2016

Virginia Department of Juvenile Justice

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Extraordinary Purpose.

2016 General Assembly

Legislative Training Manual

July 1, 2016

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CRIMES

HB 168 (LaRock) / SB 120 (Carrico): Passing stopped school buses; mailing of summons, rebutting presumption

- **Existing Law:** Section 46.2-844 of the *Code of Virginia* imposes a $250 civil penalty upon drivers who fail to stop or remain stopped when approaching a school bus that is dropping off or picking up children, elderly, or handicapped persons. Under § 46.2-859, a person who commits this offense may be subject to a reckless driving charge (which is a Class 1 misdemeanor punishable by up to one year in jail and a fine of $2,500).

    - Proof that the motor vehicle violated this law and that the defendant was the registered owner of the vehicle when the law was violated created a *rebuttable presumption* that the registered vehicle owner operated the vehicle when the offense was committed.
    - Local school divisions can install video-monitoring systems on their school buses in order to record vehicles that violate this law.

- **Effect of the Bills**: These bills amend § 46.2-844 to allow local governments to mail citations to the *owner* of a vehicle who illegally passes a stopped school bus. The violation will give the driver a $250 fine, and the owner will have a chance to rebut who was driving the vehicle at the time.

    - The presumption may be rebutted if: (i) the owner either files an affidavit or testifies in court that he was *not* operating the vehicle during the violation, or (ii) a certified copy of a police report is presented showing that the vehicle had been reported as stolen to the police prior to the alleged violation.
    - The bills give the summoned person 30 business days from the mailing of the summons to inspect information collected by a video-monitoring system in connection with the violation.

- **Background:** Several local jurisdictions in Virginia, including Falls Church and Arlington County, had started the program but stopped when the Office of the Attorney General issued an official advisory opinion stating that the practice is not authorized because a provision for mailing citations was not included in the original video monitoring on school buses legislation that passed in 2011.

- **Comments:** This bill does not amend § 46.2-859 relating to the provisions for criminally charging an individual with reckless driving for unlawfully passing a stopped school bus.

HB 170 (ALBO): CONTROLLED PARAPHERNALIA; UNLAWFUL TO POSSESS OR DISTRIBUTE, EXCEPTIONS, PENALTY

- **Existing Law:** Section 54.1-3466 of the *Code of Virginia* currently has possession and distribution of controlled paraphernalia classified as a misdemeanor violation. The class of misdemeanor offense was not identified.

  Controlled paraphernalia means:

  - hypodermic syringe, needle, or other instrument or implement or combination thereof adapted for the administration of controlled dangerous substances by hypodermic injections under circumstances that reasonably indicate an intention to use such controlled paraphernalia for purposes of illegally administering any controlled drug or
  - gelatin capsules, glassine envelopes, or any other container suitable for the packaging of individual quantities of controlled drugs in sufficient quantity to and under circumstances that reasonably indicate an intention to use any such item for the illegal manufacture, distribution, or dispensing of any such controlled drug.

- **Effect of the Bill:** This bill amends § 54.1-3466 of the *Code of Virginia* by making distinct offenses for possession of controlled paraphernalia and distribution of controlled paraphernalia that are punishable as Class 1 misdemeanors. The bill clarifies that the possession and distribution of controlled paraphernalia are *distinct offenses*.

HB 752 (R.B. BELL) / SB 339 (REEVES): STALKING; PENALTY

- **Existing Law:** Section 18.2-60.3 of the *Code of Virginia* provides that stalking occurs when any person who on more than one occasion engages in conduct directed at 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 (i) death, (ii) criminal sexual assault, or (iii) bodily injury to that other person or to that other person's family or household member.

  - A first conviction is a Class 1 misdemeanor.
  - A second conviction for stalking is a Class 6 felony if:
    (i) The first conviction occurred within five years of the instant stalking conviction *and*
    (ii) The assailant was also convicted within the previous five years of one of the following offenses: (i) shooting, stabbing, with the intent to maim; (ii) aggravated malicious wounding; (iii) strangulation; (iv) malicious bodily injury by means of caustic substance; and (v) assault and battery if the victim was the same person subject to the stalking *or* (i) assault and battery of a family or household member; or (ii) protective order (punishable with up to five years in prison).

- A third or subsequent conviction for stalking occurring within five years of a conviction for stalking or for a similar offense is a Class 6 felony.

- **Effect of the Bills:** This bill amends § 18.2-60.3 of the *Code of Virginia* by including a provision that (i) contacting, (ii) following, or (iii) attempting to contact or follow the person at whom stalking conduct is directed after being given *actual* notice that the person does not want to be contacted or followed is *prima facie* evidence that the person *intended* to place the other person, or reasonably should have known that the other person was placed, in reasonable fear of (i) death, (ii) criminal sexual assault, or (iii) bodily injury to himself or a family or household member.

- **Background:** This bill is a recommendation of the Virginia State Crime Commission.

- **Comments:** *Prima facie* is Latin for "on the first appearance," or "on its face," referring to a lawsuit or criminal prosecution in which the evidence before trial is sufficient to prove the case unless there is *substantial contradictory evidence* presented at trial. Example: In a charge of bad check writing, evidence of a half dozen checks written on a non-existent bank account makes it a *prima facie* case. However, proof that the bank had misprinted the account number on the checks might disprove the prosecution's apparent "open and shut" case.

HB 875 (HUGO): REAL-TIME LOCATION DATA; DISCLOSURE IN EMERGENCIES

- **Existing Law:** Section 19.2-70.3 of the *Code of Virginia* restricts the instances in which electronic communication service providers or remote computing service providers may disclose to an investigative or law-enforcement officer real-time location data unless the disclosure is provided pursuant to a valid search warrant or administrative warrant concerning child pornography production, distribution, possession, publication, sale, and other child pornography-related violations. In the absence of a search or administrative warrant, real-time location data that is not prohibited by federal law also may be disclosed:

  - In order to respond to the user's call for emergency services;
  - With the informed consent of the owner or user of the electronic device;
  - With the informed consent of the legal guardian or relative of the owner or user; *or*
  - If the investigative or law-enforcement officer reasonably believes an emergency involving the immediate danger to a person requires the disclosure of the data, a warrant cannot be obtained in time to prevent the danger, ***and*** the possessor of the real time location data has a good faith belief that an emergency involving danger to a person requires disclosure without delay.

- **Effect of the Bill:** This bill removes the requirement that the *possessor* of an electronic communication service or remote computing service provider with real time location data has to believe in good faith that an emergency involving danger to

a person requires disclosure without delay. Now, the investigative or law-enforcement officer may access the information and the possessor must provide it when the officer believes, in good faith that an emergency involving *immediate danger* to a person requires disclosure without delay (and a warrant cannot be obtained in time to prevent the identified danger).

HB 1077 (Garrett) / SB 480 (Obenshain): Drug Control Act; adds certain chemical substances as Schedule 1

- **Existing Law:** Section 54.1-3446 of the *Code of Virginia* identifies the controlled substances that are included under Schedule 1 of the Drug Control Act.

- **Effect of the Bills:** These bills add twelve chemical substances to Schedule I of the Drug Control Act. The additional drugs include four cathinone derivatives (bath salts); one compound chemically related to benzodiazepines; a hallucinogen; an opioid, chemically similar to Fentanyl; and five compounds that are considered synthetic cannabinoids (synthetic marijuana).

- **Background:** Existing Law allows the Board of Pharmacy to utilize an expedited regulatory process to add substances to Schedule I or II of the Drug Control Act for an 18-month period. Thereafter, the General Assembly must enact legislation to enable the substances to maintain their Schedule 1 or Schedule 2 classification beyond the 18-month period. The Board of Pharmacy added these compounds to Schedule I of the Drug Control Act effective December 2, 2015.

HB 1142 (Fariss): Slingshot; hunting of wild birds and wild animals, except deer, etc., unless shooting is prohibited

- **Existing Law:** Section 29.1-519 of the *Code of Virginia* identifies the following as weapons that may be used to hunt wild birds and animals, unless shooting is expressly prohibited: (i) shotguns or muzzleloading shotguns not larger than 10 gauge; (ii) certain automatic-loading or hand-operated repeating shotguns; (iii) rifles, muzzleloading rifles, or air rifles; (iv) bows and arrows, and (v) crossbows. Note: A pistol, muzzleloading pistol, or revolver may be used to hunt nuisance species of birds and animals.

  Hunting of wild birds or animals in violation of this section of the *Code* is punishable as a Class 3 misdemeanor.

- **Effect of the Bill:** This bill expands the list of weapons that may be used to hunt wild birds and animals, unless shooting is expressly prohibited, to include slingshots. It continues to be illegal to use a slingshot when hunting deer, bear, elk, or turkey.

- **Comments:** Thirty-two, now 33, states permit hunting with slingshots in some capacity.

HB 1319 (COLLINS): MILITARY STATUS OR DECORATIONS; FALSE REPRESENTATION WITH INTENT TO OBTAIN SERVICES, PENALTY

- **Existing Law:** Sections 18.2-174 through 18.2-177 of the *Code of Virginia* outline the offenses for false representation as a member of a public office or of certain organizations in order to obtain a benefit.

    - Sections 18.2-174 and 18.2-174.1 punish as Class 1 misdemeanors false representation as a law enforcement officer, emergency medical service provider, firefighter, or other specified public service personnel.
    - Section 18.2-175 punishes as a Class 1 misdemeanor unlawfully wearing a uniform or insignia or using a police-labeled motor vehicle on public highways in Virginia.
    - Section 18.2-176 prohibits and punishes as a Class 3 misdemeanor unlawfully wearing or displaying on motor vehicles the insignia of orders of police, trade unions, and other specified organizations.
    - Section 18.2-177 prohibits and punishes as a Class 4 misdemeanor unlawfully wearing, printing, displaying or using the insignia of associations, lodges, fraternal societies, and other organizations.

- **Effect of the Bill:** This bill creates § 18.2-177.1 which punishes as a Class 1 misdemeanor a person's *false representation* as (i) a member or veteran of the military by *wearing the uniform or any metal or insignia* authorized for use by members of the United States Armed Forces, Armed Forces Reserves, or National Guard or (ii) the *recipient of a decoration or medal* created by federal or state law to honor military members or veterans with the *intent to obtain services*.

HB 1329 (FARISS): TRESPASS BY HUNTERS USING DOGS; PENALTY

- **Existing Law:** Section 18.2-132 of the *Code of Virginia* punishes as a Class 3 misdemeanor any person who goes onto lands, waters, ponds, boats, or blinds of another to hunt, fish, or trap without the landowner or his agent's consent. The unlawful and nonconsensual entry onto properties that have been posted to prohibit hunting, according to the prescribed methods in § 18.2-134.1, is a Class 1 misdemeanor.

- **Effect of the Bill:** This bill creates § 18.2-132.1, which punishes as a Class 3 misdemeanor a person's *intentional release of hunting dogs* on another's *posted property* in order to hunt *without the consent* of the landowner. The bill punishes a second or subsequent offense committed within three years as a Class 1 misdemeanor and provides for the revocation of the person's hunting license for a period of one year upon conviction.

  The bill specifies that the presence of hunting dogs on the property, alone, is not sufficient to prove that the person acted intentionally.

HB 1348 (PILLION): SMOKING IN MOTOR VEHICLES; PRESENCE OF MINOR UNDER AGE EIGHT, CIVIL PENALTY

- **Existing Law:** Prior to July 1, 2016, there were no restrictions or prohibitions relating to smoking in a motor vehicle with children or other passengers.

- **Effect of the Bill:** This bill creates § 46.2-112.1, which imposes a $100 civil penalty upon any person who smokes a lighted pipe, cigar, cigarette, or any other lighted smoking equipment in a motor vehicle, whether in motion or at rest, when a minor under the age of eight is in the motor vehicle. The offense is a secondary offense (a citation may not be issued unless the officer has cause to stop or arrest the driver for the violation of some other provision of the *Code* or local ordinance relating to the operation, ownership, maintenance of a motor vehicle, or any criminal statute), and may be charged on a uniform traffic summons form.

SB 363 (REEVES): PERSONS WITH DISABILITIES; RIGHTS IN PUBLIC PLACES, FRAUDULENT REPRESENTATION OF SERVICE DOG

- **Existing Law:** Prior to July 1, 2016, there were no restrictions or prohibitions against representing that an animal is a service animal. .

- **Effect of the Bill:** This bill enacts § 51.5-44.1 to provide that any person who *knowingly and willfully* (i) fits a dog with a harness, collar, vest, or sign or (ii) uses an identification card commonly used by a person with a disability to represent that the dog is a service or hearing dog in order to fraudulently allow the dog access to a public place is guilty of a Class 4 misdemeanor.

