affirmative consent of the legal guardian or next of kin of the owner or user, if reasonably available, if the owner or user is reasonably believed to be deceased, is reported missing, or is unable to be contacted; or
  4. If the investigative or law-enforcement officer reasonably believes that an emergency involving the immediate danger to a person requires the disclosure, without delay, of real-time location data concerning a specific person and that a warrant cannot be obtained in time to prevent the identified danger, and the possessor of the real-time location data believes, in good faith, that an emergency involving danger to a person requires disclosure without delay.

**HB 1500 (Carr) / SB 892 (Peterson) Overdoses; establishes an affirmative defense to prosecution of an individual to allow an individual to feel safe reporting the incident.**

**Current Law:** The *Code of Virginia* does not provide an affirmative defense for the prosecution of an individual for the unlawful purchase, possession, or consumption of alcohol, possession of a controlled substance, possession of marijuana, intoxication in public, or possession of controlled paraphernalia.

**Effect of the Bills:** The bill adds a section numbered **18.2-251.03** to the *Code of Virginia*. It is an affirmative defense to the prosecution of an individual for the unlawful purchase, possession, or consumption of alcohol pursuant to § **4.1-305**, possession of a controlled substance pursuant to § **18.2-250**, possession of marijuana pursuant to § **18.2-250.1**, intoxication in public pursuant to § **18.2-388**, or possession of controlled paraphernalia pursuant to § **54.1-3466** if all of the following conditions are met:

1. An individual, in good faith, seeks or obtains emergency medical attention for himself or another individual experiencing an overdose by contemporaneously reporting the overdose to a firefighter as defined in § **65.2-102**, emergency medical services personnel as defined in § **32.1-111.1**, a law-enforcement officer as defined in § **9.1-101**, or an emergency 911 system;
2. The individual must identify himself to law-enforcement; and
3. The individual must substantially cooperate with any investigation of a criminal offense reasonably related to the substance that resulted in the overdose.

An individual may not assert this affirmative defense if the person sought or obtained emergency medical attention for himself or another individual during the execution of a search warrant, while law enforcement conducts a lawful search, or a lawful arrest.

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### **HB 1666 (Fowler) Restoration of right to possess a firearm.**

**Current Law:** Identifies when it is unlawful for a person to possess or transport firearms, firearms ammunition, stun weapons, explosive, or concealed weapons. The law allows an individual to petition the circuit court in the jurisdiction in which he resides to obtain permission to possess or transport a firearm or stun weapon. Current law does not identify a venue for a nonresident's restoration petition nor does it permit an individual to petition for the right to possess or transport ammunition for a firearm.

**Effect of the Bill:** The bill amends § **18.2-308.2** of the *Code of Virginia*, and permits any person to petition the circuit court for a permit to possess or transport firearms ammunition in addition to petitioning the court for a permit to possess, transport, or carry a firearm or a stun weapon. Individuals who are not residents of the Commonwealth may petition the circuit court of any county or city where such person was last convicted of a felony or adjudicated delinquent of a disqualifying offense for a permit to possess or carry a firearm, ammunition for a firearm, or a stun weapon; however, an individual who has been convicted of a felony shall not be qualified to petition for a permit unless his civil rights have been restored by the Governor or other appropriate authority.

### **HB 2120 (Cline) Strangulation; admission to bail, alleged victim is a family or household member**

**Current Law:** An individual has a right to bail unless there is probable cause to believe the he will fail to appear for trial, is a danger to himself or the public, or is charged with an offense meeting the criteria for presuming, subject to rebuttal that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public.

**Effect of the Bill:** The bill amends § **19.2-120** of the *Code of Virginia* and adds the offense of strangulation in cases 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.

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**SB 720 (Marsden) Criminal history record information on the Internet; penalty.**

**Current Law:** The *Code of Virginia* does not address soliciting or accepting payment to prevent the dissemination or publication of adult criminal history record information.

**Effect of the Bill:** The bill adds a section numbered **8.01-40.3** to the *Code of Virginia*. The bill creates a civil action against any person who disseminates, publishes, or maintains or causes to be disseminated, published, or maintained the criminal history record information of an individual pertaining to that individual's charge or arrest for a criminal offense and solicits, requests, or accepts money or other thing of value for removing such information. Persons violating the law are liable to the individual who is the subject of the information for actual damages or \$500, whichever is greater, in addition to reasonable attorney fees and costs.

Criminal history record information is defined in the *Code Virginia* as records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ **16.1-226** et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

**Background on the Bill:** According to an article written by Meghan Gaffney with the Capital News Service on the Channel 6 News website, “Mugshots.com is one of the largest websites that publishes arrest photos and offers to remove them for a fee. Calling itself the “Google of Mugshots,” the company publishes more than 1,000 crime stories each month. It charges users \$399 to remove one arrest photo from the site and \$1,799 to “unpublish” five mugshots. The problem of charging fees to remove arrest photos was brought to Senator Marsden’s attention when he was contacted by a constituent for assistance with removing from the web site arrest photos for a charge that had been dismissed.

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**HB 1578 (Watts) DNA data bank.**

**Current Law:** Requires the Virginia Department of Corrections and the Department of Forensic Science to, on a quarterly basis, compare databases of offenders under the custody or supervision of the Department of Corrections with the DNA data bank of the Department of Forensic Science. The Virginia Department of Corrections shall require a DNA sample of those offenders under its custody or supervision if they are not identified in the DNA data bank.

Each community-based probation services agency established pursuant to § 9.1-174 and each sheriff or regional jailer shall determine by reviewing the Local Inmate Data System upon intake and again prior to discharge whether a blood, saliva, or tissue sample has been taken for DNA analysis for each offender required to submit a sample pursuant to this section and, if no sample has been taken, require an offender to submit a sample for DNA analysis.

**Effect of the Bill:** The bill amends and reenacts § 19.2-310.2 of the *Code of Virginia* and 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 bill also requires the State Police or its designee to obtain a DNA sample from persons required to register a sample of DNA if one has not been received by the Department of Forensic Science. The bill does not change the requirement of the Virginia Department of Corrections, community-based probation services agencies, sheriffs, and regional jailers to determine if a sample of DNA has been taken and to require an offender to submit a sample if a sample was not taken.

**HB 1928 (Bell) / SB 1187 (Obenshain) (HB 1617 Incorporated into HB 1928) DNA; analysis upon conviction of certain Class 1 misdemeanors.**

**Current Law:** A sample is taken for DNA analysis from adults convicted of only five misdemeanor sex offenses: (i) § 18.2-67.4 (sexual battery), (ii) § 18.2-67.4:2 (sexual abuse of a child 13 years of age or older but under 15), (iii) subsection C of § 18.2-67.5 (attempted sexual battery), (iv) § 18.2-130 (peeping), or (v) § 18.2-370.6 (penetrating the mouth of a child under 13 with the tongue).

