

# VIRGINIA DEPARTMENT OF JUVENILE JUSTICE



## 2013 GENERAL ASSEMBLY SESSION LEGISLATIVE TRAINING MANUAL

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## COMPREHENSIVE SERVICES ACT

**Comprehensive services for at-risk youth and families; eligibility for state pool of funds. An Act to amend and reenact §§ [2.2-5211](#), [2.2-5212](#), [63.2-100](#), as it shall become effective, [63.2-905](#), and [63.2-905.1](#) of the Code of Virginia.**

**HB 1646** (Bell, R.P.)

- **Current Law:** The Comprehensive Services Act for At-Risk Youth and Families (CSA) was enacted in 1993 and establishes a single state pool of funds to purchase services for at-risk youth and their families. The state funds, combined with local community funds, are managed by local interagency teams who plan and oversee services to youth.
  - It mandates funding for certain groups (special education, foster care, and foster care prevention) and has discretionary funding for other groups. Funding for mandatory services is sum sufficient.
  - Independent living services for persons over the age of 18 transitioning from foster care was not a mandated population. The statute allowed local departments of social services to provide independent living services, if available, but did not mandate the provision of such.
- **Issue:** Recently, counsel for the Virginia Department of Social Services opined that CSA funds could not be used for independent living services for persons over the age of 18.
- **Effect of the Bill:** The bill requires that foster care services include the provision of independent living services to a former foster child who is over the age of 18 years but who has not yet reached the age of 21 years. Specifically,
  - [§ 2.2-5211](#): Makes technical edits to clarify that eligibility for Pool Funds is not limited to the legal definition of “child” and modifies language to clarify that all children and youth eligible to receive foster care services in accordance with §63.2-905 are eligible for Pool Funds.
  - [§ 2.2-5212](#): Modifies the language to refer to the statutory definition of foster care services in § 63.2-905 rather than listing types of foster care services while clarifying that all children and youth eligible for foster care services are included in the population for which “sum-sufficient” funding must be appropriated.
  - [§ 63.2-905](#): Amends the statutory definition of foster care services to include the provision and restoration of independent living services for youth ages 18 through 21. This will become a mandated fund population.
  - [§ 63.2-905.1](#): Makes technical edits to the language and requires consistency with federal timeline for development of a transition plan.

Note: In 2012, all but nine localities offered independent living services. The cost of independent living services is estimated at \$25,029 per youth per year (of which approximately \$16,000 is from the general fund and \$9,000 is from local funding).

## CRIMES

**Sentencing guidelines; definition of violent felony. An Act to amend and reenact § [17.1-805](#) of the Code of Virginia.**

**[HB 1746](#) (Gilbert) / [SB 1214](#) (Stuart)**

- **Current Law:** The Code of Virginia defines what constitutes a violent felony used in calculating sentencing ranges in criminal court. When an offense falls under the definition of violent felony, sentencing ranges are increased, punishment is statutorily enhanced for certain other offenses, eligibility for participation in a drug treatment court is restricted, there is a presumption against bail for persons illegally present in the United States, the definition of victim for the purpose of compensation of crime victims by the Criminal Injuries Compensation Fund is expanded, registration of tow truck drivers is prohibited, and restoration of voting rights is limited.
- **Effect of the Bill:** The bills add the following offenses to the list of violent felonies:
  - § [16.1-253.2](#) any felony violation of the provisions of a family abuse protective order;
  - § [18.2-32.2](#) killing of a fetus;
  - any violation of clause (c) (i) or (ii) of subsection B of § [18.2-46.3](#) criminal street gang recruitment;
  - § [18.2-46.5](#) committing, conspiring and aiding and abetting acts of terrorism;
  - § [18.2-46.6](#) possession, manufacture, distribution, etc. of weapon of terrorism or hoax device;
  - § [18.2-46.7](#) an act of bioterrorism against agricultural crops or animals;
  - § [18.2-51.6](#) strangulation of another;
  - violation of subsection B of § [18.2-57](#) assault and battery when it is a hate crime to include race, religion, color or national origin;
  - § [18.2-60.4](#) any felony violation of a protective order;
  - § [18.2-64.1](#) felony infected sexual battery;
  - § [18.2-85](#) manufacture, possession of or possession of material for bombs, hoax explosive devices, etc.,
  - Violation of subsection A of § [18.2-280](#) willfully discharging a firearm in a public place resulting in bodily injury;
  - § subsection A of § [18.2-282](#) pointing, holding, or brandishing firearm, air or gas operated weapon or object similar in appearance;
  - § [18.2-282.1](#) brandishing a machete or other bladed weapon with intent to intimidate;
  - § [18.2-287.2](#) wearing body armor while committing certain crimes;
  - § [18.2-374.4](#) display of grooming video to child;
  - § [18.2-423](#), cross burning on the property of another, with the intent to intimidate;
  - § [18.2-423.01](#) burning an object on property of another or a highway or other public place with intent to intimidate
  - § [18.2-46.2](#) placing a swastika with intent to intimidate;
  - § [18.2-433.2](#); displaying noose with intent to intimidate;
  - § [18.2-481](#) treason;
  - § [37.2-917](#) escape of sexually violent predator;
  - § [52-48](#) and unauthorized dissemination of fusion center information resulting in death or serious bodily injury.
- **Note:** The felony violation of a protective order includes convictions under § 16.1-253.2 (violation of family abuse protective orders).

**Criminal street gang predicate criminal offenses. An Act to amend and reenact § [18.2-46.1](#) of the Code of Virginia.**

**HB 1847** (Albo) / **SB 1205** (McDougle)

- **Current Law:** The Code of Virginia provides enhanced penalties for gang-related crimes. It defines a criminal street gang as three or more people with a primary objective to commit crime and identifiable name, sign, or symbol whose members have engaged in two or more predicate criminal acts of which one is an act of violence (§ 18.2-46.1). Section [18.2-46.2](#) makes it a Class 5 felony for a member of a criminal street gang to participate in a predicate criminal act for the gang (and a Class 4 felony if the gang has a juvenile member).
- **Effect of the Bills:** The bills expand the definition of predicate criminal act beyond the crimes currently covered to include additional offenses. Specifically, the bills include the following additional felony offenses:
  - Capital murder (§[18.2-31](#));
  - Aggravated malicious wounding (§[18.2-51.2](#));
  - Reckless endangerment of others by throwing objects from places higher than one story (§[18.2-51.3](#));
  - Strangulation (§[18.2-51.6](#));
  - Possession of infectious biological substance (§[18.2-52.1](#));
  - Burglary (§[18.2-89](#));
  - Enter dwelling house with intent to murder, rape, rob, or arson (§[18.2-90](#));
  - Grand larceny (§[18.2-95](#));
  - Receipt of stolen firearm (§[18.2-108.1](#));
  - Manufacturing, selling, or possessing with intent methamphetamine (§[18.2-248.03](#));
  - Discharging firearms within or at a building (§[18.2-279](#));
  - Use of machine gun for crime of violence (§[18.2-289](#));
  - Possession of “sawed off” shotgun or rifle (§[18.2-300](#));
  - Felon possession of firearm (§[18.2-308.2](#));
  - Non-citizen possession of certain firearms (§[18.2-308.2:01](#));
  - Possession of firearms while in possession of certain substances (§[18.2-308.4](#));
  - Felony stalking (§[18.2-60.3](#));
  - Felony possession or distribution or possession with intent of synthetic cannabinoids (§[18.2-248.1:1](#));
  - Felony or conspiracy to commit felony manufacturing, selling, or distributing or possessing with intent a controlled substance (§[18.2-248](#), under current law only certain subsections are included);
  - Conspiracy to commit a felony sale, distribution, or possession with intent of marijuana (§[18.2-248.1](#)).

**Driving while texting; primary offense; increased penalties. An Act to amend and reenact §§ [46.2-868](#) and [46.2-1078.1](#) of the Code of Virginia.**

**HB 1907** (Anderson) / **SB 1222** (Norment)

- **Current Law:** Section 46.2-1078.1 prohibits any person operating a motor vehicle in Virginia to manually enter multiple letters or text as a means of communicating with another or to read any email or text message on the device (except for telephone contact use). The statute contains numerous exceptions (e.g., emergency vehicles, parked, GPS, reporting emergencies). It makes a violation a secondary offense (a citation may only be issued if the driver was stopped or arrested for some other violation) and a traffic infraction punishable by a fine of \$20 for the first offense and \$50 for a second or subsequent.
- **Effect of the Bills:** The bills provide that driving while texting is a traffic infraction punishable, for a first offense, by a fine of \$125 and, for a second or subsequent offense, by a fine of \$250. The bills also change the offense from a secondary offense (one that can only be charged when the offender is stopped for



another, separate offense) to a primary offense. The bills also require a mandatory minimum fine of \$250 for every person convicted of reckless driving when combined with a texting while driving violation.