HB 227 (ALBO) / SB 358 (MCDOUGLE): HEARSAY EXCEPTION; ADMISSIBILITY OF STATEMENTS BY CHILDREN IN CERTAIN CASES

- **Existing Law:** Rule 2:802 of the Rules of Supreme Court of Virginia makes hearsay inadmissible unless state law, case law, or the Rules of Supreme Court allow for an exception. Rule 2:801 defines "hearsay" as a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted. Although Rule 2:803 of the Rules of Supreme Court identifies a number of hearsay exceptions that apply even when the declarant is available, there is no hearsay exception under existing law or under the rules for out-of-court statements made by children under the age of 13.

- **Effect of the Bills:** The bills create § 19.2-268.3 of the *Code of Virginia* to establish a hearsay exception for certain out-of-court statements made by a child who is under 13 years of age at the time of the trial or hearing who is the alleged victim of an "offense against children" describing any act (i) directed against the child and (ii) relating to the offense against the child if certain conditions are met.

    - In order for the hearsay exception to apply, the court must hold a hearing prior to trial and find that the time, content, and totality of the circumstances provide sufficient indicia of reliability so as to render such statement inherently trustworthy. The bills list six factors the court *may* consider in determining trustworthiness:
        (i) the child's personal knowledge of the event;
        (ii) the age, maturity, and mental state of the child;
        (iii) the credibility of the person testifying about the statement;
        (iv) any apparent motive the child may have to falsify or distort;
        (v) whether the child was suffering pain or distress when making the statement; and
        (vi) whether extrinsic evidence exists to show the defendant's opportunity to commit the act.
    - In addition, the child must either: (i) testify; or (ii) be declared unavailable as a witness when there is corroborative evidence of the alleged offense against children. The bill provides factors for the court to consider in making this determination. Written notice of intent to offer the statement and the particulars of the statement must be given to the adverse party at least 14 days in advance of the proceedings.
    - In this section "*offense against children*" includes certain felony sexual offenses and certain felony offenses resulting in physical injury, specifically, alleged or attempted: Capital, first degree, and second degree murder; Voluntary manslaughter; Abduction by force, with the intent to extort money, or for immoral purposes; Shooting, stabbing, etc., with the intent to maim, kill, etc.; Aggravated malicious wounding or injury by means of caustic

substance, fire, etc.; Strangulation; Attempt to poison; Adulteration of food, etc.; Rape; Forcible sodomy; Object sexual penetration; Aggravated sexual battery; Soliciting a minor for the purpose of prostitution; Human trafficking; Certain prostitution offenses; Incest; Taking indecent liberties with a minor; Cruelty to children; and Other sexual offenses.

HB 287 (HABEEB): MEDIATION; FEE PAID TO MEDIATORS APPOINTED IN CERTAIN CASES

- **Existing Law:** Section 20-124.4 of the *Code of Virginia* allows courts to refer cases involving custody and visitation arrangements for minors to mediation, the fee for which is $100 per appointment, paid by the Commonwealth.

- **Effect of the Bill:** This bill amends § 20-124.4 to require the $100 mediation fee per appointment mediated, paid by the Commonwealth. Any appointments for mediation referrals that include both (i) custody or visitation and (ii) child or spousal support shall be considered two separate appointments.

HB 442 (LOUPASSI) / SB 590 (OBENSHAIN): WHEN CIRCUIT COURTS OPEN; JUDICIAL COUNCIL

- **Existing Law**: Section 17.1-207 of the *Code of Virginia* requires each circuit court clerk's office in Virginia to be kept open every day except Saturday, Sunday, state and locally-recognized holidays, additional Governor-declared state holidays or state closings, and on days when an office opening would threaten the health and safety of the clerk's office personnel or the general public, as determined by the chief judge or presiding judge of any circuit court. The Clerk, with approval of the chief judge, may open the clerk's office on Saturdays solely to: (i) permit examination and copying of court records; (ii) accept applications for and grant licenses pursuant to law; and (iii) record instruments.

- **Effect of the Bills**: These bills enact § 17.1-705.2 to allow the Judicial Council of Virginia to determine when the circuit courts are required to be open, subject to the current allowances in the *Code of Virginia* for holidays and safety concerns. The bills also clarify that these provisions do not empower the Judicial Council to set the hours of operation of a circuit court clerk's office.

HB 624 (R.B. BELL): RETENTION OF COURT RECORDS; VIOLENT FELONIES AND ACTS OF VIOLENCE

- **Existing Law:** Section 17.1-213 of the *Code of Virginia* provides the rules regarding the retention of records for closed cases in general district, juvenile and domestic relations district, and circuit courts in Virginia. Specifically, criminal case files ending on or after January 1, 1913 involving either: (i) a felony; or (ii) a misdemeanor conviction for violation of a protective order or for assault and battery against family or household members must be retained for 20 years from the sentencing date or until the sentence term ends, whichever occurs later. Case

files involving a *sexually violent offense* must be retained either for 50 years from the sentencing date or until the sentence term ends, whichever is later.

- **Effect of the Bill:** This bill requires that the circuit court criminal case files involving a felony conviction on crimes that are deemed *violent felonies* (defined in § 17.1-805) or *acts of violence* (defined in § 19.2-297.1) be retained for 50 years or until the sentence term ends, whichever occurs later.

HB 671 (PEACE) / SB 7 (STANLEY): APPOINTED COUNSEL FOR PARENTS OR GUARDIANS; ATTORNEYS WHO QUALIFY AS GUARDIAN AD LITEM

- **Existing Law:** Section 16.1-266 of the *Code of Virginia* requires that, before (i) an adjudicatory hearing regarding an allegation of child abuse, neglect, or risk of child abuse or neglect, or (ii) any hearing at which a parent could be subject to loss of residual parental rights, or (iii) in any case in which an adult is charged with abuse or neglect of a child, the adult must be notified of his right to counsel prior to the hearing and given an opportunity to:

  - Obtain counsel of his choice;
  - If the adult is indigent and has executed the financial statement required by law, have the court appoint an attorney on his behalf; or
  - Waive his right to attorney representation.

  Additionally, § 16.1-266.1 of the *Code of Virginia* requires the Judicial Council of Virginia to maintain and make available to the courts a list of attorneys admitted to the Virginia Bar who are qualified to serve as guardians ad litem. Judges have the discretion to appoint a licensed attorney if no attorney from the list is available.

- **Effect of the Bills:** The bills amend § 16.1-266.1 of the *Code of Virginia* to require court-appointed counsel for a parent or guardian of a child in cases of (i) alleged child abuse or neglect or (ii) termination of parental rights to be selected from the list of attorneys who qualify as guardians ad litem (GAL). If a qualified GAL is reasonably not available or appropriate, considering the circumstances of the parent or case, the judge has the discretion to appoint any attorney authorized to practice law in Virginia.

HB 681 (LEFTWICH) / SB 133 (EDWARDS): TRAFFICKING IN PERSONS; CIVIL ACTION

- **Existing Law:** Numerous provisions in the *Code of Virginia* criminalize human trafficking or related offenses. Most trafficking offenses are classified as felonies and subject to criminal penalties. Under current law, victims of these offenses do not have a specific civil remedy against their offenders. The following are several trafficking offenses currently provided for in the *Code of Virginia*:

  - Abduction with intent to extort money or for immoral purpose (Class 2, 5, or 6 felony depending upon the age of the victim, § 18.2-48);

- Soliciting prostitution from a minor (Class 5 or 6 felony, depending upon the age of the minor, § 18.2-348);
- Transporting persons to places for lewdness, assignation, or prostitution (Class 2 felony, § 18.2-349);
- Use of vehicle for prostitution or unlawful sexual intercourse (Classification unspecified, § 18.2-355);
- Taking or detention of person for prostitution (Class 3 or 4 felony, depending upon the age of the victim, 18.2-356);
- Receiving money for procuring person (Class 4 felony, § 18.2-357);
- Receiving money from prostitution earnings (Class 4 or 3 felony, depending upon the age of the victim, § 18.2-357.1);
- Commercial sex trafficking (Class 5 felony, § 18.2-368);
- Placing or leaving wife in bawdy place for prostitution or unlawful sexual intercourse (Class 4 felony, § 18.2-346).

- **Effect of the Bills:** These bills enact § 8.01-42.4 to *create* a civil cause of action against individuals who violate any of the provisions above related to criminal trafficking and prostitution or who aid in the conduct thereof. The bills allow victims injured due to the criminal violation to sue to recover (i) compensatory damages, (ii) punitive damages, and (iii) reasonable attorney's fees and costs. The bills also impose a seven-year statute of limitations on such civil actions, which commences on the later of the date the victim: (i) was no longer subject to the conduct prohibited by statutes or (ii) attained 18 years of age.

HB 703 (McClellan) / SB 415 (Vogel): LEGAL AGE FOR MARRIAGE; EMANCIPATION PETITIONS FOR MINORS INTENDING TO MARRY

- **Existing Law:** Section 20-48 of the *Code of Virginia* authorizes any person in Virginia who has reached the age of sixteen to marry, with the consent of a parent or guardian. Marriage also is allowed if either party is under the age of 16, but has the consent of the parent or guardian, and provides a doctor's certificate demonstrating that the female is pregnant at the time or within nine months before the doctor's examination. Minors under the age of sixteen who are wards of the state or who have been adjudicated delinquent and committed to the Department of Juvenile Justice may substitute the consent of the judge or the person designated to provide consent by the Director of the Department of Juvenile Justice for the consent of a parent or legal guardian.

  Sections 16.1-331 and 16.1-333 of the *Code of Virginia* authorize minors who are residents of Virginia and are 16 years of age or older, or their parent or guardian, to petition for the minor's emancipation upon a showing that the minor: (i) has entered into a valid marriage; (ii) is on active duty with the U.S. armed forces; (iii) willingly lives separate and apart from his parents or guardian; or (iv) is capable of supporting himself.

- **Effect of the Bills:** These bills raise the minimum legal age for a minor to marry to eighteen or 16, if the child is emancipated. It removes the exceptions that allow minors to marry at 16 with the consent of a parent or guardian, or younger than 16 if the female had parental consent and was pregnant. Under the bills, marriages entered into on or after July 1, 2016, are void or voidable when either or both of the parties were under the age of 18 at the time of solemnization, unless the minor was emancipated or the marriage was entered into in another state or country before the minors domiciled in Virginia.

  The bills also permit a minor to petition the juvenile and domestic relations district court for emancipation based on his or her intent to marry, provided both parties wishing to marry attend a court hearing, in which the court finds in writing that:

  - The minor is not being compelled to enter into marriage,
  - The parties are mature enough to marry;
  - The marriage will not endanger the safety of the minor; and
  - It is in the best interest of the minor to be emancipated.

  A petition to emancipate based on the intent to marry must include identifying information for the intended spouses, copies of criminal records, and copies of any protective orders issued between the parties.

- **Background:** The change is aimed at curbing forced marriage, human trafficking, and statutory rape disguised as marriage. Activists say the previous law created a "fast-track to child marriages" for abusers who could evade investigation by child-welfare officials by simply marrying their victims. Nearly 4,500 children under age 18 were married in Virginia from 2004 to 2013, according to data from the Virginia Department of Health. That includes more than 200 children age 15 or younger. About 90 percent of the underage spouses were girls. In many cases, the girls married men age 21 or older; and sometimes the men were decades older, data show. Senator Vogel said she learned about the issue when constituents sought her help after a man in his 50s was suspected of having sex with a high school student. Before the child protective services investigation was completed, the man received parental consent and married the girl, eliminating the possibility of prosecution. It was the second time he married a minor; the earlier marriage ended in divorce. "Now they're married, and there's no crime," said Vogel. "She dropped out of high school. Her life is ruined" (paraphrase from Washington Post, July 3, 2016).

HB 1102 (FILLER-CORN): TRAUMA-INFORMED SEXUAL ASSAULT INVESTIGATION; DEPARTMENT OF CRIMINAL JUSTICE SERVICES TO ESTABLISH

- **Existing Law:** Section 9.1-102 of the *Code of Virginia* sets out the specific powers and duties of the Department of Criminal Justice Services, including, but not limited to, adopting regulations, establishing compulsory minimum training standards for officers and staff, and performing other acts necessary to effectively carry out the Department's duties.

- **Effect of the Bill:** This bill amends § 9.1-102 to require the Department of Criminal Justice Services, in consultation with the State Council of Higher Education for Virginia and the Virginia Association of Campus Law Enforcement Administrators, to develop multidisciplinary curricula on trauma-informed sexual assault investigation.