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A fee of \$25 shall be charged for the withdrawal of this sample. The fee shall be taxed as part of the costs of the criminal case resulting in the conviction and one-half of the fee shall be paid into the general fund of the locality where the sample was taken and one-half of the fee shall be paid into the general fund of the state treasury.

**Effect of the Bills:** The bills amend §§ **19.2-310.2** and **19.2-310.7** of the *Code of Virginia* and add to the list of misdemeanor violations requiring the submission of a DNA sample. The bill requires a DNA sample for misdemeanor violations of **16.1-253.2** (violation of protective orders); **18.2-60.3**, (stalking); **18.2-60.4** (violation of protective orders); **18.2-67.4:1**,(infected sexual battery); **18.2-67.5** (attempt of any of the following: rape, forcible sodomy, object sexual penetration, aggravated sexual battery, sexual battery); **18.2-102** (unauthorized use of an animal, aircraft, vehicle or boat); **18.2-121** (entering the property of another for the purpose of damaging the property or the contents within the property); **18.2-387** (indecent exposure); **18.2-387.1**, (obscene sexual display); **18.2-479.1** (resisting arrest/fleeing from law enforcement officer).

Additionally, the withdrawal fee for the sample increases from \$25 to \$53. Fifteen (\$15) dollars of the fee shall be paid to the general fund of the locality and \$38 shall be paid into the general fund of the state treasury. Clarifying language is added stating that an individual may request the Department of Forensic Science to purge all DNA records and identifiable information when the conviction is reversed and the case dismissed if the DNA profile is not required to be included in the data bank pursuant to the following *Code* sections: **9.1-903**, **16.1-299.1**, **19.2-310.2**, and **19.2-310.2:1**.

**Background on the Bill:** Jesse Matthew is a suspect in the death of Hannah Graham. Hannah Graham was abducted in September of 2014 from Charlottesville. Jesse Matthew is also a suspect in a 2005 rape in Fairfax and in the 2009 disappearance of Virginia Tech student Morgan Harrington. Mr. Matthew had been convicted of a misdemeanor in 2010, but there was no law requiring his DNA be taken at that time.

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## Education

**HB 1303 (Farrell) / SB 900 (Barker) Standards of Learning Assessments will be made available to school divisions by December 1<sup>st</sup> of each school year.**

**Current Law:** Requires the Board, in consultation with the chairpersons of the eight regional superintendents' study groups, establish a timetable for administering the Standards of Learning (SOL) assessments to ensure genuine end-of-course and end-of-grade testing and with the assistance of independent testing experts, conduct a regular analysis and validation process for these assessments.

**Effect of the Bills:** The bill amends § **22.1-253.13:3** of the *Code of Virginia*. The bill removes the requirement for the Board, in consultation with the chairpersons of the eight regional superintendents' study group, to establish a timetable for administering the SOL. The Department of Education is required to make available to school divisions SOL assessments for middle and high school students by December 1 of the school year or when newly developed assessments are available, whichever is later.

**HB 1307 (Landes) / SB 1293 (Martin) Public elementary and secondary schools use of unique student identification numbers.**

**Current Law:** Requires each student to present a federal Social Security number within 90 days of enrollment in a public school. The Board of Education permits the superintendent or his designee to assign another identifying number to the student or waive the requirement to present the Social Security number.

**Effect of the Bills:** The bill amends § **22.1-260** of the *Code of Virginia* and adds a new section numbered **22.1-287.02**. The language requiring each student to provide a Social Security number has been removed from § **22.1-260**. The new section numbered **22.1-287.02** prohibits the Department of Education and local school boards from requiring any student enrolled in public school or receiving home instruction to provide a federal Social Security number. The Department of Education is required to develop a system of unique student identification numbers. The student's number shall be retained as long as he is enrolled in public school. The student number cannot include or be derived from the student's Social Security number.

**Delayed Effective Date:** August 1, 2015

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**HB 1334 (Landes) Students personally identifiable information; (DOE) to develop certain policies.**

**Current Law:** Section § **22.1-287.01** *Code of Virginia* restricts the Department of Education, local school board members, and school board employees from transmitting personally identifiable information, as defined in the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations, from a student's record to a federal government agency or an authorized representative of such agency but there is no requirement to report to a parent when information has been unlawfully disseminated.

**Effect of the Bill:** The bill adds a new section numbered **22.1-287.02** to the *Code of Virginia*. When electronic records containing personally identifiable information are reasonably believed by the Department of Education or a local school division to have been disclosed in violation of the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) or other federal or state law applicable to such information, the Department or local school division is required to notify, as soon as practicable, the parent of any student affected by such disclosure, except as otherwise provided in § **32.1-127.1:05** or **18.2-186.6**. The notification must include the (i) date, estimated date, or date range of the disclosure; (ii) type of information that was or is reasonably believed to have been disclosed; and (iii) remedial measures taken or planned in response to the disclosure.

**HB 1338 (Farell) Electronic textbooks; funding.**

**Current Law:** Current law requires the Virginia Department of Education to include in the School Performance Report Card the percentage of each school division's annual operating budget allocated for instructional costs. The Department shall establish a methodology for allocating each school division's expenditures to instructional and non-instructional costs in a manner that is consistent with the Standards of Quality approved by the General Assembly.

**Effect of the Bill:** The bill amends the *Code of Virginia* §§ **22.1-90.1** to include language stating that the Department of Education shall "allocate to instructional costs each school division's expenditures on hardware necessary to support electronic textbooks." This bill also requires hardware and software needed to support electronic textbooks be considered an instructional expense.

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## **HB 1351 (Ramadan) / SB 916 (Wexton) Diploma seals; biliteracy.**

**Current Law:** Current law outlines student achievement and graduation requirements. Each local school board shall award diplomas to all secondary school students, including students who transfer from nonpublic schools or from home instruction, who earn the units of credit prescribed by the Board of Education, pass the prescribed tests, and meet such other requirements as may be prescribed by the local school board and approved by the Board of Education. Provisions shall be made to facilitate the transfer and appropriate grade placement of students from other public secondary schools, from nonpublic schools, or from home instruction as outlined in the standards for accreditation. Course credits earned for online courses taken in the Department of Education's Virtual Virginia program shall transfer to Virginia public schools in accordance with provisions of the standards for accreditation. Further, reasonable accommodation to meet the requirements for diplomas shall be provided for otherwise qualified students with disabilities, as needed.

Students who have completed a prescribed course of study as defined by the local school board shall be awarded certificates of program completion by local school boards if they are not eligible to receive a Board of Education-approved diploma.

Students that are identified as disabled who complete the requirements of their individualized education programs shall be awarded special diplomas by local school boards.

The *Code* section also outlines requirements for establishing course and credit requirements for the high school diploma.