Note: Motorists are permitted to use their handheld device to report an emergency. Use of factory installed or aftermarket global positioning device (GPS) or other wireless communication devices used to transmit or receive data as part of a digital dispatch system (dispatch systems for taxis, tow trucks etc.) are permitted.

**Impersonating a law-enforcement officer or other public safety personnel. An Act to amend and reenact § 18.2-174 of the Code of Virginia.**

[HB 1358](#) (Cox)/ [SB 1128](#) (McDougle)

- Current Law: Provides that any unauthorized person who falsely assumes or pretends to be a sheriff, police officer, marshal, or other “peace officer” is guilty of a Class 1 misdemeanor for any such offense.
- Effect of the Bills: The bills add “any local, city, county, state, or federal law-enforcement officer” to the list of persons where it is a Class 1 misdemeanor to impersonate.

**Impersonating a law enforcement officer or other public safety personnel. An Act to amend and reenact §§ 15.2-1612, 18.2-174, and 18.2-174.1 of the Code of Virginia, relating to impersonating a law-enforcement officer or other public safety personnel; penalty.**

[HB 1955](#) (Landes)

- Current Law: Currently it is a Class 1 misdemeanor to impersonate a law enforcement officer and a Class 3 misdemeanor wear a uniform substantially similar to a law enforcement officer with the intent to deceive or impersonate. A second or subsequent offense is not subject to enhanced penalties.
- Effect of the Bill: Provides that any unauthorized person who wears a uniform identical to or substantially similar to a standard uniform used by an office of sheriff to impersonate the office of sheriff is guilty of a Class 1 misdemeanor (currently a Class 3 misdemeanor). The bill adds new punishment for a second or subsequent such offense: a Class 6 felony. The bill also adds the same new punishment for a second or subsequent offense of impersonating a law-enforcement officer or other public safety personnel, currently a Class 1 misdemeanor for any such offense.

**Financial Exploitation of Incapacitated Persons; Penalties. An Act to amend the Code of Virginia by adding a section numbered 18.2-178.1, relating to financial exploitation of mentally incapacitated persons; penalty.**

[HB 1682](#) (R.B. Bell)/ [SB 706](#) (Stuart)

- Current Law: Does not provide for specific protections for mentally incapacitated persons from financial exploitation.
- Effect of the Bill: Provides that it is unlawful for any person who knows or should know that another person suffers from mental incapacity to, through the use of that other person's mental incapacity, take, obtain, or convert money or other thing of value belonging to that other person with the intent to permanently deprive him thereof. A violation is punishable as larceny.

The bill defines "mental incapacity" to mean that condition of a person existing at the time of the offense that prevents the person from understanding the nature or consequences of the transaction or disposition of money or other thing of value involved in such offense.

Note: there is an exception if the person was acting for the benefit of the incapacitated person or in good faith to assist the incapacitated person in managing his/her money.

**Protecting Persons from Meth Labs. An Act to amend and reenact § [18.2-248.02](#) of the Code of Virginia, relating to manufacture of methamphetamine in presence of a minor or incapacitated person; penalty.**

**[HB 1816](#)** (Kilgore)

- **Current Law:** It is a felony punishable by imprisonment for 10 to 40 years for any adult who maintains a *custody relationship* with a child to knowingly allow the child into a methamphetamine lab.
- **Effect of the Bill:** Provides that any adult who knowingly allows (1) a child younger than 15 years of age or (2) a mentally incapacitated or physically helpless person to be present in a methamphetamine lab is guilty of a felony punishable by imprisonment for not less than 10 or more than 40 years. Currently, the prohibition applies only to a child in care or custody of the adult. The custody relationship provision is retained and the two additional categories are added.

**DUI; any person convicted of a subsequent offense is guilty of a Class 6 felony. An Act to amend and reenact §§ [18.2-270](#), [18.2-271](#), and [46.2-391](#) of the Code of Virginia, relating to penalty for driving while intoxicated; subsequent offense; license revocation; penalty.**

**[HB 1559](#)** (Morris) / **[SB 1272](#)** (Norment)

- **Current Law:** Generally, driving under the influence in violation of [§ 18.2-266](#), is a Class 1 misdemeanor, subject to certain mandatory minimum periods of incarceration. It is a Class 6 felony, with a mandatory six months incarceration, if one is convicted of three offenses within a 10 year period.
- **Effect of the Bill:** Provides that any person convicted of a felony DUI offense (including DUI manslaughter and DUI maiming, by motor vehicle or watercraft) is guilty of a Class 6 felony for *any subsequent* DUI conviction, that punishment includes a mandatory minimum term of imprisonment of one year, and the person is subject to the same driver's license revocation provision as for a third or subsequent DUI conviction within 10 years, which means that the person can petition for reinstatement of his driver's license five years after the date of his last conviction.

**Use of electronic tracking devices; penalty. An Act to amend the Code of Virginia by adding in Article 6 of Chapter 4 of Title 18.2 a section numbered [18.2-60.5](#), relating to the use of electronic tracking devices; penalty.**

**[HB 1981](#)** (May)

- **Current Law:** The Code of Virginia does not have any provisions relating to the use of electronic tracking devices.
- **Effect of the Bill:** Provides that any person who installs or places an electronic tracking device through intentionally deceptive means and without consent and uses it to track the location of another person is guilty of a Class 3 misdemeanor. The bill includes the following exceptions:
  - A law-enforcement officer, judicial officer, probation or parole officer, or employee of the Department of Corrections when any such person is engaged in the lawful performance of official duties and in accordance with other state or federal law;
  - The parent or legal guardian of a minor when tracking (i) the minor or (ii) any person authorized by the parent or legal guardian as a caretaker of the minor at any time when the minor is under the person's sole care;
  - A legally authorized representative of an incapacitated adult, as defined in [§ 18.2-369](#);
  - The owner of fleet vehicles, when tracking such vehicles;

- An electronic communications provider to the extent that such installation, placement, or use is disclosed in the provider's terms of use, privacy policy, or similar document made available to the customer; or
- A registered private investigator when acting in the normal course of his business and with the consent of the owner of the property upon which the electronic tracking device is installed and placed. However, such exception shall *not* apply if the private investigator is working on behalf of a client who is subject to a protective order under § [16.1-253](#), [16.1-253.1](#), [16.1-253.4](#), [16.1-279.1](#), [19.2-152.8](#), [19.2-152.9](#), [19.2-152.10](#), or subsection B of § [20-103](#), or if the private investigator knows or should reasonably know that the client seeks the private investigator's services to aid in the commission of a crime.

The bill defines "Electronic tracking device" to mean an electronic or mechanical device that permits a person to remotely determine or track the position and movement of another person.

**Stalking; Enhanced Penalties. An Act to amend and reenact §§ [18.2-60.3](#) and [18.2-308.1:4](#) of the Code of Virginia.**

**[HB 2211](#) (McClellan)**

- Current Law: It is a Class 1 misdemeanor when any person who on more than one occasion stalks another person with the intent to place, or when he knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member. A third conviction of stalking within five years, if certain prior offenses (prior family abuse, violation of a protective order, or assault of a stalking victim in the past five years), it is a Class 6 felony.
- Effect of the Bill: The bill provides enhanced penalties for second and third convictions of stalking offenses.
  - A second stalking conviction occurring within five years of a prior conviction of stalking offense and the offender was also convicted of § [18.2-51](#) malicious wounding, [18.2-51.2](#) aggravated malicious wounding, [18.2-51.6](#) strangulation, [18.2-52](#) malicious wounding with a caustic substance fire or explosive, or [18.2-57](#) an assault and battery and the victim of the listed offenses was also the victim of the stalking incident or a conviction of § [18.2-57.2](#) assault and battery against a family or household member, or a conviction for a violation of a protective order, is guilty of a Class 6 felony.
  - Any person convicted of a third or subsequent conviction of stalking occurring within five years of a conviction for a stalking offense or for a similar offense under the law of any other jurisdiction is guilty of a Class 6 felony.
- Note: The changes to [18.2-308.1:4](#) are technical in nature.

**Enhanced Penalties for Assault and Battery of Certain Persons.**

**[HB 1927](#)** (Morris): Adds volunteer firefighter or any emergency medical service personnel.

**[SB 853](#)** (Peterson): Adds magistrates.

**[HB 1850](#)** (Albo): Adds employees of local or regional correctional facilities.

**[HB 2065](#)** (Peace): Adds Department of Corrections' contract employees involved in the care or supervision of inmates or probationers/parolees.