HB 1149 (Spruill): Expungement of police and court records; costs

- **Existing Law:** Section 19.2-392.2 allows any person who has been acquitted of a crime, whose offense was nolle prossed, or whose charge was otherwise dismissed to file a petition in the circuit court to have the police and court records expunged. Currently, any costs associated with the expungement filing are not recoverable against the Commonwealth.

- **Effect of the Bill:** This bill amends § 19.2-392.2 to allow persons, where the court enters an order of expungement, to recover costs from the Commonwealth. In calendar year 2016, the average circuit court filing fee was $86 per case.

HB 1213 (Albo): Minors; certain education records as evidence

- **Existing Law:** The *Code of Virginia* does not have a provision addressing the introduction of special education records at an adjudicatory hearing.

- **Effect of the Bill:** This bill creates § 16.1-274.2 of the *Code of Virginia* to allow the court to enter any previously created Individual Education Program, Section 504 plan, behavioral intervention plan, or functional behavioral assessment as evidence to whether the juvenile acted intentionally or willfully if: (i) the alleged delinquent offense would be a misdemeanor if committed by an adult; (ii) whether such act was intentional or willful is an element of the offense; and (iii) the act was committed during school hours, during school-related or school-sponsored activities on the property of a school or child care center, or on a school bus for school-related or school-sponsored activities. In order to introduce the documents:

    - The document must have been created prior to the alleged delinquent act.
    - The juvenile must give notice to the attorney for the Commonwealth at least 10 days prior to the proceeding of the intent to offer the document and must make copies available.
    - The record custodian or the person to whom the record custodian reports must authenticate the document to be true and accurate. Such authentication may be done through an affidavit.
    - Any such documents that are admitted in the proceedings may be placed under seal by the court.

HB 1267 (HABEEB): GUARDIANSHIP OR CONSERVATORSHIP; ORDERS PRIOR TO THE RESPONDENT'S 18TH BIRTHDAY

- **Existing Law:** Section 64.2-2001 of the *Code of Virginia* sets out the procedures for filing a petition to appoint a guardian or conservator when a respondent is incapacitated. Under this section, if the respondent is a minor, and the petition is brought by a parent, guardian, or other person if there is no living parent or guardian, the petition may not be filed earlier than six months before the respondent's 18th birthday. Additionally, § 64.2-2009 enumerates the information that must be contained in the court's order appointing a guardian or conservator.

- **Effect of the Bill:** This bill amends §§ 64.2-2001 and 64.2-2009 to clarify that if a parent, guardian, or other person files a petition to appoint a guardian or conservator for a child who has not yet reached the age of 18, the court may enter an order for the appointment of the parent, guardian, or other person to commence before the respondent's 18th birthday. Any such order must indicate whether it will take effect immediately upon entry or on the child's 18th birthday.

SB 71 (WEXTON): DIVORCE; ENTRY OF DECREES, MAINTENANCE AND SUPPORT OF SPOUSES

- **Existing Law:** Section 20-107.1 of the *Code of Virginia* allows the Juvenile and Domestic Relations Court to issue a decree providing for the maintenance and support of spouses in cases where a party seeks spousal support while separated or where a decree is entered: (i) dissolving the marriage; (ii) for divorce; (iii) indicating that neither party is entitled to a divorce; or (iv) for separate maintenance. The court may not decree maintenance and support from the estate of a deceased spouse.

- **Effect of the Bill:** This bill amends § 20-107.1 to allow the juvenile and domestic relations district courts to decree as to maintenance and support of a spouse even where a party fails to prove his grounds for divorce, provided that a claim for support has been properly pled by the party seeking support.

  Grounds for divorce include: (i) adultery, sodomy, buggery; (ii) felony conviction with one year imprisonment; (iii) cruelty; (iv) desertion; (v) voluntary separation, six months with valid separation and no children or one year if no agreement or children; (vi) reasonable apprehension of bodily harm; (vii) willful abandonment.

SB 268 (CHAFIN): ANIMAL DISEASE VIOLATIONS; CRIMINAL AND CIVIL PENALTIES

- **Existing Law:** Section 3.2-6023 of the *Code of Virginia* allows the Commissioner of Agriculture and Consumer Services to adopt regulations to prevent and control avian influenza in the live-bird marketing system and requires the Commissioner to include in his regulations a registration system that requires participants in the live-bird marketing system to register. The Commissioner may impose a civil penalty,

capped at $2,500 per day per violation upon any person who violates the regulations or fails to comply with the registration requirements. Civil penalties are paid into a special fund for carrying out the purposes of the regulation.

- **Effect of the Bill:** This bill authorizes the Board of Agriculture and Consumer Services to assess civil penalties, capped at $1,000 per violation, in lieu of criminal penalties for violations of the laws controlling livestock and poultry diseases and shooting enclosures.

    - Violations of regulations to prevent and control avian influenza in the live-bird marketing system remain subject to both criminal and existing civil penalties. Note: Each day upon which the violation occurs is a separate offense.
    - The bill makes it a *new* Class 1 misdemeanor for any person to fail to allow the State Veterinarian or his representative to perform any required duties under that Chapter of the Code.
    - The bill creates a Livestock and Poultry Disease Fund, into which all moneys generated from civil penalties must be deposited. Moneys in the Fund must be used to control the spread of infectious diseases among animals. The bill contains technical amendments that reorganize the penalty provisions of Chapter 60 of Title 3.2 into a single new article**.**

EDUCATION

HB 46 (GREASON): SCHOOL READINESS COMMITTEE; SECRETARY OF EDUCATION, ET AL., SHALL ESTABLISH, INCREASE MEMBERSHIP

- **Existing Law:** The Code of Virginia does not have a requirement for a School Readiness Committee.

- **Effect of the Bill:** Directs the Secretary of Education to establish a School Readiness Committee with the first goal of addressing the development and alignment of an effective professional development and credentialing system for the early childhood education workforce in the Commonwealth, including the following:

    - Development of a competency-based professional development pathway for practitioners who teach children from birth to age five in both public and private early childhood education programs;
    - Consideration of articulation agreements between associate and baccalaureate degree programs;
    - Refinement of teacher licensure and education programs to address competencies specific to early childhood development;
    - Alignment of existing professional development funding streams; and
    - Development of innovative approaches to increasing accessibility, availability, affordability, and accountability of the Commonwealth's workforce development system for early childhood education teachers and providers.

HB 241 (LINGAMFELTER) / SB 538 (SUROVELL): STUDENTS WHO ARE ENGLISH LANGUAGE LEARNERS; BOARD OF EDUCATION TO CONSIDER CERTAIN ASSESSMENT

- **Existing Law:** The Code of Virginia does not have a requirement for the Board of Education to consider alternative assessments for English language learners.

- **Effect of the Bills:** Require the Board of Education to consider assessments aligned to the Standards of Learning that are structured and formatted in a way that measures the content knowledge of students who are English language learners and that may be administered to such students as Board of Education-approved alternatives to Standards of Learning end-of-course English reading assessments.

HB 279 (BYRON) / SB 573 (RUFF): CAREER AND TECHNICAL EDUCATION; THREE-YEAR LICENSES

- **Existing Law:** Pursuant to the statutory mandate in § 22.1-298.1 of the *Code of Virginia*, the Board of Education has set out the requirements for teacher licensure by regulation. 8VAC20-22-50, identifies the types of education-related licenses granted in Virginia, including: (i) provisional, (ii) collegiate professional; (iii)

postgraduate professional; (iv)technical professional; (v) school manager, (vi) pupil personnel services; (vii) division superintendent; (viii) international educator, and (ix) Teach For America. The technical professional license is a five-year, renewable license available to a person who has graduated from an accredited high school or has a generalized education diploma (GED), and has completed nine semester hours of specialized professional studies credit from an accredited college or university. The license is issued in the areas of career and technical education, educational technology, and military science.

- **Effect of the Bill:** This bill directs the Board of Education to provide for the issuance of additional nonrenewable three-year licenses to allow qualified individuals to teach high school career and technical education courses in specific subject areas for an average of no more than 50 percent of the instructional day or year. In order to qualify for this three-year license, the individual must:

    - Submit an application, including a recommendation from the local school Board, to the Board of Education;
    - Meet basic conditions for licensure;
    - Have at least four years full-time work experience in the applicable technical area;
    - Have attained qualifying scores on the communication and literacy professional teacher's assessment; and
    - Either: (i) hold a baccalaureate degree from an accredited higher education institution and have completed coursework in the applicable career and technical education subject area; (ii) hold a required professional license in the specific career and technical education subject area; or (iii) hold industry certification credentials in the specific career and technical education subject area.

HB 353 (GREASON) / SB 250 (BLACK): SCHOOL BOARDS, LOCAL; TRANSPORTATION AGREEMENTS WITH NONPUBLIC SCHOOLS

- **Existing Law:** Section 22.1-176.1 of the *Code of Virginia* allows local school boards to enter into agreements with nonpublic schools within the school division to provide student transportation to and from the schools

- **Effect of the Bills:** The bills would expand § 22.1-176.1 by authorizing local school boards to enter into agreements with nonpublic schools to provide student transportation to and from *school field trips*.

HB 357 (LOUPASSI) / SB 211 (MILLER): PUBLIC SCHOOLS; PHYSICAL ACTIVITY REQUIREMENT FOR STUDENTS IN GRADES KINDERGARTEN THROUGH FIVE

- **Existing Law:** Section 22.1-253.13:1 of the *Code of Virginia* requires local school boards to implement, among other programs, a *physical fitness program* for all students, with a goal of an average of at least 150 minutes per week during the

regular school year, consisting of any combination of physical education classes, extracurricular athletics, or other programs and physical activities deemed appropriate by the local school board.

- **Effect of the Bills:** The bills amend § 22.1-253.13:1(D) of the *Code of Virginia* to require at least 20 minutes of *physical activity per day or an average of 100 minutes per week* during the regular school year for students in grades kindergarten through five. This requirement becomes effective beginning with the 2018-2019 school year. Grades 6 through 12 remain subject to the goal of at least 150 minutes per week on average of physical activity during the regular school year under these bills. The bills also *add recess* to the list of physical activities that may be included in a physical activity program. It requires school boards to implement the physical activity requirements rather than "incorporate into its local wellness policy a goal for the implementation" of the physical fitness program.

HB 381 (GREASON): STANDARDS OF LEARNING; ALTERNATIVE MEANS FOR CHILDREN WITH DISABILITIES TO DEMONSTRATE ACHIEVEMENT

- **Effect of the Bill:** Requires the Board of Education to prescribe alternative methods of assessment administration for children with disabilities who meet criteria established by the Board to demonstrate achievement of the Standards of Learning. The bill provides that an eligible student's Individual Education Program team shall make the final determination as to whether an alternative method of administration is appropriate for the student.

- **Comment:** The Board of Education already prescribes alternative methods of assessment administration for children with disabilities such as the Virginia Grade Level Alternative (VGLA) test, Virginia Alternative Assessment Program (VAAP), and Virginia Modified Achievement Standards Tests (VMAST).

HB 436 (AUSTIN): STANDARDS OF LEARNING ASSESSMENTS IN ENGLISH, READING, AND MATHEMATICS; RETAKE, RECOVERY CREDIT

- **Effect of the Bill:** *Requires* the Department of Education to award recovery credit to any student in grades three through eight who fails a Standards of Learning assessment in English, reading, or mathematics, receives remediation, and subsequently retakes and passes such an assessment, including any such student who subsequently retakes such an assessment on an expedited basis.

HB 487 (MCCLELLAN): SCHOOL RESOURCE OFFICERS; THOSE EMPLOYED PURSUANT TO SCHOOL RESOURCE OFFICER GRANTS PROGRAM

- **Existing Law:** Section 9.1-110 of the *Code of Virginia* establishes the School Resource Officer Grants Program, a collaborative agreement between local school boards and local law-enforcement agencies to employ uniformed school resource officers in middle and high schools. Under existing law, school resource officers

must be certified law-enforcement officers and must be employed (i) to help ensure safety; (ii) to prevent truancy and violence in schools; and (iii) to enforce school board rules and codes of student conduct.

- **Effect of the Bill:** This bill amends § 9.1-110 of the *Code of Virginia* to relieve school resource officers employed pursuant to the School Resource Officer Grants Program from the *requirement* of enforcing school board rules and codes of student conduct as a condition of their employment.

HB 519 (LeMunyon): School-affiliated entities; definition, providing protection for student personal information

- **Effect of the Bill:** Extends various protections for student information that is collected and maintained, used, or shared on certain websites, mobile applications, or online services used by school-affiliated entities. The bill defines "school-affiliated entity" as any private entity that provides support to a local school division or a public elementary or secondary school in the Commonwealth, including alumni associations, booster clubs, parent-teacher associations, parent-teacher-student associations, parent-teacher organizations, public education foundations, public education funds, and scholarship organizations.