**Effect of the Bills:** These bills amend §§ 22.1-253.13:4 of the *Code of Virginia* to:

- Include language requiring the Board of Education to establish criteria for awarding a diploma seal of biliteracy to any student who demonstrates proficiency in English and at least one other language for Board of Education approved diplomas.
- Instruct the Board to consider criteria including the student's (i) score on a College Board Advanced Placement foreign language examination, (ii) score on an SAT II Subject Test in a foreign language, (iii) proficiency level on an ACTFL Assessment of Performance toward Proficiency in Languages (AAPPL) measure or another nationally or internationally recognized language proficiency test, or (iv) cumulative grade point average in a sequence of foreign language courses approved by the Board.

**Delayed Effective Date:** This bill shall go into effect for high school seniors graduating in 2016.

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**HB 1443 (Bell) /SB 782 (Favola) Use of seclusion and restraint in public schools; Board of Education regulations.**

**Current Law:** There is nothing in current law that addresses seclusion and restraint in public schools.

**Effect of the Bills:** This bill amends §§ **22.1-279.1:1** of the *Code of Virginia* and adds a section on the use of seclusion and restraint in public schools. The new section includes language stating, “The Board shall adopt regulations on the use of seclusion and restraint in public elementary and secondary schools in the Commonwealth that (i) are consistent with its Guidelines for the Development of Policies and Procedures for Managing Student Behavior in Emergency Situations and the Fifteen Principles contained in the U.S. Department of Education's Restraint and Seclusion: Resource Document; (ii) include definitions, criteria for use, restrictions for use, training requirements, notification requirements, reporting requirements, and follow-up requirements; and (iii) address distinctions, including distinctions in emotional and physical development, between the general student population and the special education student population and elementary school students and secondary school students.”

**HB 1490 (Habeeb)/ SB 874 (Cosgrove) Public school; Standards of Learning tests.**

**Current Law:** The *Code of Virginia* does not address SOL retests. The Virginia Administrative Code **8VAC20-131-110 (D)** authorizes the Board of Education to provide opportunities for students who meet criteria adopted by the board to have an expedited retake of a SOL test to earn verified credit.

**Effect of the Bills:** Requires the Board of Education to promulgate regulations to provide the same criteria for eligibility for an expedited retake of any Standards of Learning test, with the exception of the writing Standards of Learning tests, to each student regardless of grade level or course.

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### **HB 1587 (Landes) Parent notification required to blood test minors.**

**Current Law:** Whenever any school board employee is directly exposed to body fluids of any person in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit Human Immunodeficiency Virus (HIV) or Hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with HIV or Hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the school board employee who was exposed. Unless it is an emergency situation, it is the responsibility of the school board employee to inform the person of this provision prior to the contact that creates a risk of such exposure.

**Effect of the Bill:** The bill amends § **32.1-45.1** of the *Code of Virginia* and requires the parent, guardian, or person standing in loco parentis of the minor to be notified prior to initiating the taking of a blood specimen from the minor when a school board employee is directly exposed to body fluids of any person in a manner that may transmit HIV or Hepatitis B or C viruses.

### **HB 1615 (Greason) Standards of Learning; integrated assessments.**

**Current Law:** Current law states that the Board of Education shall include student outcome measures that include end of course or end of grade tests. These tests are required for Standards of Accreditation.

**Effect of the Bill:** This bill amends §§ **22.1-253.13:3** of the *Code of Virginia* and includes language that permits the end of course and end of grade tests for English, mathematics, science, and history to include multiple subject areas.

### **HB 1616 (Greason) Career and Technical Education; alignment with national certification.**

**Current Law:** Current law states the definition of career and technical education as an organized education program offering a sequence of courses that (i) may incorporate field, laboratory, and classroom instruction; (ii) emphasize career and technical occupational experiences and; (iii) are designed to prepare individuals for further education and gainful employment

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**Effect of the Bill:** This bill amends §§ **22.1-227.01** of the *Code of Virginia* and includes a fourth clause regarding the criteria for career and technical education classes, “(CTE classes) (iv) are aligned with state or national program certification and accreditation standards, if such standards exist for the sequence of courses. However, clause (iv) shall not apply to any program offered by industry in cooperation with a local school board.

**HB 1679 (Bell) Information on services for students identified as hearing impaired or visually impaired; school division website posting.**

**Current Law:** Current law states that the Department of Education shall annually prepare and distribute to local school boards packets of information describing the educational and other services available through the Virginia School for the Deaf and the Blind, the Virginia Department for the Deaf and Hard-of-Hearing, and the Virginia Department for the Blind and Vision Impaired to students who are identified as hearing impaired or visually impaired. Local school boards shall annually distribute physical copies of such information.

**Effect of the Bill:** This bill amends § **22.1-217.01** of the *Code of Virginia*. The bill changes the requirement of local school boards from physically distributing information on services for students identified as hearing or visually impaired to posting this information on the school division’s website and informing parents of those students who are identified as hearing impaired or visually impaired of its availability. The bill also adds language to ensure that packets of information are available in an accessible format for review by parents who do not have Internet access.

**HB 2137 (Yancey) Teachers; initial license with no industry certification credential, may issue provisional license.**

**Current Law:** Every teacher seeking an initial licensure with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. "Industry certification credential" is defined as a career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license, or successfully completing an occupational competency examination.

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\* Legislation is effective on July 1, 2015 unless otherwise noted.

**Effect of the Bill:** The bill amends § **22.1-298.1** of the *Code of Virginia* and allows the Board of Education, upon request of the employing school division or educational agency, to issue a provisional license to a teacher seeking an initial license in the Commonwealth who has not attained an industry certification credential in the area in which the teacher seeks endorsement to allow time for the teacher to attain such required credential. The industry certification credential requires the professional license be issued from the state of Virginia.

#### **HB 2276 (Orrock) Standard diploma; career and technical education credential.**

**Current Law:** Current law states that, beginning with first-time ninth grade students in the 2013-2014 school year, requirements for the standard diploma shall include a requirement to earn a career and technical education credential that has been approved by the Board. This credential could include, but would not be limited to, the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment.

**Effect of the Bill:** This bill amends § **22.1-253.13:4** of the *Code of Virginia* and adds the following language: “except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to satisfy the standard diploma requirements.”

#### **SB 982 (Garrett) HB 1675 (Greason) Public school; graduation requirements; verified credits.**

**Current Law:** Current law outlines the requirements relating to graduation requirements, and local paths to standard units of credit.

**Effect of the Bills:** These bills amend §§ **22.1-79.1** and **22.1-253.13:4** of the *Code of Virginia* and remove the language that prohibits school boards from approving alternative plans that reduce instructional time in the core subjects of English, mathematics, social studies, and science. Additionally, the bills include the following language: “Permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction to earn a standard unit of credit upon providing the Board with satisfactory

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proof, based on Board guidelines, that the students for whom such requirements are waived have learned the content and skills included in the relevant Standards of Learning.”

### **SB 1236 (Favola) Special diplomas.**

**Current Law:** Current Law states that students identified as disabled that complete the requirements of their individualized education programs and meet requirements prescribed by the Board pursuant to the regulation but do not meet the requirements for any named diploma shall be awarded special diplomas by local school boards.