**[SB 1033](#)** (Reeves): Adds (1) DJJ employees involved in the care or supervision of residents or persons under the supervision of the DJJ; (2) Department of Corrections' contract employees involved in the care or supervision of inmates or probationers/parolees; and (3) employees or other individuals who provide control, care, or treatment of sexually violent predators committed to the Department of Behavioral Health and Developmental Services.

**Lewd and lascivious cohabitation, eliminates crime. An Act to repeal § [18.2-345](#) of the Code of Virginia, relating to lewd and lascivious cohabitation**

[SB 969](#) (Ebbin).

- **Current Law:** It is a Class 3 misdemeanor for unmarried persons to “lewdly and lasciviously associate and cohabit together” or open and gross lewdness and lasciviousness. It is a Class 1 misdemeanor for any second or subsequent offense.
- **Effect of the Bill:** Eliminates by repeal the crime of lewd and lascivious cohabitation by unmarried persons and the crime of open and gross lewdness and lasciviousness.

## EDUCATION

**School boards to provide parent educational information on eating disorders. An Act to amend the Code of Virginia by adding a section numbered [22.1-273.2](#).**

[HB 1406](#) (Bell, R.P.)

- **Current Law:** Requires the Department of Education, in conjunction with the Department of Health, to develop and implement policies for providing parent educational information on eating disorders. The guidelines covered (i) the optional development of an eating disorder screening program; (ii) specification of training needs and requirements for personnel and volunteers; (iii) appropriate opt-out and exemption procedures; (iv) parental notification procedures for positive indications of an eating disorder; and (v) any issues requiring statutory or regulatory amendment. The guidelines were required to be provided to the Superintendent of Public Instruction for dissemination on or before July 1, 2013.
- **Effect of the Bill:** Requires each school board to annually provide parent educational information on eating disorders for public school students in grades five through 12. The information provided must be consistent with guidelines established by the Department of Education.

**Truancy. An Act to amend and reenact §§ [16.1-260](#) and [22.1-258](#) of the Code of Virginia.**

[SB 1194](#) (Alexander)

\* Will ONLY become effective in 2014 if reenacted in the 2014 General Assembly Session.

- **Current Law:** Section 16.1-260 allows juvenile intake officers to divert a first truancy complaint, if the juvenile has not previously been proceeded against informally or adjudicated in need of supervision for failure to comply with compulsory school attendance. Currently the juvenile and the parent/guardian must agree in writing to develop a truancy plan and the intake officer has the authority to refer the juvenile to the appropriate public agency for the purpose of developing a truancy plan.

Section 22.1-258 requires the attendance officer to schedule a conference within ten school days with the student, parent, and school personnel when the student has missed an additional day after missing five school days and school officials have made direct contact with the parent. When a student misses an additional day after the conference the school shall file a complaint with the juvenile and domestic relations court, or proceed against the parents under § [18.2-371](#) or [22.1-262](#).

- **Effect of the Bill:** The bill amends § 16.1-260 as follows:
  - If diverted, requires the juvenile and parent to agree in writing to follow the truancy plan (noting the truancy plan was previously developed by the school pursuant to 22.1-258).

- Allows the intake officer to refer the juvenile “to the appropriate public agency” for the purpose of reviewing and revising the truancy plan using an interagency interdisciplinary team approach (which can be a Family Assessment Planning Team).
- In reviewing to determine whether nonjudicial remedies were exhausted prior to filing a petition, the intake officer will review the implementation of the school’s truancy plan.

The bill amends § 22.1-258 as follows:

- Changes the school’s process beginning on the sixth absence. After the sixth absence, instead of holding a parent conference, there will be a school-based or locally-based multidisciplinary team which must work with the juvenile and his parent/guardian to (i) identify factors contributing to the absences and services necessary to address those factors and (ii) develop a plan for how necessary services will be delivered including sources of funding. The locally-based multi-disciplinary team may be FAPT.
  - Requires the post-6<sup>th</sup> absence plan to identify specific outcomes for the juvenile and measures by which progress will be evaluated.
  - Requires the assessment and plan to be completed no later than fifteen school days after the sixth absence.
  - Allows the school to review the case to FAPT if the identified services are not available within the school’s resources.
  - After the plan is developed, the juvenile may be referred to intake “upon a determination by the school principal or his designee that the pupil has failed to make satisfactory progress toward the outcomes identified in the truancy plan.”
- **Note:** This bill does NOT become effective until **July 1, 2014** and **only then if** it is reenacted in the 2014 General Assembly Session. This bill was part of Governor McDonnell’s legislative agenda.

**School based offenses no requirement to file charges. An Act to amend and reenact § [22.1-279.3:1](#) of the Code of Virginia.**

**[HB 1864](#) (Robinson)**

- **Current Law:** Permits the principal to use discretion when reporting assaults or assault and battery, without bodily injury, when the incident occurred on a school bus, on school property, or at a school-sponsored activity. Additionally, local law enforcement is required to report felony and drug related offenses to the principal or his designee.

The Principal is required to immediately notify law enforcement of any of the following acts:

- Assault and battery that results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, or stalking of any person as described in § [18.2-60.3](#), on a school bus, on school property, or at a school-sponsored activity;
- Conduct involving alcohol, marijuana, synthetic cannabinoids as defined in § [18.2-248.1:1](#), a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications;
- Threats against school personnel while on a school bus, on school property or at a school-sponsored activity;
- The illegal carrying of a firearm, as defined in § [22.1-277.07](#), onto school property;
- Illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § [18.2-85](#), or explosive or incendiary devices, as defined in § [18.2-433.1](#), or chemical

- bombs, as described in § [18.2-87.1](#), on a school bus, on school property, or at a school-sponsored activity; and
  - Threats or false threats to bomb, as described in § [18.2-83](#), made against school personnel or involving school property or school buses.
- Effect of the Bill: The bill clarifies that the requirement to report an incident to law enforcement does not require the school to file criminal charges. The school is permitted to address school based offenses through graduated sanctions or educational programming before a delinquency charge is filed with the juvenile court.

**Student and school employee conduct: bullying. An Act to amend and reenact §§ [8.01-220.1:2](#), [22.1-208.01](#), [22.1-276.01](#), and [22.1-279.6](#) of the Code of Virginia and to amend the Code of Virginia by adding a section numbered [22.1-291.4](#).**

**[HB 1871](#)** (McClellan)

- Current Law: Requires the Board of Education to establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. All school boards are required to implement a character education program to address bullying as defined in the Student Conduct Policy Guide adopted by the Board of Education. School employees and school volunteers shall not be liable for any civil damages arising from the prompt good faith reporting of alleged acts of bullying or crimes against others to the appropriate school official in compliance with procedures.
- Effect of the Bill:
  - § [22.1-208.01](#): All school boards are still required to implement a character education program to address bullying but now the Code section references the newly codified definition of bully rather than the definition in the Student Conduct Policy Guide adopted by the Board of Education.
  - § [22.1-276.01](#): Defines the term "bullying." Bullying means any aggressive and unwanted behavior that is intended to harm, intimidate, or humiliate the victim; involves a real or perceived power imbalance between the aggressor or aggressors and victim; and is repeated over time or causes severe emotional trauma. "Bullying" includes cyber bullying. "Bullying" does not include ordinary teasing, horseplay, argument, or peer conflict.
  - § [22.1-279.6](#): Additionally, the bill requires local school boards to implement policies and procedures for reporting, investigating, and addressing acts of bullying by July 1, 2014 and adds language stating the policies and procedures developed for this code section shall not infringe on students First Amendment rights.
  - § [22.1-291.4](#): Requires each school board to implement, by July 1, 2014, policies and procedures to educate school board employees about bullying, as defined in § [22.1-276.01](#), and the need to create a bully-free environment.
  - § [8.01-220.1:2](#): School employees and volunteers shall not be liable for civil damages arising from the prompt good faith reporting of alleged acts of bullying or crimes against others to appropriate school official in compliance with §§ [22.1-279.6](#) and [22.1-291.4](#) along with procedure.

**Standards of Quality: Reading is Fundamental Act; allows waivers from third grade Standards of Learning assessments in certain scenarios. An Act to provide two-year waivers from third grade Standards of Learning assessments in certain cases.**

**HB 2144 (Landes)**

- **Current Law:** Third grade public elementary students are required to take science or history and social science Standards of Learning assessments, in addition to reading assessments.
- **Effect of the Bill:** Allows a public elementary school that had an adjusted pass rate of less than 75 percent on the third grade Standards of Learning reading assessment administered during the previous school year to apply to the Board of Education for a two-year waiver from the science or history and social science Standards of Learning assessment requirement, or both, for third grade students.

The waiver may only be granted if the school (1) hires a reading specialist, (2) develops a system to monitor academic progress of the students in the subject on which the waiver is granted, (3) agrees to publish adjusted pass rates of the students on a summative assessment, and (4) provides at least 30 minutes of instruction per day in the subject on which the waiver is granted.