HB 682 (Peace): Teacher licensure; waiver of requirements, trade, and industrial education program

- **Effect of the Bill:** Permits any division superintendent to apply to the Department of Education for an annual waiver of the teacher licensure requirements for any individual whom the local school board hires or seeks to hire to teach in a trade and industrial education program who has obtained or is working toward an industry credential relating to the program area and who has at least 4,000 hours of recent and relevant employment experience, as defined by the Board pursuant to regulation. The bill requires the Department to establish a procedure for submitting, receiving, and acting upon such annual waiver applications.

HB 831 (Greason): Standards of Learning; curriculum shall include computer science and computational thinking

- **Effect of the Bill:** Requires the Standards of Learning established by the Board of Education and the program of instruction for grades kindergarten through 12 developed and implemented by each local school board to include computer science and computational thinking, including computer coding.

HB 895 (GREASON) / SB 336 (MILLER): HIGH SCHOOL GRADUATION; GRADUATION REQUIREMENTS

- **Effect of the Bills:** Removes existing provisions related to standard and advanced studies diplomas and standard and verified units of credit and requires the Board of Education, in establishing high school graduation requirements, to do the following:

    - Develop and implement, in consultation with stakeholders representing elementary and secondary education, higher education, and business and industry in the Commonwealth and including parents, policymakers, and community leaders in the Commonwealth, a Profile of a Virginia Graduate that identifies the knowledge and skills that students should attain during high school in order to be successful contributors to the economy of the Commonwealth, giving due consideration to critical thinking, creative thinking, collaboration, communication, and citizenship;
    - Emphasize the development of core skill sets in the early years of high school; and
    - Establish multiple paths toward college and career readiness for students to follow in the later years of high school that include internships, externships, and credentialing. The bill also sets forth the procedure for the establishment of such graduation requirements.

    The bill specifies that such graduation requirements shall apply to each student who enrolls in high school as (a) a freshman after July 1, 2018; (b) a sophomore after July 1, 2019; (c) a junior after July 1, 2020; or (d) a senior after July 1, 2021.

HB 942 (WILT): SCHOOL BOARDS; REASONABLE ACCESS BY CERTAIN YOUTH GROUPS

- **Effect of the Bill:** Requires school boards to provide *reasonable and appropriate access* to school property to *youth-oriented community organizations*, such as the Boy Scouts of America and the Girl Scouts of the United States of America and their volunteers and staff to distribute and provide materials to encourage participation in such organizations. The bill prohibits such access from interfering with instructional time and provides that such access also may include after-school sponsored activities.

HB 954 (KEAM): CONCUSSIONS; LOCAL SCHOOL DIVISION POLICY TO INCLUDE RETURN TO LEARN PROTOCOL FOR STUDENT ATHLETES

- **Existing Law:** Section 22.1-271.5 requires each local school division to require (i) each *student athlete* and his/her parent or guardian to review information on concussions and sign a statement acknowledging receipt and (ii) a student athlete suspected of sustaining a concussion or brain injury to be removed from the activity and not return until evaluated by a licensed health care provider who provides written clearance to return to play. Section 22.1-271.6 requires a "Return to Learn

Protocol" with procedures on concussions in student athletes. The "Return to Learn Protocol" requires:

- School personnel to be alert to cognitive and academic issues that may be experienced by a *student athlete* who has suffered a concussion or other head injury, including:
  (i) Difficulty with concentration, organization, and long-term and short-term memory,
  (ii) Sensitivity to bright lights and sounds, and
  (iii) Short-term problems with speech and language, reasoning, planning, and problem solving.
- School personnel to accommodate the gradual return to full participation in academic activities of a *student athlete* who has suffered a concussion or other head injury as appropriate, based on the recommendation of the student's licensed health care provider as to the appropriate amount of time that such student needs to be away from the classroom.

- **Effect of the Bill:** The bill broadens the scope of the "Return to Learn Protocol" in the Board of Education's guidelines for school division policies and procedures on concussions in student-athletes to include *any student* who has suffered a concussion or other head injury.

HB 1013 (MASSIE): THREAT ASSESSMENT TEAMS; DISSEMINATION OF CERTAIN RECORDS AND INFORMATION

- **Effect of the Bill:** The bill amends several sections of the *Code of Virginia* relating to school threat assessment teams. It provides the following:

  - The bill allows threat assessment teams to access criminal record, juvenile delinquency record, and health record information for the purpose of assessing or intervening with an individual whose behavior may present a threat to safety.
  - The request for the records may be made only after a preliminary determination by the threat assessment team that an individual poses (i) a threat of violence to self or others or (ii) exhibits significantly disruptive behavior or need for assistance.
  - The bill allows threat assessment teams to obtain juvenile criminal history records as provided in § 19.2-389.1 governing the dissemination of Virginia State Police's Central Criminal Records Exchange (CCRE) and ***not*** juvenile court service units, DJJ, or juvenile and domestic relations district court records.
    (i) CCRE contains a Juvenile Virginia Criminal Information System (JVCIN) and has all juvenile delinquency information.
    (ii) One of the JVCIN requirements (also applicable to the adult VCIN) is that any information/records printed from the terminal must be destroyed after

the information is obtained. Therefore the delinquency information may not be placed in a student's educational file.

(iii) It is a crime to disseminate records/information outside of the scope of the accessing individual's criminal justice duties and responsibilities (see § 18.2-152 computer invasion of privacy and § 18.2-152.7 personal trespass by computer).

- The bill prohibits members of a threat assessment team from re-disclosing any information received for the assessment or intervention or using the information beyond the purpose for which the disclosure was made.
- The bill excludes from the Virginia Freedom of Information Act any records received by the Department of Criminal Justice Services pursuant to the operation of or for the purposes of evaluating threat assessment teams and oversight committees, school safety audits, and school crisis, emergency management, and medical emergency response plans of public schools and threat assessment teams of public institutions of higher education, to the extent that such records reveal security plans, walk-through checklists, or vulnerability and threat assessment components.

- **Background:** In 2013, the General Assembly, in response to the shootings at Sandy Hook Elementary School, enacted HB 2344 which required local school boards to establish policies and procedures for the establishment of threat assessment teams to (i) provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community; (ii) identify members of the school community to whom threatening behavior should be reported; and (iii) implement the policies adopted by the school board. The bill required threat assessment teams to report to the division superintendent upon a preliminary determination that an individual poses a threat of violence to self or others. Note: Existing law allows only threat assessment teams established by an institution of higher education to access such criminal, delinquency, and health records information.

HB 1279 (Anderson): PUBLIC SCHOOLS; FIRE DRILLS AND LOCK-DOWN DRILLS

- **Effect of the Bill:** Requires every public school to hold a fire drill at least twice during the first 20 school days of each school session and at least two additional fire drills during the remainder of the school session. Under existing law, every public school is required to hold a fire drill at least once every week during the first 20 school days of each school session and at least once every month during the remainder of the school session. The bill also requires every public school to hold a lock-down drill at least twice during the first 20 school days of each school session and at least two additional lock-down drills during the remainder of the school session. Under existing law, every public school is required to hold at least two lock-down drills every school year.

HB 1377 (LeMunyon): School boards; assignment of teachers, reduces maximum class sizes

- **Effect of the Bill:** Provides that, after September 30 of any school year, anytime the number of students in a class exceeds the statutorily prescribed class size limit, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limits. The bill requires such notification to state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with the limit.

SB 245 (Stanley): Comprehensive community colleges; dual enrollment of students into Career Pathways program

- **Effect of the Bill:** This bill requires each comprehensive community college to enter into agreements with the local school divisions it serves to facilitate dual enrollment of eligible students into a Career Pathways program preparing students to pass a high school equivalency examination offered by the local school division and a postsecondary credential, certification, or license attainment program offered by the comprehensive community college.

SB 665 (Marsden): Middle school student-athletes, public; pre-participation physical examination

- **Effect of the Bill:** This bill creates § 22.1-271.7 of the *Code of Virginia* to prohibit a public middle school student from participating on or trying out for any school athletic team or squad with a predetermined roster, regular practices, and scheduled competitions with other middle schools unless such student has submitted to the school principal a signed report from a licensed physician, a licensed nurse practitioner practicing in accordance with his practice agreement, or a licensed physician assistant acting under the supervision of a licensed physician attesting that such student has been examined within the preceding 12 months and found to be physically fit for athletic competition.

- **Background:** The bill is a recommendation of the Commission on Youth.

SB 776 (Barker): Public schools; residency of children in kinship care

- **Existing Law:** Section 22.1-3 of the Code of Virginia establishes when a person of school age is required to be "deemed to reside in a school division." This includes (i) when living with biological or adoptive parents (ii) when not for school purposes living with a noncustodial parent or other person pursuant to a Special Power of Attorney executed by the custodial parent; (iii) when the parents are unable to care for the student and the student is living, not solely for school purposes, with the person who is the court appointed guardian or has legal custody; (iv) the student is

an emancipated minor; and (v) the student is homeless (with several special conditions).

- **Effect of the Bill:** Allows a child who is living with an adult relative in "temporary kinship care" to enroll in the school division where the kinship care provider resides. Kinship care is defined as "the full-time care, nurturing, and protection of children by relatives." The bill also provides that for students residing in the school district (i) when the parents are unable to care for the student and the student is living, not solely for school purposes, with the person who is the court appointed guardian or has legal custody and (ii) in temporary kinship care, the local school divisions may require:

    - One or both parents and the relative providing kinship care to submit signed, notarized affidavits
        (i) Explaining why the parents are unable to care for the person,
        (ii) Detailing the kinship care arrangement, and
        (iii) Agreeing that the kinship care provider or the parent will notify the school within 30 days of when the kinship care arrangement ends, as well as a power of attorney authorizing the adult relative to make educational decisions regarding the person.
    - The parent or adult relative to obtain written verification from the local department of social services where the parent or parents live, or from both that department and the department of social services where the kinship provider lives, that the kinship arrangement serves a legitimate purpose that is in the best interest of the person other than school enrollment. With written consent from the parent or adult relative, for the purposes of expediting enrollment, a school division may obtain such written verification directly from the local department or departments of social services.
    - If the kinship care arrangement lasts more than one year, continued verification directly from one or both departments of social services as to why the parents are unable to care for the person and that the kinship care arrangement serves a legitimate purpose other than school enrollment. A local school division may enroll a person living with a relative in a kinship care arrangement that has not been verified by a local department of social services;

JUVENILE JUSTICE

HB 541 (WATTS): LAW ENFORCEMENT RECORDS CONCERNING JUVENILES; DISCLOSURE

- **Existing Law:** The disclosure and dissemination of juvenile law-enforcement records, including arrest records and documentation of detention and release information, are governed by 16.1-301 of the *Code of Virginia*. Existing law allows for the inspection of law-enforcement records concerning juveniles by (i) courts, (ii) law-enforcement, (iii) court order, and (iv) the public when the juvenile is 14 years of age or older and is charged with a violent juvenile felony. It does not allow the sharing of these records with diversion programs.

- **Effect of the Bill:** The bill amends § 16.1-301 of the *Code of Virginia* and allows the disclosure of law-enforcement records concerning a juvenile who is referred to a court service unit-authorized diversion program. The bill prohibits further disclosure of such records by the diversion program or participants in the program. Law-enforcement officers may prohibit disclosure to protect a criminal investigation or intelligence information.

- **Background:** Fairfax County is piloting a law enforcement diversion program to address behavior incidents in schools, crimes in schools, and certain crimes in the community through restorative justice. Fairfax explored requiring juveniles and parents to sign consent forms and were advised by the county attorney that § 16.1-301 does not permit law-enforcement to release juvenile arrest records to the juvenile or his parent without a court order. The inability to share juvenile law-enforcement records made it impossible for law-enforcement to bypass the CSU and refer the juvenile to the diversion program.

- **Comments:** The law-enforcement agencies would be allowed to provide diversion programs with juvenile arrest information. It would impact the court service unit to the extent that they would be authorizing to which diversion programs law enforcement may share information. Note: The bill does not describe what is required for a court service unit to authorize a diversion program.

HB 784 (ADAMS): POSSESSION OF FIREARMS BY PERSONS ADJUDICATED DELINQUENT; MILITARY SERVICE EXCEPTION

- **Existing Law:** An individual who was adjudicated delinquent when 14 years of age or older of a delinquent act that would be a felony if committed by an adult is ineligible to apply for a concealed handgun permit or to possess or transport a firearm, stun weapon, or explosive material until age 29. Violation of this provision is a Class 6 felony. The law provides several exceptions including allowing the possession of firearms, explosive materials, or other weapons by armed forces and National Guard members to carry out their official duties.