**Effect of the Bill:** This bill amends § **22.1-253.13:4** of the *Code of Virginia* and changes the type of diploma from “special” to “Applied Studies” diploma for students that are indentified as disabled but complete the requirements of their individualized education programs and meet the requirements prescribed by the Board but do not meet the requirements for any named diploma.

### **SJ 218 (Howell) Study; teacher turnover; report.**

#### **Effect of the Resolution:**

- Requests the Department of Education to study the feasibility of implementing a program in the Commonwealth to track teacher turnover by developing exit questionnaires and other means.
- In conducting its study, the Department of Education shall consider and make recommendations regarding (i) an exit questionnaire for teachers separating from service or choosing early retirement that includes reasons for leaving as a function of school climate, comparative salaries of neighboring school divisions, job demands as a reflection of teacher time, nonteaching duties, student behavior, classroom management, autonomy in the classroom, opportunities for growth and improvement, and health and family considerations in conjunction with (ii) use of the NCTAF Teacher Turnover Cost Calculator and its associated background information to estimate the dollars spent on teacher turnover for a specific school or school division in the Commonwealth or enable school leaders to design and conduct their own detailed teacher turnover cost analyses.

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- The Department shall complete its meetings by November 30, 2015, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2016 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

## Juvenile Justice

### **HB 1474 (Lingamfelter) Confinement in a detention home for offenses causing a death.**

**Current Law:** Lists the criteria for when a juvenile may be placed in a juvenile detention center along with the maximum amount of time a juvenile can be confined in a detention home. The court may order the juvenile confined in a detention home or other secure facility for juveniles for a period of six months or less from the date the order is entered for a single offense or multiple offenses.

**Effect of the Bill:** The bill amends § **16.1-284.1** of the *Code of Virginia* and grants an exception to the requirement that a juvenile's placement in a detention home not exceed six months. The exception allows the juvenile to be placed in a detention home for up to 12 months and applies when a single offense or multiple offenses, which if committed by an adult would be punishable as a felony or a Class 1 misdemeanor, caused the death of any person.

**Background on the Bill:** This bill arises out of a case in Prince William County in which a juvenile was adjudicated delinquent for reckless driving in an incident that resulted in the death of another. The juvenile was sentenced to 30 days detention with 10 days suspended. The family of the deceased appealed to the legislator that the disposition did not match the impact of the illegal behavior.

### **HB 1957 (McClellan) Juvenile records; DMV information released to certain persons.**

**Current Law:** Requires the district courts and the circuit courts to forward information to the Department of Motor Vehicles. The information required to be forwarded includes

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any convictions pertaining to the operation of a privately owned motor vehicle or a commercial motor vehicles and convictions for failing or refusing to pay fines, costs, and restitution for traffic cases. The current law does not address juvenile adjudications.

**Effect of the Bill:** The bill amends § **46.2-383** of the *Code of Virginia* and restricts the type of information the Department of Motor Vehicles can make available to the public or other parties (i.e. insurance companies). Information on juvenile offenses that do not involve the operation of a motor vehicle are available only to the person himself, his parent or guardian, law-enforcement officers, attorneys for the Commonwealth, and courts. This bill is a recommendation of the Virginia State Crime Commission.

### **HB 1978 (Preston) Juvenile Justice, Advisory Committee on; changes requirements for quorum and meetings.**

**Current Law:** Identifies the membership and terms of the individuals required to serve on the Advisory Committee on Juvenile Justice. Membership is based on the requirements of the Juvenile Justice Delinquency Prevention Act. A majority of the members of the Committee constitute a quorum. The Committee is required to have regular meetings no less than four times a year. The Committee Chairman determines the time and place of the meetings on his own motion or based on the written request of five Committee members.

**Effect of the Bill:** The bill amends § **9.1-111** of the *Code of Virginia* and changes the quorum requirements for the Advisory Committee on Juvenile Justice from a majority of the members to 12 members, including voting and nonvoting members. The bill also eliminates the provision that requires the Advisory Committee to meet at least four times per year.

### **HB 2036 (DeSteph) / SB 1325 (Stuart) Nicotine Vapor products; prohibits purchase, etc., by minors, packaging, civil penalty.**

**Current Law:** Prohibits the purchase or possession of tobacco products, nicotine vapor products, and alternative nicotine products by minors. Additionally, the law prohibits the sale of tobacco products, nicotine vapor products, and alternative nicotine products to minors. Requires individuals selling tobacco products, nicotine vapor products, and alternative nicotine products by mail or Internet to verify the purchaser is 18 years of age

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through a government database or by requiring the purchaser's signature before releasing the product to the purchaser.

**Effect of the Bills:** The bill amends § **18.2-371.2** of the *Code of Virginia* and adds in Title 59.1 a chapter numbered 23.2, consisting of sections numbered **59.1-293.10** and **59.1-293.11**. The bill requires the signature of a person at least 18 years of age when tobacco products, nicotine vapor products, or alternative nicotine products purchased are mailed or ordered by Internet. Current law requires the signature of the purchaser but does not specifically state the person signing has to be 18 years old.

The new *Code* section provides that no person shall sell or distribute at retail a liquid nicotine container on or after October 1, 2015, unless the container is packaged in child-resistant packaging. The bill allows existing inventory to be sold until January 1, 2016. Any person who knows or has reason to know they are violating the child-resistant packaging requirements is guilty of a Class 4 misdemeanor.

The requirement for child-resistant packaging shall be null, void, and of no force and effect upon the effective date of either enacted federal legislation or final regulations issued by the U.S. Food and Drug Administration or by any other federal agency where such legislation or regulations mandate child-resistant packaging for liquid nicotine containers.

#### **HB 2040 (Bell) Child prostitution increase in penalty.**

**Current Law:** It is a Class 4 felony to (1) require an individual to engage in prostitution, (2) take or detain a person against their will and with force, threats, or duress compel them to marry another person, (3) be a parent, legal custodian, or a person standing in loco parentis and consent for an individual to be taken for prostitution or unlawful sexual intercourse, or (4) require a child to engage in prostitution.

**Effect of the Bill:** The bill amends § **18.2-355** of the *Code of Virginia* and increases the act of requiring a child to engage in prostitution from a Class 4 felony to a Class 3 felony.

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## **SB 961 Department of Juvenile Justice; access to criminal history record information.**

**Current Law:** Criminal history record information is permitted to be disseminated directly or through an intermediary only to the individuals and agencies identified and referenced within § 19.2-389. The Code section also lists the entities' purpose for receipt of the criminal history record information.

**Effect of the Bill:** The bill amends § 19.2-389 of the *Code of Virginia* and authorizes the Department of Juvenile Justice (DJJ) to obtain Virginia criminal history record information of parents, guardians, and other adults residing in a juvenile's household for the purpose of completing a pre-dispositional or post-dispositional social history report required by § 16.1-273 or regulations promulgated by the Board of Juvenile Justice.