- **Note:** The bill will expire on July 1, 2015.

## JUVENILE COURT PROCESS

**Writ of actual innocence for juveniles adjudicated delinquent. An Act to amend and reenact §§ [19.2-327.1](#), [19.2-327.2](#), [19.2-327.3](#), [19.2-327.5](#), and [19.2-327.10](#) through [19.2-327.13](#) of the Code of Virginia.**

**HB 1308 (Habeeb)**

- **Current Law:** Individuals convicted of a felony offense in circuit court may file a motion with the court to have their case overturned when new evidence of innocence is discovered. This ability to petition is not available to juveniles who have been adjudicated delinquent on an offense that would be a felony if committed by an adult.
- **Effect of the Bill:** Provides that a juvenile adjudicated delinquent by a circuit court of an offense that would be a felony if committed by an adult may petition the Supreme Court to issue a writ of actual innocence on the basis of biological or nonbiological evidence regardless of his plea or the classification of the felony for which he was adjudicated delinquent. Currently such petitions are limited to those convicted (i) in the case of biological evidence, of a Class 1 or Class 2 felony or equivalent felony upon any plea or of any other felony upon a plea of not guilty or (ii) in the case of nonbiological evidence, of any felony upon a plea of not guilty.
- **Bill Origin:** In 2007, juvenile EC pled guilty and was convicted of raping a 14-year-old neighbor after breaking into her home. Approximately two months after he was committed and admitted to the Department of Juvenile Justice, she recanted, telling her mother she had invited EC into their home, the sex was consensual, and she had lied to avoid getting into trouble. The adjudication remains on the juvenile's record and he is required to register on the sex offender registry for life.

**Note:** The ability to petition does not apply to adjudications of delinquency in the juvenile and domestic relations district courts or to convictions based upon a guilty plea.

## JUVENILE JUSTICE

### Background checks; juvenile detention centers regulated by the Department of Juvenile Justice. An Act to amend and reenact § 63.2-1726 of the Code of Virginia.

[HB 1439](#) (Watson) / [SB 992](#) (Locke).

- **Current Law:** Current law requires all children’s residential facilities, regulated by the Departments of Social Services, Education, Military Affairs, or Behavioral Health and Developmental Services to conduct background checks on employees, contractors, and volunteers who will be alone with a resident and lists specific offenses which prohibit that person from working or volunteering at the facility (barrier crime). It also requires the background checks to be processed through the regulating agency. These requirements apply to group homes regulated by the Department of Juvenile Justice, but not to secure detention facilities and juvenile correctional centers.
- **Effect of the Bill:** The bills extend the background check requirements to every employee, volunteer, and contract service provider who provides services to and who will be alone with residents in the performance of his duties in local secure detention facilities. The barrier crime restrictions apply only to individuals employed after July 1, 2013. It allows the background checks to be processed through the Department of Juvenile Justice or a local agency.
- An individual may not be hired, volunteer, or provide contract services to a local detention center if the individual has been convicted or is the subject of one of the following charges.
  - malicious wounding by mob as set out in § [18.2-41](#);
  - abduction as set out in subsection A or B of § [18.2-47](#);
  - abduction for immoral purposes as set out in § [18.2-48](#);
  - assault and bodily woundings as set out in Article 4 (§ [18.2-51](#) et seq.) of Chapter 4 of Title 18.2;
  - robbery as set out in § [18.2-58](#);
  - carjacking as set out in § [18.2-58.1](#);
  - extortion by threat as set out in § [18.2-59](#);
  - threat as set out in § [18.2-60](#);
  - any felony stalking violation as set out in § [18.2-60.3](#);
  - a felony violation of a protective order as set out in § [18.2-60.4](#);
  - sexual assault as set out in Article 7 (§ [18.2-61](#) et seq.) of Chapter 4 of Title 18.2;
  - arson as set out in Article 1 (§ [18.2-77](#) et seq.) of Chapter 5 of Title 18.2;
  - burglary as set out in Article 2 (§ [18.2-89](#) et seq.) of Chapter 5 of Title 18.2;
  - any felony violation relating to distribution of drugs as set out in Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of Title 18.2;
  - drive-by shooting as set out in § [18.2-286.1](#);
  - use of a machine gun in a crime of violence as set out in § [18.2-289](#);
  - aggressive use of a machine gun as set out in § [18.2-290](#);
  - use of a sawed off shotgun in a crime of violence as set out in subsection A of § [18.2-300](#);
  - pandering as set out in § [18.2-355](#);
  - crimes against nature involving children as set out in § [18.2-361](#);
  - taking indecent liberties with children as set out in § [18.2-370](#) or [18.2-370.1](#);
  - abuse or neglect of children as set out in § [18.2-371.1](#), including failure to secure medical attention for an injured child as set out in § [18.2-314](#);
  - obscenity offenses as set out in § [18.2-374.1](#);
  - possession of child pornography as set out in § [18.2-374.1:1](#);
  - electronic facilitation of pornography as set out in § [18.2-374.3](#);
  - incest as set out in § [18.2-366](#);



- abuse or neglect of incapacitated adults as set out in § [18.2-369](#);
  - employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ [18.2-372](#) et seq.) of Chapter 8 of Title 18.2 as set out in § [18.2-379](#);
  - delivery of drugs to prisoners as set out in § [18.2-474.1](#);
  - escape from jail as set out in § [18.2-477](#);
  - felonies by prisoners as set out in § [53.1-203](#); or an equivalent offense in another state;
  - convicted of any felony violation relating to possession of drugs as set out in Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of Title 18.2 in the five years prior to the application date for employment, to be a volunteer, or to provide contractual services; or (c) convicted of any felony violation relating to possession of drugs as set out in Article 1 (§ [18.2-247](#) et seq.) of Chapter 7 of Title 18.2 and continue on probation or parole or have failed to pay required court costs.
  - The local detention center may hire for compensated employment or for volunteer or contractual service purposes persons who have been convicted of not more than one misdemeanor offense under § [18.2-57](#) or [18.2-57.2](#), if 10 years have elapsed following the conviction, unless the person committed such offense in the scope of his employment, volunteer, or contractual services.
- **Bill Origin:** The City of Newport News requested this bill as part of the City’s legislative packet. Newport News juvenile detention center believed this bill would mitigate the City’s liability for Title VII Equal Employment Opportunity Commission suits based on disparate treatment and disparate impact if individuals with criminal backgrounds were not selected for detention home employment.

**Department of Corrections and the Department of Juvenile Justice; powers and duties of the Director. An Act to amend and reenact §§ [53.1-10](#) and [66-3](#) of the Code of Virginia.**

[HB 1877](#) (Lingamfelter)/ [SB 943](#) (Carrico)

- **Current Law:** Current law gives the Director of Juvenile Justice the power to employ personnel, enter into contracts and agreements necessary or incidental to perform his duties, with the approval of the Governor to enter into agreements with public or private entities to operate work programs for committed juveniles and acquire real property, establish and maintain schools in the juvenile correctional centers and to enter into agreements with institutions of higher learning to provide career and technical education and access to online courses for college credit or certification or General Education Development (GED).
- **Effect of the Bill:** This bill provides the Directors of the Department of Corrections (§53.1-10) and the Department of Juvenile Justice §66-3) with the power to designate certain employees with internal investigations authority to have the same power as a sheriff or law-enforcement officer in the investigation of allegations of criminal behavior affecting the operations of the Department. The Department is required to enter into a written agreement with the Virginia State Police to establish parameters for investigating allegations of criminal behavior. Additionally, the Department does not have the authority investigate any action falling within the authority vested in the Office of the State Inspector General unless the Inspector General’s Office specifically grants the authority. These employees must meet the Department of Criminal Justice Services minimal training standards for law enforcement.

**State Board of Juvenile Justice; Increases the membership of the Board to include two experienced educators. An Act to amend and reenact § [66-4](#) of the Code of Virginia.**

[HB 2123](#) (Morefield)/ [SB 1187](#) (Vogel)

- **Current Law:** Current law permits the Board of Juvenile Justice (Board) to have seven members appointed by the Governor. The seven members of the Board establish and monitor policies for the programs and facilities for which the Department of Juvenile Justice is responsible.

- **Effect of the Bill:** This bill expands the membership of the Board of Juvenile Justice to nine members and requires that two members be experienced educators.
- **Comment:** In 2012 the Governor’s Reorganization bill passed. This bill “abolished” the Department of Correctional Education (DCE) and placed the adult educational components of DCE with the Department of Corrections and the juvenile components with the Department of Juvenile Justice. The Board provides oversight for the juvenile correctional centers and the schools which made it necessary to ensure there were experienced educators on the Board.