Note: Individuals adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of murder (§§ 18.2-31 and 18.2-32), kidnapping (§ 18.2-47), robbery by the threat or presentation of firearms (§ 18.2-58), or rape (§18.2-61) are prohibited for life.

- **Effect of the Bill:** The bill amends §§ 18.2-308.09 and 18.2-308.2 of the *Code of Virginia* and creates an exception to the prohibition against (i) possessing or transporting firearms, stun weapons, or explosive material or (ii) carrying a concealed weapon for certain individuals who were previously adjudicated delinquent for an act that would be a felony if committed by an adult. This exception to the prohibition applies if (i) the person completed a term of service of no less than two years in the Armed Forces of the United States, (ii) the person was honorably discharged from service, and (iii) the person is not otherwise prohibited from possession or transportation.

    - This exception to the prohibition does not apply to juveniles adjudicated delinquent of murder, kidnapping, use of a firearm in the commission of a felony, or rape.
    - If adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense for murder, kidnapping, use of a firearm in the commission of a robbery, or rape, the person has a lifetime prohibition from possessing or transporting firearms, etc. or carrying a concealed weapon. For all other felony offenses, the person is prohibited until the age of 29.

HB 669 (PEACE): CASA PROGRAM, ADVISORY COMMITTEE TO; MEMBERSHIP SHALL INCLUDE ONE JUDGE

- **Existing Law:** Section 9.1-151 of the *Code of Virginia* establishes a Court-Appointed Special Advocate Program (CASA) to assist children who are subjects of judicial proceedings involving: (i) child abuse, neglect, child in need of services or child in need of supervision claims; or (ii) the restoration of parental rights. Under existing law, the Criminal Justice Services Board (Board) must appoint a 15-member CASA Advisory Committee to advise the Board on matters relating to CASA and the needs of the children served by CASA.

- **Effect of the Bill:** This bill amends § 9.1-151 to require that one of the 15-member CASA Advisory Committee must be a juvenile and domestic relations district court or circuit court judge.

SB 454 (STANLEY): JUVENILE COURT; RETAINED JURISDICTION, PROCEDURES IN CASE OF ADULTS, PENALTIES

- **Existing Law:** Section 16.1-242 of the Code of Virginia provides that (i) if the juvenile and domestic relations district court obtains jurisdiction in the case of a child, the jurisdiction may be retained under the person reaches the age of 21 and (ii) when the person reaches the age of 21 and a prosecution has not commenced, he shall be proceeded against as an adult. Section 16.1-284 provides that, when the juvenile and domestic relations district court sentences an adult for a delinquency offense, the penalties that are authorized to be imposed on adults for such violations, not to exceed the punishment for a Class 1 misdemeanor for a single offense or multiple offenses, may be imposed.

- **Effect of the Bill:** Specifies procedures to be used for adults under the age of 21 who are subject to the retained jurisdiction (pursuant to § 16.1-242) of the juvenile and domestic relations district court who are before the court for delinquency offenses committed as juveniles.

    - The bill requires that parents not be notified or involved unless summoned as a witness.
    - It specifies procedures to be used for adults under the age of 21 who are subject to retained jurisdiction of the juvenile court, including cases involving violations of court orders and violation of probation. Specifically, that
        (i) Proceedings against such persons are commenced by petition.
        (ii) A capias and not a detention order is issued if the individual requires secure confinement,
        (iii) The detainment is reviewed by a magistrate and not through a juvenile and domestic relations district court detention hearing, and
        (iv) Parents are not summoned to appear at the associated court hearings unless summoned as a witness.
    - The bill also specifies the dispositional alternatives available to the court which are, for each offense,
        (i) The penalties authorized to be imposed on adults for a Class 1 misdemeanor, provided the total jail sentence does not exceed 36 continuous months and the total fine does not exceed $2,500;
        (ii) Deferred disposition with dismissal if the individual exhibits good behavior during the period of deferral;
        (iii) Deferred adjudication, placement on probation, and, upon fulfillment of the conditions, discharge of the case;
        (iv) Placement on probation supervision;
        (v) Public service;
        (vi) Imposition of available traffic penalties for traffic violations;
        (vii) Commitment to the Department of Juvenile Justice for an indeterminate or determinate period of time; and

(viii) Restitution.

- **Background:** As introduced, this bill was a recommendation of the Virginia Criminal Justice Conference.

- **Comments:** The DC-529 (Detention Order/Capias Pursuant to § 16.1-247(K)) form has been amended to accommodate the provisions of SB 454, and the capias (bottom of the form) section should be used in place of the detention order section for any 18, 19, and 20 year olds requiring secure confinement. The form has been updated in BADGE.

HB 313 (ORROCK): IMMUNIZATIONS; ADDS TYPE OF HEALTH PROFESSIONALS WHO MAY ADMINISTER

- **Existing Law:** Section 32.1-46 sets out the specific immunizations that every child in Virginia must receive in order to attend a public or private elementary, middle or secondary school, child care center, nursery school, family day care home, or developmental center, as well as the professions that may perform the immunizations. Existing law allows physicians, registered nurses, and, provided certain requirements are satisfied, local health departments to administer the vaccines and provide to the person who presents the child for immunizations a certificate stating that such immunizations have been administered.

- **Effect of the Bill:** This bill expands the list of professionals who may legally perform these immunizations to include (i) physician assistants, (ii) nurse practitioners, (iii) licensed practical nurses, and (iv) pharmacists if the pharmacist administers the immunization pursuant to a valid prescription.

HB 616 (R.B. BELL): DISCHARGE FROM INVOLUNTARY ADMISSION; ADVANCE DIRECTIVE

- **Existing Law:** Sections 37.2-817, 37.2-837 and 37.2-838 of the *Code of Virginia* set out the procedures that treating physicians, state hospital or training center directors, and persons in charge of licensed hospitals must follow before discharging patients pursuant to a discharge plan. None of the three provisions currently prescribes any measures to address patients who have not executed an advance directive.

- **Effect of the Bill:** This bill amends §§ 37.2-817, 37.2-837 and 37.2-838 to require that, prior to the release from involuntary admission or discharge from involuntary admission to mandatory outpatient treatment, any individual patient who has not executed an advance directive must be given a written explanation of the procedures for executing an advance directive and an advance directive form.

HB 1110 (R.B. BELL)/SB 567 (BARKER): TEMPORARY DETENTION; NOTICE OF RECOMMENDATION, COMMUNICATION WITH MAGISTRATE

- **Existing Law:** Section 37.2-809 of the *Code of Virginia* governs the process for the involuntary temporary detention of a patient who has been determined mentally ill. The law requires an employee or designee of the community services board to conduct an evaluation to determine whether the patient meets the statutory requirements for temporary detention. If the employee or designee recommends that the person should not be temporarily detained, he must inform the petitioner and an onsite treating physician of his recommendation. Additionally, once a person has been admitted, §§ 16.1-337 and 37.2-804.2 allow the health care provider

providing services to the minor to notify the minor's family members of information directly relevant to the health care provider's involvement with the minor's health care, unless the provider has actual knowledge that the parent or family member is prohibited by court order from contacting the minor.

- **Effect of the Bills:** The bills impose a duty on health care providers providing services to a minor or adult subject to emergency custody, temporary detention, or involuntary admission proceedings to make a reasonable attempt to notify the person's family member or personal representative, if they have not previously been provided notice, and clarifies that such representative includes an agent named in an advance directive.

    - The bills require the magistrate to consider available information from the person who initiated emergency custody, in addition to the recommendations made by treating or examining physicians, in determining whether to issue a temporary dentition order.
    - The bills expand the list of people who must be notified if a community services board, charged with conducting the evaluation that determines whether the patient meets the requirements for temporary detention, determines that the person should not be temporarily detained, to include the person who initiated emergency custody, if present.
    - The community services board representative or designee must facilitate communication between the person and the magistrate prior to the expiration of the emergency custody period if the person disagrees with the board's recommendations and so requests. The bill requires that the subject of the emergency custody hearing remain in law enforcement custody until communication with the magistrate has concluded and the magistrate has made a determination regarding the issuance of a temporary detention order. Finally,
    - The bills expand the role of the person who initiated emergency custody in cases where a person is being involuntarily detained as a result of mental illness. The bill defines "person who initiated emergency custody" to include any person who initiated the issuance of an emergency custody order or a law enforcement officer who takes a person into custody.

PROTECTIVE ORDERS

HB 610 (R.B. BELL): PROTECTIVE ORDERS; PENALTY

- **Existing Law:** Section 16.1-253.2 of the *Code of Virginia* punishes as a Class 1 misdemeanor the violation of a provision of a protective order involving (i) entering or remaining on lands, buildings, or premises; (ii) committing family abuse; or (iii) committing a criminal offense. Additionally, if a respondent commits an assault and battery that results in *serious* bodily injury on *the* party protected by the protective order, he is guilty of a Class 6 felony.

- **Effect of the Bill:** This bill amends §§ 16.1-253.2 and 18.2-60.4 of the *Code of Virginia* and makes it a Class 6 felony to stalk *any* party protected by a protective order or to commit an assault and battery upon a party protected by a protective order if the assault and battery results in *bodily injury* (removing the serious injury requirement).

- **Comment:** The new penalty applies to both family abuse and 19.2 protective orders.

HB 711 (WATTS): PROTECTIVE ORDERS IN CASES OF FAMILY ABUSE; POSSESSION OF PREMISES

- **Existing Law:** Sections 55-225.5 and 55-248.18:1 of the *Code of Virginia* allows a tenant granted possession of a premises under a family abuse protective order or other order issued in the case of family abuse to present the order to the landlord with a request that the landlord either: (i) pay for and install a new lock or other security device on the premise's exterior doors; or (ii) allow the tenant to do so. At the end of the tenancy, the tenant is required to pay the landlord any reasonable costs incurred for the removal of devices installed and repairs to all damaged areas.

- **Effect of the Bill:** This bill amends §§ 55-225.5 and 55-248.18:1 of the *Code of Virginia* and provides several additional protections relating to family abuse protective orders.

    - The bill extends the ability to remain in the premises and get new locks or other security devices, pursuant to a family abuse protective order or other order issued in the case of family abuse, to an "*authorized occupant*" of a dwelling in order to protect an occupant who is not a party to the lease agreement.
    - The bill also provides protections for a person *who is not a tenant or authorized occupant*. This person, who has obtained a protective order or other order issued in the case of family abuse, may be granted possession of the premises if (i) the landlord is provided a copy of the order and (ii) the

person submits a rental application to become a tenant in the dwelling unit within 10 days of the order's entry.

(i) If the applicant's rental application meets the landlord's tenant selection criteria, the applicant may become a tenant in the dwelling unit under a written rental agreement;

(ii) If the applicant does not meet the landlord's tenant selection criteria, the applicant must vacate the dwelling unit no later than 30 days after the landlord gives written notice that the rental application has been rejected; and

(iii) If the person fails to provide the landlord with a copy of the protective order and submit a rental application to the landlord within the 10-day required period, the person must vacate the dwelling unit no later than 30 days after the protective order is entered.

Any tenant obligated on a rental agreement must pay the rent and otherwise comply with the rental agreement requirements and any applicable laws and regulations, and the landlord may pursue all remedies under the rental agreement and applicable laws and regulations, including filing an unlawful detainer action, to obtain a money judgment, and to evict any persons residing in the dwelling unit.

HB 886 (ALBO): STALKING; SECOND OFFENSE, CLASS 6 FELONY

- **Existing Law:** Section 18.2-60.3 of the *Code of Virginia* provides that stalking occurs when any person on more than one occasion engages in conduct directed at 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 (i) death, (ii) criminal sexual assault, or (iii) bodily injury to that other person or to that other person's family or household member.

  - A first conviction is a Class 1 misdemeanor.
  - A second conviction for stalking is a Class 6 felony if:
    (i) The first conviction occurred within five years of the instant stalking conviction *and*
    (ii) The assailant also was convicted within the previous five years of one of the following offenses: (i) shooting, stabbing, with the intent to maim; (ii) aggravated malicious wounding; (iii) strangulation; (iv) malicious body injury by means of caustic substance; and (v) assault and battery if the victim was the same person subject to the stalking *or* (i) assault and battery of a family or household member; or (ii) protective order (punishable with up to five years in prison).
  - A third or subsequent conviction for stalking occurring within five years of a conviction for stalking or for a similar offense is guilty of a Class 6 felony.

- **Effect of the Bill:** This bill amends § 18.2-60.3 by eliminating the requirement that a person be convicted of the enumerated offenses in order for a second offense of stalking, committed within five years of a prior stalking conviction, to be deemed a Class 6 felony.