### **Background on the Bill:**

Prior to 2001, DJJ had access to the Virginia Criminal Information Network (VCIN) and National Criminal Information Center (NCIC) information on juvenile offenders' household members. However, in 2001 it was determined by counsel for the Virginia State Police that federal statutes do not allow for NCIC access and state statutes do not allow for VCIN access for record checks of family members for the purpose of completing a social history or for placement purposes.

*Note:* There is no federal authority for DJJ to access NCIC; therefore, the information provided to DJJ will only be Virginia criminal background information. Despite this limitation, having access to VCIN will dramatically improve the ability of probation officers to understand both the risks involved in home visits, as well as the risks and challenges involved in retaining a youth in his or her home.

## **SB 1098 (McEachin) Advisory Committee on Juvenile Justice and Prevention.**

**Current Law:** Establishes the Advisory Committee on Juvenile Justice and outlines its responsibilities, membership, and governing procedures.

**Effect of the Bill:** The bill amends § 9.1-111 of the *Code of Virginia* to broaden the scope of the Advisory Committee on Juvenile Justice to include the review of juvenile delinquency prevention activities in the Commonwealth. The bill also adds the Commissioner of Health to the membership of the Advisory Committee and provides that the Advisory Committee may serve as an advisory committee as necessary for other

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federal or state laws or programs administered by the Department of Criminal Justice Services requiring a similar committee.

## Mental Health

### **HB 1694 (Yost) / SB 966 (Barker) Temporary detention order; custody.**

**Current Law:** Requires that minors and adults subject to a temporary detention order remain in the custody of the community services board for the duration of the temporary detention order except for the purpose of transporting the minor or adult to the state facility or alternative facility.

**Effect of the Bills:** The bill amends §§ **16.1-340.1:1** and **37.2-809.1** of the *Code of Virginia* and 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 a person remain in the custody of law enforcement until custody is transferred to a facility or to an alternative transportation provider.

### **HB 1717 (LeMunyon) / SB 773 (McWaters) Psychiatric treatment of minors; objecting minor.**

**Current Law:** Section **16.1-338** of the *Code of Virginia* permits a minor younger than 14 years of age to be admitted to a willing mental health facility for inpatient treatment with the consent of a parent. A minor 14 years of age or older may be admitted to a willing mental health facility for inpatient treatment but requires the consent of the minor and the minor's parent.

The parent or a minor age 14 years of age or older can object to treatment at anytime and upon objection the minor must be discharged within 48 hours.

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Section **16.1-339** of the *Code of Virginia* permits the parent to admit a minor who refuses treatment to a mental health facility if he meets the criteria with the exception of the minor's consent outlined in subsection B of § **16.1-338** of the Code of Virginia. Within 24 hours of admission the minor is required to be examined by a qualified evaluator to determine the following:

1. Because of mental illness, the minor (i) presents a serious danger to himself or others to the extent that severe or irremediable injury is likely to result, as evidenced by recent acts or threats or (ii) is experiencing a serious deterioration of his ability to care for himself in a developmentally age-appropriate manner, as evidenced by delusory thinking or by a significant impairment of functioning in hydration, nutrition, self-protection, or self-control;
2. The minor is in need of inpatient treatment for a mental illness and is reasonably likely to benefit from the proposed treatment; and
3. Inpatient treatment is the least restrictive alternative that meets the minor's needs. The qualified evaluator shall submit his report to the juvenile and domestic relations district court for the jurisdiction in which the facility is located.

**Effect of the Bills:** The bill amends §§ **16.1-338** and **16.1-339** of the *Code of Virginia*.

§ **16.1-338** of the *Code of Virginia*

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.

§ **16.1-339** of the *Code of Virginia*

Amends the criteria for admitting an objecting minor 14 years of age or older for psychiatric treatment and removes the requirement that the evaluator find that because of mental illness, the minor (i) presents a serious danger to himself or others to the extent that severe or irremediable injury is likely to result, as evidenced by recent acts or threats or (ii) is experiencing a serious deterioration of his ability to care for himself in a developmentally age-appropriate manner, as evidenced by delusory thinking or by a significant impairment of functioning in hydration, nutrition, self-protection, or self-control. The requirement that the placement be the least restrictive has also been removed.

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The evaluator must only determine:

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. 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.

### **HB 2118 (Cline) / SB 1265 (Deeds) Acute psychiatric bed registry; frequency of updating**

**Current Law:** Requires the Department of Behavioral Health and Developmental Services to develop and administer a web-based psychiatric bed registry. The registry provides real-time information regarding the number and type of beds available. The *Code* section describes what information is to be included on the registry.

**Effect of the Bills:** The bill amends § **37.2-308.1** of the *Code of Virginia* and requires every state facility, community services board, behavioral health authority, and private inpatient provider licensed by the Department of Behavioral Health and Developmental Services to provide updates, at least once a day. The following changes are to be updated: a change in bed availability for the facility, board, authority, or provider or if no change in bed availability has occurred.

### **SB 1114 (Barker) Temporary detention for testing, observation, and treatment of person who is the subject of an emergency custody order.**

**Current Law:** Sets forth the procedure and criteria for the issuance of emergency custody order when certain criteria are met under § **37.2-808**, as well as for temporary detention orders under § **37.2-1104**.

**Effect of the Bill:** The bill amends §§ **37.2-808** and **37.2-1104** of the *Code of Virginia*, clarifies that a court or magistrate may issue an order for temporary detention for medical testing, observation, and treatment for a person who is also the subject of an emergency custody order for evaluation and treatment of mental illness. Upon completion of any required testing, observation, or treatment, the hospital emergency room or other appropriate facility in which the person is temporarily detained shall notify the nearest community services board, and a designee of the community services board shall

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complete the evaluation as soon as is practicable, but prior to the expiration of the order, for temporary detention for testing, observation, or treatment.

## Sex Offenses / Sex Offenders

### **HB 1353 (Ramadan) SB 1074 (McDougle) Sex Offender and Crimes Against Minors Registry.**

**Current Law:** Prohibits the use of information contained in the Sex Offender and Crimes Against Minors Registry for the purpose of intimidating or harassing an individual. A willful violation is a Class 1 misdemeanor. Absent aggravating circumstances, the mere republication or reasonable distribution of material contained or derived from the publicly available sex offender database found on the Internet shall not be deemed harassment or intimidation.

**Effect of the Bills:** The bill amends § **9.1-918** of the *Code of Virginia* and adds a new section numbered **9.1-923** to the *Code of Virginia* in Chapter 9 of Title 9.1.

Section **9.1-918** of the *Code of Virginia* prohibits the use of information from the Supplement to the Registry for purposes of intimidating or harassing an individual. A willful violation is a Class 1 misdemeanor. Absent aggravating circumstances, the mere republication or reasonable distribution of material contained or derived from the publicly available sex offender database found on the Internet shall not be deemed harassment or intimidation.