**Eligibility for Post-Dispositional Detention, clarifying language. An Act to amend and reenact § [16.1-284.1](#) of the Code of Virginia.**

**[SB 1234](#)** (Marsden)

- **Current Law:** Current law requires the Court to determine if a juvenile is eligible for a post-dispositional program and if the period of confinement in a detention home or other secure facility for juveniles is to exceed 30 calendar days, the juvenile shall be given a suspended commitment as a condition of participating in the post-dispositional program.
- **Effect of the Bill:** This bill provides clarifying language that a juvenile, if commitment eligible, must have a suspended commitment to DJJ imposed when ordered to a post-dispositional detention program for more than 30 days.

**Juvenile correctional centers; penalties. An Act to amend and reenact §§ [18.2-48.1](#), [18.2-57](#), [18.2-431.1](#), [18.2-473.1](#), [18.2-474](#), [18.2-474.1](#), [18.2-475](#), [18.2-476](#), and [18.2-477.2](#) of the Code of Virginia.**

**[HB 2065](#)** (Peace) / **[SB 1033](#)** (Reeves)

- **Current Law:** The following crimes when committed in a juvenile correctional center are Class 1 misdemeanors:
  - Escape
  - Causing damage to any building or furniture for the purpose of escaping or rendering the building less secure as a place of confinement
  - Possessing an instrument to assist with escaping
  - Possessing an unauthorized instrument capable of causing death or bodily injury
  - Possessing a chemical compound not lawfully received
  - Possessing drugs
  - Possessing firearms or ammunition
  - Willfully using an explosive device or burning any property within a correctional facility;
  - Willfully tampering with any fire protection or suppression system; and
  - Conspiring to commit one of the actions enumerated above
  - Assault and battery of a juvenile correctional officer
- **Effect of the Bill:** Creates new crimes in juvenile correctional centers and enhances the penalties for certain crimes that occur in a juvenile correctional center.
  - **New Crimes in Juvenile Correctional Centers:** The bills make acts that are crimes in adult correctional facilities, which are currently not crimes in juvenile correctional centers, illegal. The following will be crimes in juvenile correctional centers:
    - § [18.2-57](#): Abduction by a resident (Class 3 felony);
    - § [18.2-431.1](#): The illegal conveyance to or possession of cellular telephones by a resident (Class 6 felony);

- § [18.2-473.1](#): Communication by word or sign without the authority of a correctional officer with a resident when the communication is intended to disrupt institutional operations (Class 4 misdemeanor);
- § [18.2-474](#): Delivering or attempting to deliver any unauthorized item to a resident (Class 1 misdemeanor); and
- § [18.2-474.1](#): Delivering drugs, firearms, ammunitions, or explosives to a resident (Class 3 felony).
- It will be a crime for any DJJ employee to:
  - § [18.2-475](#): “Voluntarily” allow a person committed to DJJ “to escape from his custody” when the person committed to DJJ is charged or convicted of a felony offense (Class 4 felony); or
  - § [18.2-476](#): “Willfully and deliberately” permit a person committed to DJJ to escape or “willfully” refuse “to receive into his custody” when the person committed to DJJ is charged or convicted of a misdemeanor offense (Class 2 misdemeanor).
- Enhanced Penalties for Certain Crimes in Juvenile Correctional Centers:
  - *Simple Assault*: Section 18.2-57 makes the simple assault of any person directly involved in the care, treatment, or supervision of persons in the custody of or under the supervision of DJJ a Class 6 felony subject to a mandatory minimum period of incarceration of six months (currently it is a Class 1 misdemeanor).
  - *Other Crimes*: Section [18.2-477.2](#) makes the following crimes when committed in secure juvenile facilities (juvenile correctional centers and juvenile secure detention centers) subject the juvenile to the same penalties as when committed in an adult facility (currently they are Class 1 misdemeanors).
    - Escape (Class 6 felony, mandatory minimum one year incarceration);
    - Willfully causing damage to any building or furniture for the purpose of escaping or rendering the building less secure as a place of confinement (Class 6 felony);
    - Making, procuring, hiding, or possessing an instrument to assist with escaping (Class 6 felony);
    - Making, procuring, hiding, or possessing an unauthorized instrument capable of causing death or bodily injury (Class 6 felony);
    - Procuring, hiding, or possessing a chemical compound not lawfully received (Class 6 felony);
    - Procuring, selling, hiding, or possessing schedule III drugs, marijuana, and synthetic cannabinoids (Class 5 felony);
    - Bringing into the facility or possessing firearms or ammunition (Class 6 felony);
    - Willfully using an explosive device or burning any property within a correctional facility (Class 6 felony);
    - Willfully tampering with any fire protection or suppression system within a correctional facility (Class 6 felony); and
    - Conspiring to commit one of the actions enumerated above (Class 6 felony).

**Independent living services MAY be made available to persons 18 to 21 years of age who are released from a DJJ commitment who were in the custody of Social Services prior to their commitment. An Act to amend and reenact §§ [16.1-293](#), [63.2-100](#) as it shall become effective, and [63.2-905.1](#) of the Code of Virginia.**

**[HB 1743](#) (Brink)/ [SB 863](#) (Favola)**

- **Current Law:** The law only permits juveniles who are under the age of 18 at the time of release from commitment to resume services with the local department of social services and the local department of social services to collaborate with DJJ only during the last 90 days of commitment in these cases. Juveniles who are in the custody of a local department of social services prior to commitment to DJJ, who are over the age of 18 at the time of release, do not have the option to opt into independent living services upon release.
- **Effect of the Bill:** The bills allow juveniles who were in the custody of a local department of social services immediately prior to commitment to DJJ, who are over the age of 18 at the time of release, to opt into independent living services with a local department of social services. However, the provision is still optional.

Specifically, the bill requires the following:

- § [16.1-293](#)
  - In cases when a juvenile is committed, who was in the custody of a local department of social services prior to commitment, the juvenile court services unit (CSU) and local department of social services *are required* to maintain contact throughout the duration of commitment. It states “the local department of social services and the Department shall work cooperatively through the duration of the person’s commitment to ensure communication of information regarding the status of the person and to facilitate transition planning for the person prior to release.”
  - Procedural requirements include :
    1. Written notice is provided to the local department of social services of the juvenile’s intent to receive independent living services (no timeframe provided).
    2. At least 90 days prior to release from commitment on parole supervision, the CSU (1) informs the juvenile of the availability of independent living services and (2) consults with the local department of social services about the juvenile’s planned return to the locality and living arrangements.
    3. At least 90 days prior to release from commitment on parole supervision, the CSU and local department of social services work collaboratively to develop a plan for the successful transition from DJJ to independent living. The plan must identify the services necessary to facilitate the transition and how the services are to be provided.
    4. Within 60 days of his or her release from commitment, the juvenile enters into a written agreement with the local department of social services to receive independent living services. The agreement must set forth the terms and conditions of the provision of independent living services.
- § [63.2-100](#): Amends the definition of Independent Living Services to include services provided to a person who has not reached age 21 who immediately prior to his commitment was in the custody of a local board of social services.
- § [63.2-905.1](#): Authorizes the local departments of social services and child-placing agencies to provide independent living services to any person between the age of 18 and 21 who was in the custody of the department of social services immediately prior to being committed when all the procedural requirements are met.

- Note: the requirement to “work cooperatively through the duration of the person’s commitment to ensure communication of information regarding the status of the person and to facilitate transition planning for the person prior to his release” applies to all juveniles who were in the custody of the local department of social services immediately prior to commitment, regardless of the projected age at the time of release.

## MENTAL HEALTH

### **Mandatory psychiatric treatment; who may file petition. An Act to amend and reenact §§ [37.2-805](#) and [37.2-817](#) of the Code of Virginia.**

#### **[HB 1423](#) (O’Bannon)**

- Current Law: Allows the following persons to file petitions for voluntary (§37.2-805) and involuntary (§37.2-817) psychiatric treatment: (i) treating physician, (ii) a family member, (iii) a personal representative of the person, or (iv) the community services board serving the “area” where the facility is located.”
- Effect of the Bill: The bill increases the number of localities in which the community services board (CSB) may file the petition to hold a hearing to determine whether mandatory outpatient treatment is appropriate prior to the release of an individual who has been the subject of voluntary or involuntary psychiatric treatment. The CSB may now file the petition in (i) the city or county where the facility is located, (ii) the city or county where the person resides, or (iii) the city or county where the person receives treatment.
- Note: This bill does not affect the Psychiatric Treatment of Minors Act which requires the petitioner to be a minor’s treating physician or parent or, if the parent is not available or is unwilling to file a petition, a responsible adult.