HB 1087 (GILBERT) / SB 323 (FAVOLA): PROTECTIVE ORDER; VIOLATION OF ORDER, POSSESSION OF A FIREARM OR OTHER DEADLY WEAPON, PENALTY

- **Existing Law:** Sections 16.1-253.2 and 18.2-60.4 of the *Code of Virginia* classify the violation of a protective order or court order excluding a party from a jointly-owned or jointly-rented family dwelling as a Class 1 misdemeanor. If the respondent under a protective order commits an assault and battery upon the protected party that results in serious bodily injury, the respondent is guilty of a Class 6 felony.

- **Effect of the Bills:** This bill provides that any person who violates *any provision* of a protective order or other family abuse order with which he has been served while knowingly armed with a firearm or other deadly weapon is guilty of a Class 6 felony.

HB 1056 (R.B. BELL): FAMILY ABUSE PROTECTIVE ORDERS; EXTENSION OF ORDERS

- **Existing Law:** Section 16.1-279.1 allows courts to issue protective orders in family abuse cases in order to protect the health and safety of the petitioner and family or household members. The protective orders are valid for a maximum period of two years, but may be extended for an additional two-year period upon motion by the petitioner and approval at a hearing. Existing law provides that the petitioner must have been a "member of the respondent's family or household" when the initial protective order was issued in order for an extension to be granted.

- **Effect of the Bill:** This bill makes a technical change to replace the reference to a "*member of the respondent's family or household*" with, "a family or household member of the respondent" in order to be consistent with the defined term "*family or household member*," in § 16.1-228.

HB 1391 (MURPHY)/ SB 49 (HOWELL): PROTECTIVE ORDERS; POSSESSION OF FIREARMS, PENALTY

- **Existing Law:** A person subject to a protective order is prohibited from purchasing or transporting a firearm.

    - Section 18.2-308.1:4 makes it a Class 1 misdemeanor for an individual subject to a protective order to purchase or transport a firearm.
    - Section 18.2-308.09 prohibits an individual subject to a protective order from obtaining a concealed handgun permit.

  Existing law does not prohibit a person subject to a protective order from possessing a firearm.

- **Effect of the Bills**: This bill makes it a Class 6 felony for a person who is subject to a permanent family abuse protective order to possess a firearm while the protective order is in effect. The bill allows the person subject to the permanent family abuse protective order 24 hours to transfer or sell the firearm to a non-prohibited person. The subject of the protective order may possess or transport the firearm during that 24-hour period only for the purposes of selling or transferring the firearm.

- **Comments:** Permanent family abuse protective orders, entered pursuant to § 16.1-279.1, can last up to two years and can been extended an additional two years by order of the court. Note: The possession prohibition does not apply to 19.2 protective orders.

SEX OFFENSES/HUMAN TRAFFICKING/SEX OFFENDERS

HB 177 (ALBO): SEX OFFENDER AND CRIMES AGAINST MINORS REGISTRY ACT; CRIMES AGAINST NATURE, PENALTY

- **Existing Law:** Section 9.1-902 of the *Code of Virginia* enumerates the offenses for which an individual convicted of certain offenses must register on the Sex Offender and Crimes Against Minors Registry. Juveniles adjudicated delinquent are not required to register unless the juvenile was (i) over the age of 13 at the time of the offense, (ii) was adjudicated delinquent on or after July 1, 2005 of an offense requiring registration, and (iii) the court *orders* registration.

- **Effect of the Bill:** This bill expands the list of offenses that require registration to include (i) *any person* who knowingly receives money or other valuable thing from a *minor* engaged in prostitution, in violation of § 18.2-357; (ii) any person who receives money from the earnings of a minor engaged in prostitution, in violation of § 18.2-356; (iii) *any person* who causes a *minor* to engage in forced labor, prostitution, or the manufacture of child pornography, in violation of § 18.2-356; and (iv) *any adult* who commits aggravated malicious wounding, in violation of § 18.2-51.2, when the victim is *under the age of 13*. The bill limits the registration requirement for these offenses to those persons who committed such crimes on or after July 1, 2016.

HB 510 (HERRING) / SB 354 (DEEDS): SEXUAL CRIMES AGAINST MINORS; EXTENDS STATUTE OF LIMITATIONS

- **Existing Law:** Section 19.2-8 of the *Code of Virginia* imposes a one year statute of limitations on most misdemeanors, unless otherwise specified in the law.

- **Effect of the Bills:** These bills extend the statute of limitations for prosecution of misdemeanor violations of the following offenses, if the victim is a minor, to one year after the victim reaches 18 years of age:

    - Carnal knowledge of offender by employee or volunteer of correctional facility, jail, detention center, probation service agency, bail bond company, or other specified facility (§ 18.2-64.2);
    - Sexual battery (§ 18.2-67.4);
    - Infected sexual battery (§ 18.2-67.4:1);
    - Sexual abuse of a child age 13 or 14 by an adult (§ 18.2-67.4:2);
    - Attempted sexual battery (§ 18.2-67.5); and
    - Tongue penetration by adult of mouth of child under age 13 (§ 18.2-370.6).

- **Background:** This bill is a recommendation of the Virginia State Crime Commission.

HB 628 (R.B. Bell): Sex Offender and Crimes Against Minors Registry Act; public dissemination

- **Existing Law:** Section 9.1-913 of the *Code of Virginia* requires the Virginia State Police to develop and maintain a system to allow individuals who are required to register on the Sex Offender and Crimes against Minors Registry public access through the Internet. The Internet site must include (i) the offender's name, (ii) any aliases the offender has used, (iii) the date and locality of the conviction, (iv) a brief description of the offense, (v) the age, current address, and a photograph of the registrant, and (vi) any other information that the Virginia State Police determines is necessary to protect public safety. This is in addition to other information that must be provided and maintained on the Sex Offender and Crimes Against Minors Registry that is not made publicly available.

- **Effect of the Bill:** This bill expands the list of information that must be maintained and made publicly available through the Internet for persons convicted of sex offenses and other offenses against minors to include (i) the current work address and (ii) the name of any institution of higher education at which the registrant is currently enrolled.

HB 1160 (R.B. Bell) / SB 291 (Black): Physical evidence recovery kits

- **Effect of the Bills:** These bills create a new Chapter, which establishes a comprehensive procedure for the collection and analysis of physical evidence recovery kits for victims of sexual assault, including those who elect at the time of the exam not to report a sexual assault to a law-enforcement agency.

    - A kit from a victim who elects not to report the sexual offense, ("anonymous physical evidence recovery kit") must be stored at the Division of Consolidated Laboratory Services (the Division) for a minimum of two years, although the Division, the victim, or the law-enforcement agency may elect to extend the storage period.
    - If the victim later elects to report the sexual assault, the victim's kit will be released to law enforcement. Health care providers must explain these procedures and time frames to victims.
    - If the victim elects to report the offense to law enforcement at the time of the exam, law enforcement must take possession of the victim's kit upon notification from the health care provider that the kit has been collected and, with limited exceptions, must submit the kit to the Department of Forensic Science for analysis within 60 days.
    - Once the Department completes the analysis, the kit must be stored with the law enforcement agency for a minimum period of ten years, or until two years after a victim who was a minor at the time of the offense reaches the age of majority, whichever occurs later.

- The bill outlines the exceptions to mandatory submission for analysis expungement of DNA samples obtained but not connected to a crime, and victims' notification rights.

- **Background:** This legislation was enacted in response to the Virginia Department of Forensic Science's recent audit of several law enforcement agencies across the Commonwealth, in which nearly 3,000 untested physical evidence recovery kits were discovered in the custody of law enforcement agencies. Governor McAuliffe convened a work group, led by Secretary Moran, to recommend a consistent process of handling these test kits, with the goal of increasing the number of kits that are tested each year.

SB 248 (BLACK): MINORS; AUTHORITY TO CONSENT TO PHYSICAL EVIDENCE RECOVERY KIT EXAMINATION

- **Existing Law:** A minor is generally deemed incapable of providing informed consent for most medical procedures and health services. Section 54.1-2969 of the *Code of Virginia* lists some exceptions that allow minors to provide informed consent, however, for medical or health services: (i) needed to diagnose or treat certain diseases that must be reported to the State Board of Health; (ii) required in case of birth control, pregnancy, or family planning; or (iii) needed in the care, treatment, or rehabilitation for substance abuse or mental illness. Section 54.1-2970.1 allows a licensed physician, physician assistant, nurse practitioner, or registered nurse to perform a physical evidence recovery kit examination on a person believed to be the victim of a sexual assault, who is incapable of providing informed consent if certain requirements are met. However, prior to July 1, 2016, the minor may not consent to this procedure without having the consent of a parent or guardian.

- **Effect of the Bill**: This bill amends § 54.1-2970.1 to allow a minor to consent to a physical evidence recovery kit examination, even over the objections of a parent or guardian.

SOCIAL SERVICES

HB 373 (YANCEY) / SB 253 (DESTEPH): CONFIDENTIALITY OF INFORMATION ABOUT VICTIMS OF CERTAIN CRIMES

- **Existing Law:** Section 63.2-104.1 of the *Code of Virginia* requires (i) individuals and programs that provide services to victims of domestic violence, dating violence, sexual assault, or stalking to protect the confidentiality and privacy of anyone receiving those services and (ii) prohibits those programs and individuals from disclosing personally identifying information or revealing individual client information without the informed, written consent of the victim. Consent must be provided by a minor and his parents or guardian (in the case of an unemancipated minor) or the guardian (in the case of an incapacitated person).

- **Effect of the Bills:** These bills expand § 63.2-104.1 of the *Code of Virginia* to specifically include among the list of victims whose confidentiality and privacy must be protected by programs and individuals providing services. The additional offenses are the following:

  - Abduction with intent to extort money or for immoral purposes (18.2-48);
  - Human trafficking (18.2-355);
  - Placing a person in a house of prostitution (18.2-356);
  - Receiving money from prostitution earnings (18.2-357); or
  - Commercial sex trafficking (18.2-357.1).

  A person is a victim for purposes of such confidentiality and privacy protections, *regardless* of whether there has been a charge or conviction for the offense. Additionally, the bill prohibits an alleged abuser of a minor or incapacitated person, or the minor's other parent from consenting to the release of confidential information (the current provision only applies to the abuser).

HB 428 (HOPE): PRISONER'S SPOUSE OR CHILDREN; SUPPORT PAYMENTS BY COUNTY OR CITY

- **Existing Law:** Section 20-63 of the *Code of Virginia* requires a county or city that uses a parent jailed for nonsupport to work on a workhouse, city farm, or work squad, to make payments to the court that will be used to support the prisoner's spouse or child or children. Under the law, the locality must pay the court on a monthly basis an amount ranging from $5 to $25, based on the court's discretion, for each week that the inmate worked a portion of the week.

- **Effect of the Bill:** This bill amends § 20-63 to mandate that the required payments be made to the Department of Social Services, rather than to the court which originally sentenced the prisoner. The bill also increases the required payment range to a minimum of $20 and a maximum of $40.

HB 497 (CAMPBELL): UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT; EXCLUSIVE, CONTINUING JURISDICTION

- **Existing Law:** Sections 20-146.12 through 20-146.21 of the *Code of Virginia* provide the rules for determining whether a court in a particular state has jurisdiction to make or modify a custody determination.

    - Section 20-146.13 of the *Code of Virginia* grants a Virginia court exclusive continuing jurisdiction provided the child and *both* of the child's parents (or other person acting as a parent) continue to live in Virginia.
    - Section 20-146.14 prohibits a Virginia court from modifying a child custody determination made by an out-of-state court unless: the Virginia court had jurisdiction to make the initial custody determination *and either* (i) the out-of-state court determines that it no longer has exclusive, continuing jurisdiction or that a Virginia court would be a more convenient forum; or (ii) that *neither* the child, the child's parents, nor a person acting as a parent, presently resides in the other state.

- **Effect of the Bill:** This bill amends § 146.13 of the *Code of Virginia* to allow a Virginia court to retain exclusive continuing jurisdiction so long as the child and *one parent* continues to live in Virginia. The bill also expands the exception that allows a Virginia court to modify a child custody order made by a court in another state to include instances in which one parent of the child continues to live in Virginia with the continued requirements provided in § 20-146.14.

- **Background:** This bill is a recommendation of the Boyd-Graves Conference and conforms Virginia law to the UCCJEA.

HB 600 (R.P. BELL): CHILD WELFARE; IMPOSES CERTAIN MANDATES RELATED TO PROTECTION AND ENCOURAGEMENT OF CHILDREN

- **Effect of the Bill:** This bill amends several sections of the *Code of* Virginia to impose certain mandates related to the protection of children.