Section **9.1-923** authorizes the establishment of a Supplement to the Registry of Information. The Supplement to the Registry shall be made available to the public on the website of the State Police and shall include the following information: the name, year of birth, date of the conviction, jurisdiction in which the conviction occurred, the person's age on the date of the conviction, the offense of which he was convicted, and the *Code of Virginia* section of the conviction for every person convicted of an offense listed in subsection B on or after July 1, 1980 or before July 1, 1994.

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- (i) of § **18.2-48** (Abduction with intent to extort money or for immoral purpose) if the victim was a minor; clauses (ii) and (iii) of § **18.2-48**; § **18.2-61** (Rape); § **18.2-63** (Carnal knowledge of child between thirteen and fifteen years of age) if the victim was under 13 years of age; subsection A of § **18.2-63** if the offender was more than five years older than the victim; §§ **18.2-67.1** (Forcible sodomy), **18.2-67.2** (Object sexual penetration), and **18.2-67.3** (Aggravated sexual battery); § **18.2-67.4** (Sexual battery) if the victim was a minor; subsections A and B of § **18.2-67.5** (Attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery); subsection C of § **18.2-67.5** (Attempted sexual battery) if the victim was a minor; § **18.2-361** (Crimes against nature) if the victim was a minor; and §§ **18.2-370** (Taking indecent liberties with children), **18.2-370.1** (Taking indecent liberties with child by person in custodial or supervisory relationship), and **18.2-374.1** (Production, publication, sale, financing, etc., of child pornography; presumption as to age).
- Persons whose names and conviction information appear on the Supplement are not subject to the registration requirements of this chapter and are not considered persons for whom registration is required unless they are required to register pursuant to other provisions of this chapter.
- A person whose name and conviction information appear on the Supplement may, regardless of the date of conviction, follow the requirements of this *Code* section and petition the circuit court in which he was convicted or the circuit court where he then resides for removal of his name and conviction information from the Supplement if the offense he was convicted of would qualify for removal from the Registry under § **9.1-910**. A petition may not be filed until all court ordered treatment, counseling, and restitution has been completed.
- The Supplement to the Registry must be completed prior to January 1, 2016.

### **HB 1366 (Campbell) Sex offenses prohibiting entry onto school or other property**

**Current Law:** Prohibits adults convicted of a sexually violent offense from entering or being present during school hours, school-related or sponsored activities, the school bus or upon any property solely being used by a public or private school for a school related activity. The law permits adults prohibited from entering school or child day center property to petition the circuit court for permission to enter the property after giving notice to the attorney for the Commonwealth and either the proprietor of the child day center, the Superintendent of Public Instruction, or the chief administration of the school if the school is not a public school.

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\* Legislation is effective on July 1, 2015 unless otherwise noted.



**Effect of the Bill:** The bill amends § **18.2-370.5** of the *Code of Virginia* and adds two additional requirements.

1. The requirement to notify not only the Superintendent of Public Instruction but also the chairman of the school board.
2. The court is required to direct the petitioner to publish notice of the time and place of the hearing on his petition once a week for two successive weeks in a newspaper meeting the requirements of § **8.01-324**. The newspaper notice shall 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.

**HB 2228 (Ingram) / SB 918 (Wexton) Sex Offender and Crimes Against Minors Registry; registration verification.**

**Current Law:** Requires State Police to promptly investigate instances when it appears an individual has not complied with the duty to register or reregister and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment.

Additionally, the State Police are required to physically verify or cause to be physically verified the registration information within 30 days of the initial registration and semiannually each year thereafter and within 30 days of a change of address of those persons who are not under the control of the Department of Corrections or local adult community corrections.

The Department of Corrections and local adult community corrections are required to physically verify the registration information within 30 days of the original registration and semiannually each year thereafter and within 30 days of a change of address of all persons who are under the control of the Department of Corrections or local adult community corrections and those who are under supervision pursuant to § **37.2-919**, who are required to register pursuant to this chapter.

**Effect of the Bills:** The bill amends § **9.1-907** of the *Code of Virginia* to permit the State Police to physically verify an individual's registration in addition to allowing the Department of Corrections or local adult community corrections to physically verify the registration.

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**SB 914 (Wexton): Sexually violent predator offenses; retention of court case files.**

**Current Law:** Establishes record retention timeframes for court case files. All felony conviction case files are to be retained for 20 years from the sentencing date or until the sentence term ends, whichever comes later. Per § **16.1-69.55 (B)(4)** of the *Code of Virginia* juvenile court records for such crimes must already be retained for 50 years.

**Effect of the Bill:** The bill amends § **17.1-213** of the *Code of Virginia* to extend the timeframe for retention of case files for convictions of sexually violent offenses under § **37.2-900** to 50 years from the sentencing date or until the sentence term ends, whichever comes later.

## Social Services

**HB 1602 (Watts) Child support; DSS to prorate payments on the basis of amounts due.**

**Current Law:** If the Department of Social Services (Department) or its designee receives payments deducted from income of an obligor pursuant to more than one administrative order or a combination of judicial and administrative orders, the Department shall ensure that such payments are allocated among the obligees under orders with priority given to payment of the order for current support. Where the Department or its designee receives payments pursuant to two or more orders for current support, the payments received shall be prorated on the basis of the amounts due under each order. Upon satisfaction of any amounts due for current support, the remainder of the payments received shall be prorated on the basis of amount due under each order. Upon satisfaction of any amounts due for current support, the remainder of the payments received shall be prorated on the basis of amounts due under any orders for accrued arrearages.

**Effect of the Bill:** The bill amends §§ **63.2-1923**, **63.2-1924**, and **63.2-1954** of the *Code of Virginia*.

Sections **63.2-1923**, **63.2-1924**: The language from each section addressing how the Department is to allocate payments among obligees has been removed.

Section **63.2-1954** requires support payments received by the Department pursuant to one or more judicial or administrative orders, or a combination thereof, to be allocated among the obligees under orders with priority given to payment of the order for current support.

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Where payments are received pursuant to two or more orders for current support, the Department shall prorate the payments on the basis of any amounts due for current support under each order. Upon satisfaction of any amounts due for current support, the Department shall prorate the remainder of the payments on the basis of accrued arrearages owed to the obligees under each order. Payments received pursuant to federal tax refund offset shall be allocated pursuant to 45 C.F.R. § 303.72.

**HB 1821 (Farrell) / SB 834 (Martin) (This bill incorporates SB 1104) Post-adoption services.**

**Current Law:** Directs the State Register when it is appropriate to issue a new birth certificate for a person born in the Commonwealth of Virginia or adopted from a foreign country.

**Effect of the Bills:** The bill amends §§ **32.1-261** and **63.2-1220** of the *Code of Virginia* and requires the Department of Social Services to furnish a document listing all post-adoption services available to adoptive families to the State Register of Vital Records. The State Registrar is required to issue to adoptive parents a document, furnished by the Department of Social Services listing all post-adoption services available to adoptive families when issuing the new birth certificate.

**SB 947 (Favola) Foster care; removes certain requirement of Department of Social Services.**

**Current Law:** Requires the local department of social services or child welfare agency to prepare a foster care plan in any case in which (i) a local board of social services places a child through an agreement with the parents or guardians where legal custody remains with the parents or guardian, or (ii) legal custody of a child is given to a local board of social services or a child welfare agency.