### **Emergency custody and involuntary temporary detention; transportation. An Act to amend and reenact §§ [37.2-808](#) and [37.2-810](#) of the Code of Virginia.**

#### **[SB 920](#) (Carrico)**

- Current Law: Provides that in cases in which the emergency custody order is based upon a finding that the person who is the subject of the order has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs , the magistrate may authorize transportation by an alternative transportation provider including a family member or friend of the person who is the subject of the order, a representative of the community services board, or other transportation provider with personnel trained to provide transportation in a safe manner
- Effect of Bill: Requires magistrates to consider authorizing alternative transportation, if available, for persons subject to an emergency custody or involuntary temporary detention order if the order is based upon a finding that the person who is the subject of the order has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future, suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs but there is no substantial likelihood that the person will cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information. Alternate transportation may be in the form of a person, agency, or facility.

Note: The difference in the current law and the new language is very subtle. Both the current law and the new language address the magistrate considering alternative transportation. The language changed from may consider to shall consider.

## PROTECTIVE ORDERS

**Protective orders; exempt from stay pending appeal. An Act to amend and reenact §§ [16.1-106](#) and [16.1-298](#) of the Code of Virginia.**

**[HB 1643](#) (Watts)/ [SB 1016](#) (Howell)**

- **Current Law:** The court from which an appeal is sought may refuse to suspend the execution of a judgment which refuses, grants, modifies, or dissolves an injunction in a case brought pursuant to § [2.2-3713](#) of the Virginia Freedom of Information Act. A protective order issued pursuant to § [19.2-152.10](#). Protective orders issued to protect the health and safety of the petitioner and family or household members of a petitioner.
- **Effect of the bill:** Clarifies that a protective order entered due to a violation of an initial protective order shall remain in effect pending the filing and outcome of an appeal. This includes family abuse protective orders, § [19.2-152.8](#), [19.2-152.9](#) or [19.2-152.10](#) issued in conjunction with a family abuse disposition.

**Note:** This bill is a recommendation of the Committee on District Courts.

## SCHOOL SAFETY BILLS

**School Security Infrastructure Improvement Fund and Local School Safety Fund. Public School Security Equipment Grant Act of 2013.**

**[HB 2343](#) (Sherwood)**

- **Effect of the Bill:** Relating to the establishment of the School Security Infrastructure Improvement Fund and the Local School Safety Fund. The purpose of the funds shall be exclusively for purchasing safety equipment for schools, including any related installations. The bill permits the Virginia Public School Authority to issue bonds for the purpose of issuing grants payments to school divisions. Grant amounts are limited to \$100,000 per fiscal year for each school division. There is a 25% local school division match, which may be reduced for cause.
- **Note:** The budget included \$1.3 million from the General Fund for fiscal year 2014 to finance debt service payments on \$6 million in equipment notes (capped at \$30 million in aggregate principal).

**School safety; threat assessment teams and oversight committees. An Act to amend and reenact §§ [9.1-184](#) and [23-9.2:10](#) of the Code of Virginia and to amend the Code of Virginia by adding a section numbered [22.1-79.4](#).**

**[HB 2344](#) (Cole)**

- **Current Law:** Requires that each public college or university shall have in place policies and procedures for the prevention of violence on campus, including assessment and intervention with individuals whose behavior poses a threat to the safety of the campus community.
- **Effect of the Bill:** Requires local school boards to establish threat assessment teams and adds additional requirements for college and university threat assessment teams.

- Requires the Virginia Center for School Safety to develop protocols and provide technical assistance for the use of threat assessment teams.
- Requires, in conjunction with the Department of State Police, the Department of Behavioral Health and Developmental Services, and the Department of Education, develop a model critical incident response training program for public school personnel and others providing services to schools that shall also be made available to private schools in the Commonwealth.
- Additionally, the Center for School Safety in consultation with the Department of Education shall provide schools with a model policy for the establishment of threat assessment teams, including procedures for the assessment of and intervention with students whose behavior poses a threat to the safety of school staff or students.
- Adds language requiring college and university threat assessment teams to have policies and procedures to refer individuals to community service boards or other health care providers for evaluation or treatment. Adds language that requires the State Council on Higher Learning to work with Department of Criminal Justice Services to report qualitative data on threat assessment teams.

**Virginia Center for School Safety; duties. An Act to amend and reenact § [9.1-184](#) of the Code of Virginia.**

**[HB 2345](#) (Yost)**

- Current Law: The current law creates the Virginia Center for School Safety and outlines the Center’s duties which includes:
  - Providing training for Virginia public school personnel in school safety, on evidence-based anti-bullying tactics, and in the effective identification of students who may be at risk for violent behavior and in need of special services or assistance;
  - Serve as a resource and referral center for Virginia school divisions
  - Maintain and disseminate information to local school divisions on effective school safety initiatives in Virginia and across the nation;
  - Collect, analyze, and disseminate various Virginia school safety data, including school safety audit information submitted to it pursuant to § [22.1-279.8](#), collected by the Department;
  - Encourage the development of partnerships between the public and private sectors to promote school safety in Virginia;
  - Provide technical assistance to Virginia school divisions in the development and implementation of initiatives promoting school safety
  - Develop a memorandum of understanding between the Director of the Department of Criminal Justice Services and the Superintendent of Public Instruction to ensure collaboration and coordination of roles and responsibilities in areas of mutual concern, such as school safety audits and crime prevention and
  - Provide training for and certification of school security officers, as defined in § [9.1-101](#) and consistent with § [9.1-110](#);
- Effect of the Bill: The bill adds the following additional duties to the Center:
  - Develop, in conjunction with the Department of State Police, the Department of Behavioral Health and Developmental Services, and the Department of Education, a model critical incident response training program for public school personnel and those providing services to schools that shall also be made available to private schools in the Commonwealth; and
  - In consultation with the Department of Education, provide schools with a model policy for the establishment of threat assessment teams, including procedures for the assessment of and intervention with individuals whose behavior poses a threat to the safety of school staff or students.

- Provide technical assistance to Virginia School division to develop threat assessment-based protocols with available funding.

**Yearly school lock-down drills, school safety audits, and school crisis, emergency management, and medical emergency response plans. An Act to amend and reenact § [22.1-279.8](#) of the Code of Virginia and to amend the Code of Virginia by adding a section numbered [22.1-137.2](#).**

**[HB 2346](#) (Ransone)**

- **Current Law:** The Virginia Center for School Safety, shall develop a list of items to be reviewed and evaluated in the school safety audits and shall prescribe a standardized report format for school safety audits, additional reporting criteria, and procedures for report submission, which may include instructions for electronic submission. Each local school board shall require all schools under its supervisory control to annually conduct school safety audits.
- **Effect of the Bill:** Requires the Virginia Center for School Safety to consult with the Department of Education to develop a list of items to be reviewed and evaluated in school safety audits. The audit shall include a school inspection walk-through using a standardized checklist provided by the Virginia Center for School Safety, which shall incorporate crime prevention through environmental design principles. Additionally the bill requires every public school to conduct two lock down drills every school year. One lock-down drill shall be completed in September of each school year and one lock-down drill shall be completed in January of each school year. Lock-down plans and drills shall be in compliance with the Statewide Fire Prevention Code (§ [27-94](#) et seq.).

**Juvenile intake and petition information; threat assessment teams. An Act to amend and reenact § [16.1-301](#) of the Code of Virginia.**

**[HB 2347](#) (Ramadan)**

- **Current Law:** Require all law-enforcement agencies to take special precautions to ensure that law-enforcement records concerning a juvenile are protected against disclosure to any unauthorized person. The law permits the chief of police or sheriff of a jurisdiction or his designee may disclose, for the protection of the juvenile, his fellow students and school personnel, to the school principal that a juvenile is a suspect in or has been charged with (i) a violent juvenile felony, as specified in subsections B and C of § [16.1-269.1](#); (ii) a violation of any of the provisions of Article 1 (§ [18.2-77](#) et seq.) of Chapter 5 of Title 18.2; or (iii) a violation of law involving any weapon as described in subsection A of § [18.2-308](#).
- **Effect of the Bill:** In addition to any other disclosure that is permitted by this subsection, the principal in his discretion may provide such information to a threat assessment team established by the local school division. No member of a threat assessment team shall (a) disclose any juvenile record information obtained pursuant to this section or (b) use such information for any purpose other than evaluating threats to students and school personnel. For the purposes of this subsection, "principal" also refers to the chief administrator of any private primary or secondary school.

**Civil immunity for certain persons. An Act to amend and reenact § [8.01-47](#) of the Code of Virginia.**

**[SB 1376](#) (Martin)**

- **Current Law:** Provides immunity to any teacher, instructor, principal, school administrator, school coordinator, guidance counselor or any other professional, administrative or clerical staff member or other personnel of any elementary or secondary school or institution of higher learning in good faith with reasonable cause and without malice, acts to report, investigate or cause any investigation to be made into the activities of any student or students or any other person or persons as they relate to conduct involving



bomb threats, firebombs, explosive materials or other similar devices alcohol or drug use or abuse in or related to the school or institution or in connection with any school or institution activity.