    - The bill expands the definition of "abused or neglected child" to include children who are victims of sex trafficking.
    - The bill adds to the Child Protective Service Unit's duties a mandate to establish minimum training requirements regarding child victims of sex trafficking.
    - The bill also makes numerous changes to protect children in the foster care system, including the following:
        (i) Requiring that a local board of social service involve the child in developing the foster care plan if the child is at least 14 years old, and allows the child to involve up to two additional members of the case planning team in developing the plan;

(ii) Requiring that additional information be added to the written foster-care plan to ensure that the foster child is made aware of his rights;
(iii) Imposing age restrictions on the availability of the alternative to place a child in permanent foster care or to place the child in another planned permanent living arrangement;
(iv) Setting new requirements for the selection and approval of permanent foster care and for transfer of custody of a child to relatives other than the child's prior family; and
(v) Lowering the age at which local departments must begin conducting annual credit checks on children in the foster care system from 16 to 14 and requires local departments to ensure that a foster child who has reached the age of 18 and is leaving the system has a certified birth certificate, social security card, health insurance and health care information, and driver's license or state-issued identification card.

HB 674 (PEACE): KINSHIP FOSTER CARE; WAIVE OF FOSTER HOME APPROVAL STANDARDS

- **Existing Law:** Section 63.2-900.1 of the *Code of Virginia* sets out the rules regarding kinship foster care placement and requires that such placements meet all the statutory requirements related to foster care placement. However, the statute allows the Commissioner of the Department of Social Services to grant a variance from these requirements and place a child with a kinship foster care provider if the Commissioner determines: (i) the requirement would impose a substantial hardship on the kinship foster care provider and (ii) the variance would not adversely affect the safety and well-being of the child to be placed in kinship foster care.

- **Effect of the Bill:** This bill amends § 63.2-900.1 to allow local boards of social services, subject to approval by the Commissioner of the Department of Social Services, to grant a waiver regarding the Board of Social Services' standards for foster home approval, provided the standards are not related to safety. The Commissioner is required to (i) review the local board's decision and reason for granting the waiver and (ii) verify that the foster home approval standard being waived is not related to safety.

HB 920 (MASON): BARRIER CRIMES; CONVICTION OF FINDING NOT GUILTY BY REASON OF INSANITY

- **Existing Law**: Sections 37.2-408.1 and 63.2-1719 of the *Code of Virginia* provide a list of crimes, commonly referred to as "barrier crimes," a conviction of which prevents a person from volunteering with, being employed with, or contracting to provide services for: (i) any children's residential facility that is regulated by the Department of Behavioral Health and Developmental Services, the Department of Social Services, the Department of Education or the Department of Military Affairs; (ii) any local structured residential program, excluding secure detention facilities,

established for juvenile offenders or juveniles that determined to be children in need of supervision or services. Section 63.2-1721 of the *Code of Virginia* provides that if any person required to have a background check has any "barrier crimes" or other "offense" defined in § 63.2-1719, and the Commissioner has not granted the person a waiver or is not subject to an exception, the Commissioner may not issue a license to a child-placing agency, independent foster home, family day system, or assisted living facility, or issue a registration to a family day home.

- **Effect of the Bill:** This bill adds to the list of barrier crimes a conviction or a finding of not guilty by reason of insanity for an offense that results in the offender's requirement to register with the Sex Offender and Crimes Against Minors Registry or any similar registry in any other state.

HB 1026 (SICKLES): DEPARTMENT OF SOCIAL SERVICES; ELECTRONIC NOTICES

- **Existing Law:** Existing law requires the Department of Social Services to deliver certain notices by service of notice or by delivery by certified mail, return receipt requested. Specifically, this requirement applies to the following notices issued by the Department of Social Services: (i) notice of change in payee for child support or spousal support obligations; (ii) notice of intent to suspend or refuse to renew the driver's license of a person delinquent in child support payments; (iii) annual notice regarding availability of earned income tax credit to recipients of TANF, food stamps, or medical assistance; (iv) notice of administrative support issued to initiate proceedings for child support; (v) notice of administrative support order providing for immediate income withholding from the noncustodial parent's income; (vi) notice upon default of an administrative or judicial support order; (vii) order for withholding of income by lien; (viii) order to withhold and deliver property of debtor; (ix) Commissioner's notice of intent to collect support debt stated in lien; (x) order suspending license or other authorization to engage in a profession or occupation for persons delinquent in child support payments; and (xi) notice of decision of hearing officer in administrative hearing on debt.

- **Effect of the Bill:** This bill amends various sections of the *Code of Virginia* to allow the Department of Social Services to deliver the above-specified notices and orders by electronic means. For purposes of the administrative child support order process, the bill defines "electronic means" as service of a required notice by the Department of Social Services through its secure online child support portal to any person who has agreed to accept service through the portal and has created a user account, provided the portal records and maintains the date and time service is accepted by the user. The bill also makes additional technical changes.

HB 1189 (HESTER): CHILD WELFARE AGENCY; OPERATING WITHOUT A LICENSE, ABUSE, AND NEGLECT OF CHILD, PENALTY

- **Existing Law:** Section 18.2-371.1 of the *Code of Virginia* classifies as a Class 4 felony the *willful* act, omission, or refusal by a parent, guardian, or other person responsible for a minor child's care, that results in or permits serious injury to the life or health of the child. Serious injury includes disfigurement, fracture, severe burns or lacerations, mutilation, maiming, forced ingestion of dangerous substances, and life-threatening injuries. The fact that a child is under treatment solely by spiritual means does not, by itself, create a presumption that the parent, guardian, or other person with custody of the minor child has violated this section.

- **Effect of the Bill:** This bill provides that the operation of a child day center, child-placing agency, children's residential facility, family day home, family day system, or independent foster home without first obtaining a license, when (i) it is known that a license is required or (ii) after such license has been revoked or has expired constitutes a willful act or willful omission for purposes of the crime of abuse and neglect of a child in violation of § 18.2-371.1.

SB 278 (WEXTON): CHILD WELFARE AGENCIES; BACKGROUND CHECKS FOR VOLUNTEERS AND EMPLOYEES

- **Existing Law:** Sections 63.2-1720 and 63.2-1720.1 of the *Code of Virginia* prohibit assisted living facilities, adult day care centers, licensed or registered child welfare agencies, child day centers, and family day homes from *hiring for paid employment* a person who has been convicted of any of the barrier offenses listed in § 63.2-1719 of the *Code of Virginia.* Assisted living facilities and adult day care centers may hire applicants convicted of a misdemeanor barrier crime not involving abuse or neglect if five years have elapsed following the conviction. Child day care centers may hire for paid employment persons convicted of one assault and battery misdemeanor offense under § 18.2-57 if 10 years have elapsed following the conviction and provided the person did not commit the offense against a minor or while employed in a child day care center.

- **Effect of the Bill:** This bill expands §§ 63.2-1720 and 63.2-1720.1 of the *Code of Virginia* to prohibit these organizations from *continuing to employ* individuals who have been convicted of any barrier offenses set out in § 63.2-1719.

SB 417 (VOGEL): DEPARTMENT OF SOCIAL SERVICES; UNAUTHORIZED PRACTICE OF LAW

- **Existing Law:** With certain statutory exceptions, only individuals who hold a valid license or certificate to practice law in Virginia and have paid their bar dues may practice law in Virginia. Non-attorney employees of an agency assigned an attorney (e.g., the City or County attorney) may not perform legal functions (e.g., filing motions to amend court orders) unless there is a statutory exception. Section 16.1-260 of the *Code of Virginia* allows the state Department of Social Services (Division of Child Support Enforcement) to designate non-attorney employees to complete, sign, and file petitions and motions to establish, modify, or enforce support with the court. There is no similar authority provided to local departments of social services under existing law.

- **Effect of the Bill:** This bill amends various sections of the *Code of Virginia* to allow designated non-attorney employees of a local department of social services to (i) initiate a case on behalf of the local department by appearing before an intake officer and (ii) complete, sign, and file with the clerk of the juvenile and domestic relations district court, on forms approved by the Supreme Court of Virginia, the following court actions:

  - Petitions for foster care review,
  - Petitions for permanency planning hearings,
  - Petitions to establish paternity,
  - Motions to establish or modify support,
  - Motions to amend or review an order, and
  - Motions for a show cause.

  The bill also directs local department of social services directors to designate non-attorney employees who are authorized to perform such tasks.

- **Background:** This bill is intended to overturn a Virginia State Bar opinion, issued in 2015, that declared local social service offices to be engaged in the unauthorized practice of law when they file routine petitions with the juvenile and domestic relations district courts.

- **Comments:** There is not a similar statutory provision for local school divisions, which also are represented by city and county attorneys.

SB 455 (DUNNAVANT): DEPARTMENT OF SOCIAL SERVICES; INFORMATION SHARING

- **Existing Law:** Section 63.2-101 of the *Code of Virginia* authorizes the Department of Social Services (DSS) to request from all departments, boards, bureaus, and agencies of Virginia and of other states records that are necessary to perform their duties and carry out their social service and other welfare programs. It authorizes and requires the other entities to provide the requested records provided DSS submits a written statement explaining the reason for seeking the record. DSS is authorized to make records available to (i) public officials, (ii) agencies of the Commonwealth, (iii) other states, and (iv) political subdivisions where the request for "the information relates to the administration of the various public assistance or social service programs."

- **Effect of the Bill:** This bill *requires* DSS to provide the Department of Medical Assistance Services (DMAS) and other entities approved by the Board of Medical Assistance Services, access to information regarding a medical assistance applicant's receipt of public assistance from programs administered by DSS. Access is limited to information necessary to determine an individual's eligibility for medical assistance services and any restrictions set out in a memorandum of understanding between DSS and DMAS.

MISCELLANEOUS

HB 137 (KNIGHT): FERAL HOGS; EXCEPTION: EMPLOYEES OF DEPARTMENT OF GAME AND INLAND FISHERIES & FEDERAL AGENCIES ALLOWED TO HUNT OR KILL FROM AIRCRAFT, ETC.

- **Existing Law:** Section 5.1-17 of the *Code of Virginia* makes it a misdemeanor for any person to hunt, pursue, or kill any wild waterfowl, other birds, or animals by any means while in flight in an aircraft over land or water in the Commonwealth.

- **Effect of the Bill:** This is a § 1 bill that creates an exception of the misdemeanor hunting by air offense and allows employees of the Department of Game and Inland Fisheries and federal agencies having responsibility for fisheries and wildlife management to hunt or kill feral hogs from an aircraft. The hunting (i) may not occur during waterfowl season, (ii) must occur in the performance of the employees' official duties, and (iii) is restricted to properties in False Cape State Park and Back Bay National Wildlife Refuge.

- **Background:** The bloodlines of feral hogs date back to the 1500s, when some broke loose from livestock brought to the United States by Spanish explorers. As many as 5 million are estimated to be rooting around from coast to coast, wreaking havoc from wetlands to wheat fields. There are several thousand in Virginia. Feral hogs can weigh 300 pounds or more and also carry diseases that can be passed on to livestock. Female hogs can produce three litters a year, with eight or more piglets each time. With their offspring and their offspring's offspring reproducing, a couple of hogs can turn into a couple of hundred quickly.

HB 691 (CARR): WORKPLACE SAFETY; EMPLOYER REPORTING REQUIREMENTS OF WORK-RELATED INCIDENTS

- **Existing Law:** Section 40.1-51.1 requires every employer to report to the Virginia Department of Labor and Industry within eight hours any work-related incident that results in: (i) a fatality; (ii) the inpatient hospitalization of one or more persons; (iii) an amputation; or (iv) loss of an eye.

- **Effect of the Bill:** This bill extends from 8 to 24 hours the time period within which an employer must notify the Virginia Department of Labor and Industry of a work-related incident resulting in (i) inpatient hospitalization, (ii) amputation, or (iii) loss of an eye. Employers must continue to report work-related incidents resulting in fatalities within eight hours of the incident.

HB 817 (LeMunyon) / SB 494 (Surovell): Virginia Freedom of Information Act; record exclusions, rule of redaction

- **Existing Law:** In order to promote transparency in government administration and afford citizens ready access to public records in the custody of public bodies, the Virginia Freedom of Information Act (*Code of Virginia* § 2.2-3700 *et. seq*.) requires public bodies to disclose all records unless the Act specifically provides an exclusion.

- **Effect of the Bills:** The bill provides that no provision of FOIA authorizes a public body to withhold a public record in its entirety on the grounds that a portion of the public record is excludable from disclosure by FOIA or by another provision of law.