In cases in which the department or child welfare agency concludes it is not reasonably likely that the child can be returned to his prior family, in a separate section of the plan the department, child welfare agency or team is to (a) provide a rationale for the conclusion. (b) provide information on the opportunities for placing the child with a relative or in an adoptive home; (c) design the plan to lead to the child's successful placement with a relative if a subsequent transfer of custody to the relative is planned, or in an adoptive home within the shortest practicable time, and if neither of such

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placements is feasible; (d) explain why permanent foster care is the plan for the child or independent living is the plan for the child in cases involving children admitted to the United States as refugees or asylees who are 16 years of age or older and for whom the goal is independent living

**Effect of the Bill:** The bill amends § **16.1-281** of the *Code of Virginia* and 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 the information to be sent to foster parents. The foster parent can now receive the entire plan and the rationale for not returning the child to the parent is no longer required to be excluded.

## Traffic / Vehicles

### **HB 1342 (DeSteph) SB 1220 (Reeves) Following too closely.**

**Current Law:** Prohibits the driver of a motor vehicle from following another motor vehicle, trailer, or semitrailer more closely than is reasonable and prudent, having due regard to the speed of both vehicles and the traffic on, and conditions of, the highway at the time.

**Effect of the Bills:** The bill amends § **46.2-816** of the *Code of Virginia* and prohibits the driver of a motor vehicle from following another **vehicle** (e.g. bicycles, mopeds etc.), trailer, or semitrailer more closely than is reasonable and prudent, having due regard to the speed of both vehicles and the traffic on, and conditions of, the highway at the time.

Section **46.2-100** provides the following definitions:

- "Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided, for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be deemed not to be a motor vehicle.

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\* Legislation is effective on July 1, 2015 unless otherwise noted.

- "Vehicle" means every device in, on, or by which any person or property is or may be transported or drawn on a highway, except devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ **46.2-800** et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds shall be vehicles while operated on a highway.

#### **HB 1344 (Rasoul) Flashing lights on motor vehicles.**

**Current Law:** Identifies and lists the type of vehicles that are permitted to be equipped with flashing, blinking, or alternating amber warning lights approved by the Superintendent. The list includes vehicles used in constructing, maintaining, and repairing highways or utilities on or along public highways.

**Effect of the Bill:** The bill amends § **46.2-1025** of the *Code of Virginia* and permits vehicles assisting with the management of roadside and traffic incidents, or performing traffic management services along public highways to equip vehicles with flashing, blinking, or alternating amber warning lights. This is in addition to permitting vehicles used in constructing, maintaining, and repairing highways or utilities on or along public highways to be equipped with flashing, blinking, or alternating amber warning lights.

#### **HB 1355 (Ramadan) Appealing violations of photo enforcement of traffic signals to circuit court.**

**Current Law:** Section **15.2-968.1** of the *Code of Virginia* authorizes the governing body of any county, city, or town to approve an ordinance to establish a traffic signal enforcement program. The section identifies what is required of the prosecution and proof of a violation. The maximum penalty for a traffic light program violation is currently \$50.

Section **16.1-106** of the *Code of Virginia* grants an individual the right to appeal an order or judgment rendered in a court not of record in a civil case if the amount in controversy is greater than \$50, if the appeal is filed within 10 days after the order or judgment, to a court of record. The appeal shall be to a court of record having jurisdiction within the territory of the court from which the appeal is taken and shall be heard de novo.

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**Effect of the Bill:** The bill amends §§ **15.2-968.1** and **16.1-106** of the *Code of Virginia*. The amendment to § **15.2-968.1** grants an operator of a motor vehicle found in violation of an ordinance created to enforce photo-monitoring systems for traffic lights the right to appeal to the circuit court in a civil proceeding. The amendment to § **16.1-106** reduces from \$50 to \$20 the amount of the matter in controversy above which an appeal of right exists in a civil case.

#### **HB 1379 (Farrell) Passing stationary mail vehicles.**

**Current Law:** Requires the driver of any vehicle overtaking another vehicle proceeding in the same direction to pass at least two feet to the left of the overtaken vehicle and cannot not return to the right side of the highway until safely clear of the overtaken vehicle.

**Effect of the Bill:** The bill adds language specifically addressing passing mail carriers and vehicles with flashing lights and requires the driver of any motor vehicle, upon overtaking a stationary vehicle that is displaying a flashing, blinking, or alternating amber light as provided in § **46.2-892** (governing rural mail carriers stopping on the highways) or subdivision A 10 of § **46.2-1025** (governing vehicles permitted to use flashing lights), shall proceed with due caution and maintain a safe speed for highway conditions.

#### **HB 1649 (Villanueva) Passing a garbage truck.**

**Current Law:** The driver of any vehicle overtaking another vehicle proceeding in the same direction shall pass at least two feet to the left of the overtaken vehicle and shall not again drive to the right side of the highway until safely clear of the overtaken vehicle, except as otherwise provided in this article.

**Effect of the Bill:** The bill amends § **46.2-838** of the *Code of Virginia*. The driver of any motor vehicle, upon overtaking a stationary vehicle in the process of refuse collection operations, shall (i) on a highway having at least four lanes, at least two of which are intended for traffic proceeding in the same direction as the approaching vehicle, proceed with caution and, if reasonable, with due regard for safety and traffic conditions, yield the right-of-way by making a lane change into a lane not adjacent to the stationary vehicle or (ii) if changing lanes would be unreasonable or unsafe or on highways having fewer than four lanes, proceed with due caution and decrease speed to 10 miles per hour below the posted speed limit and pass at least two feet to the left of the vehicle.

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## Venue

### **SB 709 (Edwards) Computer and other crimes; venue for prosecution.**

**Current Law:** Describes where venue lies for the purpose of prosecuting violations under the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.) Venue lies in the county or city:

1. In which any act was performed in furtherance of any course of conduct that violated any provision listed above;
2. In which the owner has his principal place of business in the Commonwealth;
3. In which any offender had control or possession of any proceeds of the violation or of any books, records, documents, property, financial instrument, computer software, computer program, computer data, or other material or objects that were used in furtherance of the violation;
4. From which, to which, or through which any access to a computer or computer network was made whether by wires, electromagnetic waves, microwaves, optics or any other means of communication;
5. In which the offender resides; or
6. In which any computer that is an object or an instrument of the violation is located at the time of the alleged offense.

**Effect of the Bill:** The bill amends § 19.2-249.2 of the *Code of Virginia* and clarifies the categories of locations of venue that apply for any violation of the Virginia Computer Crimes Act or § 18.2-386.1 (Unlawful creation of image of another).

### **SB 915 (Wexton) Indecent liberties; venue.**

**Current Law:** States where venue lies for criminal sexual assault or where any person transported for criminal sexual assault, attempted criminal sexual assault, or purposes of unlawful sexual intercourse, crimes against nature, and indecent liberties with children; venue for such crimes when coupled with a violent felony.