- **Effect of the Bill:** Removes the specific list of individuals who have immunity and provides immunity to any person who reports bomb, fire threats, alcohol or drug use or information that an individual poses any credible danger of serious bodily injury or death to one or more students, school personnel, or others on school property.

**Sale and transport for sale of firearms to certain persons; penalty. An Act to amend and reenact §§ [18.2-308.2:1](#) and [18.2-308.2:2](#) of the Code of Virginia.**

**[SB 1378](#)** (Garrett)

- **Current Law:** Any person who sells, barter, gives or furnishes, or has in his possession or under his control with the intent of selling, bartering, giving or furnishing, any firearm to any person he knows is prohibited from possessing or transporting a firearm pursuant to § [18.2-308.1:1](#), [18.2-308.2](#), subsection B of § [18.2-308.2:01](#), or § [18.2-308.7](#) shall be guilty of a Class 6 felony. However, this prohibition shall not be applicable when the person convicted of the felony, adjudicated delinquent or acquitted by reason of insanity has (i) been issued a permit pursuant to subsection C of § [18.2-308.2](#) or been granted relief pursuant to subsection B of § [18.2-308.1:1](#), (ii) been pardoned or had his political disabilities removed in accordance with subsection B of § [18.2-308.2](#) or (iii) obtained a permit to ship, transport, possess or receive firearms pursuant to the laws of the United States.
- **Effect of the Bill:** Any person who sells, barter, gives or furnishes, or has in his possession or under his control with the intent of selling, bartering, giving or furnishing, any firearm to any person he knows is prohibited from possessing or transporting a firearm pursuant to § [18.2-308.1:1](#), [18.2-308.1:2](#) (persons adjudicated legally incompetent or mentally incapacitated; penalty.), [18.2-308.1:3](#) (persons involuntarily admitted or ordered to outpatient treatment; penalty.), [18.2-308.2](#), subsection B of § [18.2-308.2:01](#), or § [18.2-308.7](#) shall be guilty of a Class 4 felony rather than a Class 6 felony. However, this prohibition shall not be applicable when the person convicted of the felony, adjudicated delinquent or acquitted by reason of insanity has (i) been issued a permit pursuant to subsection C of § [18.2-308.2](#) or been granted relief pursuant to subsection B of § [18.2-308.1:1](#), or § [18.2-308.1:2](#) or [18.2-308.1:3](#) (ii) been pardoned or had his political disabilities removed in accordance with subsection B of § [18.2-308.2](#) or (iii) obtained a permit to ship, transport, possess or receive firearms pursuant to the laws of the United States.

**SEXUAL OFFENSES / SEX OFFENDERS**

**Sex Offender Registry, Title 18.1 Superseded by Title 18.2. An Act to amend and reenact § [9.1-902](#) of the Code of Virginia.**

**[HB 1862](#)** (Sherwood)/ **[SB 1032](#)** (Reeves)

- **Current Law:** The Code of Virginia identifies offenses that require an offender to register with the Sex Offender and Crimes Against Minors Registry § [9.1-902](#).
- **Effect of the Bills:** The bills add to the list of offenses that require a person to register on the Sex Offender Registry certain offenses comparable to those currently requiring registration where the conviction was under Title 18.1 of the Code of Virginia, which was in effect prior to 1975 when Title 18.2 came into effect. The additional offenses include:
  - Former § 18.1-88, entering a dwelling house with the intent to commit rape;

- A felony violation of former § 18.1-19, adultery or fornication with child or grandchild
- A violation of former § 18.1-21, first or second degree murder where the victim is (i) under 15 years of age or (ii) at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.
- Former § 18.1-38, abduction with the intent to defile or, for the purpose of concubinage or prostitution, a felony violation of subdivision (2) or (3) of former § 18.1-39 that involved assisting or aiding in such an abduction,
- Former § 18.1-44, rape when such act is accomplished against the complaining witness's will, by force, or through the use of the complaining witness's mental incapacity or physical helplessness, or if the victim is under 13 years of age
- Former § 18.1-215, aggravated sexual battery when the complaining witness was under 13 years of age,
- A violation of subdivision (1), (2), or (4) of former § 18.1-213, former § 18.1-214, taking indecent liberties with children

**Mandatory minimum sentences for child pornography offenses to be served consecutively; penalty. An Act to amend and reenact §§ [16.1-253.2](#), [18.2-46.3:3](#), [18.2-60.4](#), [18.2-61](#), [18.2-67.1](#), [18.2-67.2](#), [18.2-154](#), [18.2-308.2:2](#), [18.2-374.1](#), and [18.2-374.1:1](#) of the Code of Virginia.**

**SB 832** (Stuart) / **HB 2269** (Bell, R.B.)

- **Current Law:** The judge may order whether mandatory minimum sentences may be served concurrently or consecutively, unless the Code of Virginia specifically states that the sentence must be served consecutively.
- **Effect of the Bills:** The bills provide that the sentence of a person convicted of certain offenses must serve that term consecutively with any other sentence. The offenses are:
  - Violations of protective orders, (§§ 16.1-253.2 and 18.2-60.4 – 6 months or 60 days);
  - Gang-free zone violations (§ 18.2-46.3:3 – 2 years);
  - Rape (§ 18.2-61 – 25 years or life);
  - Forcible sodomy (§ 18.2-67.1 – 25 years or life);
  - Object sexual penetration (§ 18.2-67.2 – 25 years or life);
  - Shooting or throwing a missile at law enforcement vehicle (§ 18.2-154 – 1 year);
  - Straw-man firearm purchase (§ 18.2-308.2:2 – 5 years);
  - Production of child pornography (§ 18.2-374.1 – 10 or 15 years); and
  - Possession or distribution of child pornography (§ 18.2-374.1 – 5 years).
- **Note:** Mandatory minimum sentences do not apply to dispositions in juvenile court.

**Use of communications system to propose sex offenses involving a child. An Act to amend and reenact §§ [18.2-370](#) and [18.2-374.3](#) of the Code of Virginia.**

**HB 1745** (Gilbert)/ **SB 1031** (Reeves)

- **Current Law:** The indecent liberties with minors statute (§ 18.2-374.3 (C) (2)) prohibits adults from using print or electronic communications (e.g., telecommunications devices, internet, radio) to propose, with lascivious intent, that a child believed to be less than 15 years old (i) feel or fondle the sexual or genital parts of the adult making the proposal or (ii) that the adult making the proposal feel or fondle the sexual or genital parts of the child. It is a Class 5 felony to violate this section and enhanced penalties apply if the offender is at least seven years older than the victim (first offense, five year mandatory minimum; second or subsequent, ten year mandatory minimum term of incarceration).

- Effect of the Bills: The bills expand the solicitation provisions to include situations in which an adult proposes that a child believed to be less than 15 years old feel or fondle his own sexual or genital parts.

Note: not applicable to juveniles (solicitor has to be 18 years of age or older).

**Prostitution; solicitation of a minor. An Act to amend and reenact § [18.2-346](#) of the Code of Virginia.**

**[HB 1606](#) (Hugo) / [SB 1015](#) (Howell)**

- Current Law: Section 18.2-346 (B) makes it a Class 1 misdemeanor for any person to solicit a prostitute, regardless of the age of the prostitute.
- Effect of the Bills: The bills would increase the punishment for any person, including minors, soliciting a prostitute if the prostitute is a minor. The penalty for soliciting from a minor 16 years of age or older is a Class 6 felony and from a minor under the age of 16 is a Class 5 felony.

**Human trafficking hotline, posted notices. An Act to amend and reenact § [40.1-11.3](#) of the Code of Virginia, relating to human trafficking; notices by employers; truck stops.**

**[HB 2061](#) (Hugo)**

- Current Law: Requires notice of the existence of a human trafficking hotline to alert potential human trafficking victims of the availability of assistance to be posted in any business that provides stripteasing or topless entertainment or has employees who do not wear clothing above or below the waist. Failure to post the notice is subject to a civil penalty of \$500.
- Effect of the Bill: Provides that any employer who operates a truck stop and who fails to post a notice, in the same location where other employee notices required by state or federal law are posted, of the existence of a human trafficking hotline is subject to a civil penalty of \$100. A civil penalty shall not be assessed until after 72 hours' notice of such failure. No such civil penalties shall be assessed prior to January 1, 2014. The measure also clarifies that civil penalties are to be assessed by the Department of Labor and Industry.