    - A public record may be withheld from disclosure in its entirety only to the extent that an exclusion from disclosure under FOIA or other provision of law applies to the entire contents of the public record.
    - Only those portions of the public record containing information subject to a FOIA exclusion or other provision of law may be withheld; and all portions of the public record that are not so excluded must be disclosed.
    - The bill provides that it is declaratory of the law as it existed prior to the September 17, 2015, Supreme Court decision and reverses that part of the holding that required courts in a FOIA enforcement action to accord weight to the public body's determination as to whether an exclusion applies.
    - The bill also contains several technical amendments to effectuate the intent of the bill.

- **Comments:** In the 2015 Virginia Supreme Court case Department of Corrections v. Surovell the Supreme Court held that a public body is not required to redact a document that is excluded from the FOIA disclosure requirement if the document contains nonexempt material and in such instances may exclude the document in its entirety. This bill overturns the Virginia Supreme Court holding in Department of Corrections v. Surovell

HB 1117 (Loupassi): Immunity of persons at public hearing; awarding of reasonable attorney fees and costs

- **Existing Law:** Section 8.01-223.2 of the *Code of Virginia* immunizes from civil suit individuals who testify at local public hearings or before boards, commissions, agencies, authorities, and other local governing bodies if the suit is based solely on this testimony and the suit alleges that the individual: (i) combined with one or more parties to injure another's reputation, trade, business or profession or compelled another to do or perform an act against his will in violation of § 18.2-499 or (ii) tortiously interfered with an existing contract or contractual expectancy.

- **Effect of the Bill:** This bill expands the protections in § 8.01-223.2 to allow reasonable attorney fees and costs to be awarded to any person whose suit against him was dismissed as a result of this immunity.

    - The bill amends § 8.01-223.2 of the *Code of Virginia* and provides that any person who has a suit against him dismissed due to certain immunity from civil suit may be awarded reasonable attorney fees and costs.
    - Immunity applicable to this bill attaches to individuals who testify at local public hearings or before boards, commissions, agencies, authorities, and other local governing bodies if the suit is based solely on this testimony and the suit alleges that the individual: (i) combined with one or more parties to injure another's reputation, trade, business, or profession or compelled another to do or perform an act against his will or (ii) tortiously interfered with an existing contract or contractual expectancy.
    - The immunity does not apply to any statements made with knowledge that they are false or with reckless disregard for whether they are false.

SB 162 (HOWELL): FAMILY VIOLENCE FATALITY REVIEW TEAMS; DEFINITION OF FATAL FAMILY VIOLENCE INCIDENT

- **Existing Law:** Section 32.1-283.3 of the *Code of Virginia* requires the Chief Medical Examiner's office to develop a model protocol for the development and implementation of local family violence fatality review teams, including relevant procedures for conducting reviews of fatal family violence incidents. The statute defines "fatal family violence incident" as "any fatality, whether homicide or suicide" occurring as a result of abuse between family members or intimate partners

- **Effect of the Bill:** This bill makes technical amendments to the definition of "fatal family violence incident" and expands that definition to include fatalities that are *suspected* to have occurred as the result of abuse between family members or intimate partners.

SB 225 (HANGER): AUTISM ADVISORY COUNCIL; EXTENDS SUNSET PROVISION

- **Existing Law:** Chapter 50 of Title 30 of the *Code of Virginia* establishes and sets out the powers and duties of the eight-member Autism Advisory Council, charged with coordinating services and resources among the agencies providing services to Virginians with autism spectrum disorders. Among its powers, the Council may determine services, resources, and policies that address the needs of individuals with autism spectrum disorders.

- **Effect of the Bill:** This bill extends from July 1, 2016, to July 1, 2018, the expiration of the Autism Advisory Council.

SB 294 (DeSteph): State officers and employees; retaliatory actions against persons providing certain testimony

- **Existing Law:** There are no prohibitions on state officers and employees retaliating against persons who testify before the General Assembly under current state law.

- **Effect of the Bill:** The bill amends § 2.2-309 and creates § 2.2-2832 of the *Code of Virginia* and prohibits any officer or employee of a state agency from using his public position to retaliate or threaten to retaliate against a person providing testimony before a committee or subcommittee of the General Assembly.

    - To be covered by the bill, the testifying person must provide the testimony (i) in good faith and (ii) upon a reasonable belief that the information is accurate. Testimony that is reckless or that the person knew or should have known was false, confidential, malicious, or otherwise prohibited by law or policy is excluded from the good faith requirement.
    - The bill further allows any person who believes that he is subject to retaliatory action by an officer or employee of a state agency to file a complaint with the Office of the State Inspector General (OSIG) and invests such investigative authority with the OSIG.
    - If the state agency officer or employee *intentionally* uses his public position to retaliate or threaten to retaliate against a person for testifying before a General Assembly committee or subcommittee, it constitutes malfeasance in office and will result in the officer or employee being suspended or removed from office (as prescribed in law for other cases of malfeasance).

SB 646 (McDougle)/HB 775 (Miller): Fantasy contests act; created, registration requirement, conditions of registration, civil penalty

- **Existing Law:** Section 18.2-328 punishes as a Class 6 felony the operation of an illegal gambling enterprise. If the enterprise is continuously operated for more than 30 days or has gross revenue of $2,000 or more in a single day, the operator is subject to a maximum fine of $20,000 and imprisonment for a maximum period of 10 years. Operation of the state lottery, bingo games conducted by qualifying organizations, horse racing with pari-mutuel wagering, and various contests of speed in which the participants are eligible to receive prizes are not deemed "illegal gambling" and are permissible under existing law.

- **Effect of the Bill:** These bills enact a new chapter in Title 59.1 that creates the Fantasy Contests Act, which applies to fantasy contests with an entry fee offered in Virginia. "Fantasy contests" include online fantasy or simulated games or contests in which:

- The prizes offered to winning participants are established and made known to the participants before the contest;
- All winning outcomes reflect the participants' knowledge and skill and are determined predominantly by accumulated statistical results of the performing athletes or players; and
- No winning outcome is based on the score, point spread, or any performance of a single actual team or combination of teams or solely on a single performance of an individual player in a single actual event.

The bills require that all operators register with the Virginia Department of Agriculture and Consumer Services and pay an initial $50,000 application fee. As a condition of the required annual registration, the fantasy contest operator must demonstrate that he will implement a number of statutorily specified procedures, including verifying that contest players are at least 18 years of age and ensuring that the subject players of a fantasy contest are restricted from entering any contest in which such players are participants. The bills impose a maximum $1,000 civil penalty upon operators who violate these procedures. Any fantasy contest conducted in accordance with these measures will not be deemed illegal gambling.

STUDIES

COMMISSION ON YOUTH STUDY OF SB 215 (FAVOLA): ISOLATION IN SECURE JUVENILE FACILITIES

- During the 2016 General Assembly Session, Senator Favola introduced Senate Bill 215. The substitute version of SB 215 would have required the Board of Juvenile Justice to promulgate regulations on the use of room segregation in juvenile detention homes and juvenile correctional facilities that included the following:
    - Include relevant definitions, criteria for use of room segregation, frequency of required room checks, training requirements for staff, and follow-up requirements after using room segregation;
    - Allow the use of room segregation only when other less restrictive options have been exhausted and for certain purposes;
    - Allow the use of room segregation only for the minimum amount of time required to address the resident's behavior;
    - Provide to the resident a means of communication with staff during room segregation;
    - Specify that if a resident in room segregation exhibits self-injurious behavior, when and under what conditions staff shall consult with a mental health professional; and
    - Detail the circumstances under which the director of the juvenile detention home or juvenile correctional facility shall develop a plan for improved behavioral outcomes for the resident.
- The House Courts of Justice Committee reviewed this legislation, and it was laid on the table. The Commission on Youth received a letter from the Chair of the House Courts of Justice Committee requesting a review of the bill and the concept it addresses and to make recommendations prior to the 2017 General Assembly Session.

BUDGET

DJJ REINVESTMENT – BUDGET (HB 30)

The Budget Bill does not reduce DJJ's baseline budget and gives DJJ, in conjunction with the Department of Planning and Budget, the ability to reallocate to other services and programs savings derived from less reliance on secure custody in accordance with a DJJ Transformation Plan approved by the Secretary of Public Safety and Homeland Security.

- The Director is required to develop a "transformation plan to provide more effective and efficient services for juveniles" to include, when appropriate, "alternative placements and services" for committed youth that "offer treatment, supervision, and programs that meet the levels of risk and need."
- The plan must be approved by the Secretary of Public Safety and Homeland Security prior to implementation.
- The goals of the transformation plan must include:
  - Increasing the number of male and female local placement options and post-dispositional treatment programs and services;
  - Ensuring that appropriate placements and treatment programs are available across the Commonwealth; and
  - Providing appropriate levels of educational, career readiness, rehabilitative, and mental health services for these juveniles in state, regional, or local programs and facilities.
- DJJ is required to submit a report on the transformation plan no later than November 1 every year.

DJJ CAPITAL FUNDING – BOND PACKAGE (HB 30 AND HB 1344)

The bills approve funding for DJJ to construct a new juvenile correctional center in Chesapeake, with certain requirements for reports from a Task Force on Juvenile Correctional Centers, which is chaired by the Secretary of Public Safety and Homeland Security and includes representatives from the Departments of Corrections and Behavioral Health and Developmental Services, Juvenile Justice, and Corrections and the Children's Services Act. They further authorize future planning for the construction or renovation of another juvenile correctional center.

- The budget bill (HB 30) requires the establishment of the Task Force on Juvenile Correctional Centers to consider the future capital and operational requirements for Virginia's juvenile correctional centers, including the construction of a new facility in Chesapeake.
- The task force is chaired by the Secretary of Public Safety and Homeland Security and must include representatives from the Departments of Juvenile

Justice, Corrections, and Behavioral Health and Developmental Services, and the Office of Children's Services.

- The taskforce must consider:
  - The committed population forecast, including an assessment of the impact of the length of stay guidelines;
  - The number of juveniles expected to be held in each facility;
  - The level and type of mental health, medical, academic and career readiness, and other services to be provided;
  - The design and size of spaces needed to accommodate the necessary services;
  - The accommodation of the treatment needs of committed youth with diagnoses of serious mental or behavioral health issues;
  - The appropriateness of alternative housing models, including cells and rooms and other housing configurations;
  - The number and geographical location of facilities;
  - The potential for contracting for the use of space in existing local and regional secure and non-secure facilities; and
  - The properties owned by DJJ and cost of construction, renovation, operation, maintenance, or sale of such properties.
  - If a facility closure should occur, DJJ must work cooperatively with affected localities to minimize the effect of the closure on the affected communities and their residents, with closure occurring not less than 12 months from the announcement of the closure.
- The task force must present an interim report by November 1, 2016, and a final report by July 15, 2017.
- Funding was included in the bond bill (HB 1344) for the construction of a new juvenile correctional center in Chesapeake.
- Funding for the construction of a new juvenile correctional center in Chesapeake may not be released until 30 days after the submission of the interim report.
- Funding for detailed planning to renovate or construct a juvenile correctional center may not be released until 30 days after the submission of the final report of the task force and not before July 1, 2017.

SOCIAL SERVICES FOSTERING FUTURES – BUDGET (HB 30):

For several years, the Virginia Department of Social Services and child advocates have attempted to extend foster care to the age of 21. This year, they were successful in getting Budget language to support "Fostering Futures" to maximize the support to juveniles aging out of foster care. This was a bipartisan compromise and a great step forward for foster care children, including juveniles who were in foster care immediately prior to commitment to DJJ who will be 18, 19, or 20 at the time of release.

Under this budget language:

- Juveniles who age out of foster care will receive supports that include housing, monthly casework support, and access to counsel.
- Eligibility for Fostering Futures is expanded to include juveniles (i) who are working at least 80 hours per month (no concurrent school requirement), (ii) who are attending an education program, and (iii) who are medically unable to do either activity.
- Virginia must provide a full continuum of housing options for juveniles, from foster family homes to independent apartments, depending on the needs of the juveniles. Note: this excludes congregate care.
- The "60-day window" for entry and re-entry into the current 18-21 Independent Living program is open for Fostering Futures: eligible juveniles may enter and re-enter Fostering Futures at any point during ages 18-21.
- Eligibility for Fostering Futures (as is true for the current 18-21 Independent Living program) is opened juveniles who are in foster care immediately prior to commitment who will be released between ages 18 and 21.
- As part of the program, adoption assistance for any juveniles adopted from foster care at age 16 or older is extended to age 21.

The implementation of Fostering Futures will be staggered on an annual basis by age. Juveniles who will turn 18 on July 1, 2016, or later will be eligible for Fostering Futures. Those juveniles who already have aged out of care and are under age 21 will not be eligible for the program; the current 18-21 Independent Living program will continue to exist for these juveniles.