**Effect of the Bill:** The bill amends § 18.2-359 of the *Code of Virginia* which states where venue lies for criminal sexual assault and adds §18.2-370.1 which addresses an adult in a custodial or supervisor relationship taking indecent liberties with child.

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## Miscellaneous

### **HB 1286 (Ware) / SB 701 (Barker) (This bill incorporates SB 1005) Income tax, state; refund payments.**

**Current Law:** Determines how interest accrues on the overpayment of Virginia state income taxes.

**Effect of the Bills:** The bill amends § **58.1-1833** of the *Code of Virginia*. The Tax Commissioner and the State Comptroller are required to implement procedures to allow an individual requesting a refund of the overpayment of individual Virginia state income taxes when filing his tax return. The individual can elect on his return to have the refund paid by check and mailed to the address on the return. The ability of the individual to elect such refund check shall be in addition to other methods utilized by the State Comptroller for the payment of such refund, including but not limited to direct deposits or other electronic means. The new provision is applicable to individual income tax returns relating to taxable year 2015 and taxable years thereafter.

### **HB 1445 (Albo) SB 1235 (Marsden) Cannabidiol oil and THC-A oil for the treatment of intractable epilepsy.**

**Current Law:** It is a crime for a person to knowingly or intentionally possess marijuana unless the substance was obtained directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice. Possessing marijuana is a misdemeanor punishable by confinement in jail for up to 30 days and a fine of not more than \$500.

**Effect of the Bills:** The bill amends § **18.2-250.1** of the *Code of Virginia* and adds a new section numbered **54.1-3408.3** in the *Code of Virginia*.

Section **18.2-250.1**: Possession of cannabidiol oil or THC-A oil is an affirmative defense when the individual possessed such oil pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § **54.1-3408.3** for treatment or to alleviate the symptoms of (i) the individual's intractable epilepsy or (ii) if such individual is the parent or legal guardian of a minor, such minor's intractable

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epilepsy. If the individual files the valid written certification with the court at least 10 days prior to trial and causes a copy of such written certification to be delivered to the attorney for the Commonwealth, such written certification shall be prima facie evidence that such oil was possessed pursuant to a valid written certification.

Section **54.1-3408.3** provides definitions for the terms cannabidiol oil and THC-A oil and authorizes a licensed practitioner of medicine or osteopathy to issue a written certification for the use of cannabidiol oil or THC-A to treat or alleviate the symptoms of intractable epilepsy. Finally the new section prohibits the prosecution of the medical practitioner for dispensing or distributing cannabidiol oil or THC-A for the treatment of intractable epilepsy pursuant to the written certification.

Section **54.1-3408.3** states the following: That an emergency exists and this act is in force from its passage.

**Effective Date:** February 26, 2015

#### **HB 1499 (Albo) / SB 1427 (Wexton) Breastfeeding in public.**

**Current Law:** Section **2.2-1147.1** of the *Code of Virginia* permits a woman to breast – feed her child on property that is owned, leased or controlled by the Commonwealth as defined in § **2.2-1147**.

**Effect of the Bills:** The bill adds in Title 32.1 a chapter numbered 17, consisting of one section numbered **32.1-370**. The bill permits a mother to breastfeed in any place where the mother is lawfully present in addition to her right to breast feed on property owned, leased, or controlled by the Commonwealth.

#### **HB 1917 (LeMunyon) Governmental agencies; contracts for items listed on commercial activities list.**

**Effect of the Bill:** The bill adds in Article 1 of Chapter 6 of Title 2.2 of the *Code of Virginia* a section numbered **2.2-614.4**. The new section requires any state governmental agency that intends to purchase services for an amount over \$25,000 from another governmental agency, which service is found on the commercial activities list, to post notice on the Department of General Services' central electronic procurement system under the "Future Procurement" listing. Additionally, any local governmental agency that intends to purchase services for an amount over \$25,000 from another governmental agency, which service is found on the commercial activities list, is required to post notice

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on its public government website where all public notices for procurement opportunities are located or on the Department of General Services' central electronic procurement system under the "Future Procurement" listing. In addition to the notice requirement, governmental agencies must provide the opportunity for comment by or the submission of information from the private sector on each such intended purchase.

These requirements do not apply to mandatory purchases pursuant to § 53.1-47 or contracts specifically exempted pursuant to Article 3 (§ 2.2-4343 et seq.) of the Virginia Public Procurement Act or to services provided by central service state agencies, activities operated as an internal service fund of the Commonwealth, or purchases from public institutions of higher education.

The new law does not apply to the purchase of services found on the commercial activities list from another governmental agency that occurred before July 1, 2015; however, any renewal of such purchase agreement are required to comply with the new requirements.

#### **HB 2081 (Peace) Employers; disclosure of social media account information.**

**Current Law:** The *Code of Virginia* does not address an employee's right to refuse to disclose social media usernames and passwords.

**Effect of the Bill:** The bill amends the *Code of Virginia* by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:5 and defines the terms employer and social media. The bill prohibits an employer from requiring a current or prospective employee to disclose the username and password of his social media account. The measure also prohibits an employer from requiring an employee to add an employee, a supervisor, or an administrator to the list of contacts associated with the employee's social media account.

The bill does not affect an employer's existing right or obligation to request an employee to disclose his username and password for the purpose of accessing a social media account if the employee's social media account activity is reasonably believed to be relevant to a formal investigation or related proceeding by the employer of allegations of an employee's violation of federal, state, or local laws or regulations or of the employer's written policies. When an employer makes a request for the employee's username and password the information shall only be used for the purpose of the formal investigation or a related proceeding.

#### **SB 942 (Stuart) Virginia Retirement System; purchase of prior service credit.**

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\* Legislation is effective on July 1, 2015 unless otherwise noted.

**Current Law:** Outlines the criteria for purchasing credit for services and the reasons.

**Effect of the Bill:** The bill amends § **51.1-142.2** of the *Code of Virginia* and allows a member of the Virginia Retirement System an unpaid leave of absence for the death of a qualifying child to purchase up to one year of service credit per occurrence of leave. The current law permits the purchase of service credit for an unpaid leave of absence as it relates to a child for the birth or adoption of a child.

**SB 1121 (Barker): Responsibility of Agency Directors for Electronic Data Security.**

**Current Law:** Outlines various powers and duties of agency directors such as: (i) supervise and manage the department or agency, (ii) requests for and expenditures of appropriations, and (iii) report to the Chief Information Officer within 24 hours any threats to the security of the Commonwealth's electronic data.

**Effect of the Bill:** The bill amends § **2.2-603** of the *Code of Virginia*. The bill adds that in addition to the reporting requirement for threats to electronic data, the director of every department in the executive branch of state government shall be responsible for securing the electronic data held by his department and shall comply with the requirements of the Commonwealth's information technology security and risk management program as developed by the Chief Information Officer.

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