**SOCIAL SERVICES**

**Child Abuse and Neglect Investigations; time limits on reports. An Act to amend and reenact § [63.2-1505](#) of the Code of Virginia, relating to child abuse and neglect investigations; time limit for reports**

**[HB 1721](#) (O'Bannon)**

- Current Law: Requires the local department of social services to determine within 45 days or, with justification, within 60 days if a report of abuse or neglect is founded or unfounded and to provide that report to the Department of Social Services and the subject of the investigation. It excludes the days when the local department is unable to find the child who is the subject of the report from the timeframes.
- Effect of the Bill: Provides that time during which the local department of social services is waiting to receive records that are necessary for the investigation of alleged sexual abuse of a child or alleged abuse or neglect of a child that resulted in the death of the child shall not be counted towards the time limit by which such investigation must be completed.

**Child Abuse Investigations; School Employees. An Act to amend and reenact § [63.2-1505](#) of the Code of Virginia.**

**[HB 2193](#) (Merricks)**

- Current Law: The local departments of social services are responsible for conducting child abuse and neglect investigations. Section 63.2-1505 (B)(7) requires the local department to notify the relevant school board of any founded complaint of child abuse or neglect when the subject of the complaint is a full time, part-time, permanent, or temporary **teacher** of a school division located within the Commonwealth.
- Effect of the Bill: The bill expands the notification requirement and requires the local department to notify the relevant school board of any founded complaint of child abuse or neglect when the subject of the complaint is a full time, part-time, permanent, or temporary **employee** of a school division located in the Commonwealth.

**Restoration of Parents Rights. An Act to amend and reenact § [9.1-151](#) of the Code of Virginia and to amend the Code of Virginia by adding a section numbered [16.1-283.2](#), relating to restoration of parental rights.**

**[HB 1637](#) (BaCote) / [SB 1076](#) (Barker)**

- Current Law: After parental rights are terminated, there is no mechanism for restoration.
- Effect of the Bill: Creates a procedure for restoring parental rights to a parent whose rights to his child have previously been terminated when the child is at least 14 years of age and the child has not achieved his permanency goal. The bill also provides that the juvenile and domestic relations court may appoint a special advocate to provide services to a child who is the subject of judicial proceedings for the restoration of parental rights.
- Prerequisites for filing:
  - The juvenile (person under the age of 18) is in the custody of the local department of social services;
  - A pre-adoptive parent(s) have not been approved;
  - The juvenile is at least 14 years of age;
  - The juvenile was previously adjudicated to be an abused/neglected child, CHINS, CHINSup, or a delinquent child;
  - The parents rights were terminated (16.-283 B, C, or D) *at least* two years prior to the petition being filed;
  - The juvenile has not achieved his/her permanency goal or the goal was achieved but not sustained; and
  - The child and the parent whose rights are to be reinstated consent to the restoration of the parental rights.
- Who may file a petition to restore the previously terminated parental rights: The juvenile's guardian ad litem or the local board of social services
- Exceptions to prerequisites:
  - Sibling petitions, age exception: The court may accept a petition involving a juvenile younger than 14 if one of the two criteria are met:
    - The juvenile is the sibling of a juvenile who is older than 14 who is subject to a petition; and
    - Either
      - The sibling juvenile meets all other prerequisite criteria or
      - The sibling juvenile's guardian ad litem **and** the local department of social services jointly file the petition for restoration; or

- Petition before 2 years lapse after final TPR:
  - A petition filed before the expiration of the two-year period following termination of parental rights if the child will turn 18 before the expiration of the two-year period; and
  - The court finds that accepting the petition is in the best interest of the child.

**Rights of parents. An Act to amend the Code of Virginia by adding a section numbered [1-240.1](#), relating to rights of parents.**

[HB 1642](#) (Pogge) / [SB 908](#) (Reeves)

- **Current Law:** The Code of Virginia does not have language relating to the fundamental rights of parents. This is provided for in case law, specifically *L.F. v. Breit*, 285 Va. 163, 735 S.E. 2d 711 (2013).
- **Effect of the Bill:** Provides that a parent has a fundamental right to make decisions concerning the upbringing, education, and care of the parent's child.

The bill contains a second enactment clause that provides that the provisions of the bill codify the opinion of the Supreme Court of Virginia in *L.F. v. Breit*, issued on January 10, 2013, as it relates to parental rights.

**MISCELLENEOUS**

**Workers' compensation, injuries to public safety workers due to weather. An Act to amend the Code of Virginia by adding a section numbered [65.2-301.1](#).**

[HB 1347](#) (Wright) / [SB 896](#) (Reeves).

- **Current Law:** A claimant must prove that an injury incurred in the workplace arose out of and in the course of his or her employment and that a unique occupational condition caused the conditions of the injury.
- **Effect of the Bill:** Changes the burden for injuries to public safety officers due to weather by eliminating the requirement that the public safety officer be exposed to a particular risk of injury that is usually not faced by a member of the public. It states that an injury to a public safety officer in situations where weather constitutes a particular risk of his employment shall be compensable where the injury arose out of and in the course of his employment, unless misconduct is proven. A public safety officer is defined in § 9.1-801 of the Code of Virginia and includes a correctional officer employed at a juvenile correctional facility.

**STUDIES**

**Post Dispositional Study Item 408**

[Item 408](#)

- The Department of Juvenile Justice shall review current practices in the post-dispositional detention program and consider potential options for expansion of the program, including incentives for increased participation by local and regional juvenile detention facilities and increased use of detention beds for holding state-responsible juvenile offenders as an alternative to the use of state facilities. Copies of the review, including any suggested legislation, shall be provided to the Secretary of Public Safety and the Chairmen of the Senate Finance and House Appropriations Committees by September 1, 2013.

## **DJJ Division of Education teacher/students staffing ratio**

### **Item 405.05**

- The Department of Juvenile Justice, with the assistance of the Department of Education, shall complete a program review and staffing analysis to determine the appropriate teaching staffing ratios for the state-operated juvenile correctional centers and local and regional juvenile detention facilities. The review and analysis shall be provided to the Secretaries of Public Safety and Education and to the Chairmen of the Senate Finance and House Appropriations Committees by September 1, 2013.

## **Study and Develop a Report on the Laws and Policies Governing the Investigation of Alleged Child Sexual Abuse in the Commonwealth**

### **HJ 595 (Loupassi)**

- **Effect of the Resolution:** Directs the Virginia State Crime Commission to determine (i) the availability of penalties for sexual conduct between secondary school students 18 years of age and older and teachers; (ii) the reasons why sexual conduct between teachers or other school personnel who maintain a custodial or supervisory relationship over students under the age of 18 is subject to criminal penalties while the same conduct with students 18 years of age or older is not; (iii) the feasibility of penalizing sexual conduct between teachers or other school personnel and students age 18 or older; (iv) the number of cases involving sexual conduct between teachers or other school personnel and students 18 years of age or older each year; (v) laws, regulations, policies, and training practices of the Commonwealth and its agencies governing reporting, investigation, and tracking of complaints of suspected child abuse, including suspected sexual abuse of a child and including such laws, regulations, policies, and training practices of or governing the Department of Social Services, local departments of social services, law-enforcement agencies, schools, and child welfare agencies; (vi) variations or discrepancies in how the various agencies receive, investigate, and track alleged cases of child sexual abuse, particularly those variations or discrepancies that may create opportunities for individuals who are alleged to have committed child sexual abuse and who are the subjects of investigations to destroy evidence, intimidate victims, or otherwise interfere with the conduct of such investigation; and (vii) recommendations for legislative, regulatory, and budgetary changes to reduce or eliminate variations or discrepancies in how the various agencies receive, investigate, and track alleged cases of child sexual abuse in order to increase the quality and effectiveness of child protective services, investigations of alleged child sexual abuse, and prosecutions of individuals alleged to have committed child sexual abuse in the Commonwealth. The Commission is authorized to establish a multi-disciplinary work group to assist in its work.

## **Virginia Commission on Youth, Study on the Assessment of Mental Health Needs of Juveniles Being Considered for Commitment in the Juvenile and Domestic Relations District Courts.**

### **SB 928 (Vogel).**

- SB 928, which would require juveniles being considered for commitment who had an identified mental health need to be referred to an interdisciplinary committee and for the committee to submit a report, unless an interdisciplinary team had met on the juvenile's case within the preceding 90 days.
- The proposed legislation would require the Juvenile and Domestic Relations Court to consider the evaluation when determining whether the juvenile will be committed to the Department of Juvenile Justice (DJJ).
- Senate Courts of Justice Committee reviewed the bill and determined that further study would be appropriate, requesting the Commission on Youth to study the provisions set forth in Senate Bill 928 and to report findings and recommendations to the Committee by November 1, 2013.

- In 2013, the Commission will research the impact of the proposed legislation on stakeholders and review existing state and federal legislation/statutes.
- Commission staff will report its findings and recommendations to the Commission on Youth in November 2013.