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CONTENTS

DJJ LEGISLATION

SB 1456 (Senator David Marsden): Juveniles; eligibility for commitment to the Department of Juvenile Justice ……...……pg. 9

HB 1878 (Delegate Clinton Jenkins): Juvenile intake and petition; appeal to magistrate on a finding of no probable cause……..…pg. 10

HB 1894 (Delegate Kaye Kory): Naloxone or other opioid antagonist; certain employees of DJJ authorized to administer…….……. pg. 11

COURTS / INTAKE

HB 1866 (Delegate Karrie Delaney): Court-appointed special advocates; information sharing.……...……...….pg. 12

HB 1895 (Delegate Sally Hudson): Fines and costs; accrual of interest, deferral or installment payment agreements.……..…...pg. 13

HB 1991 (Delegate Jerrauld "Jay" Jones): Juveniles; release and review hearing for serious offender, plea agreement or commitment order……...……...……pg. 14

HB 2012 (Delegate Jeffrey Campbell): Protective orders; violations of preliminary child protective order, changes in punishment, etc.……..……...…….pg. 15

HB 2017 (Delegate Michael Mullin): Juvenile offenders; youth justice diversion programs.……..…….…….pg. 15

HB 2047 / SB 1315 (Delegate Jeffrey Bourne / Senator Jennifer McClellan): Criminal proceedings; consideration of mental condition and intellectual, etc……....……..pg. 16

HB 2113 / SB 1339 (Delegate Charniele Herring / Senator Scott Surovell): Criminal records; sealing of records, Sealing Fee Fund created, penalties, report……...……...pg. 17

HB 2150 (Delegate Les Adams): Jurisdiction over criminal cases; certification or appeal of charges.…….……..pg. 18

HB 2163 (Delegate Kathy Tran): Department of Motor Vehicles; limits the release of privileged information to government entities……..…...pg. 19

HB 2284 (Delegate Angela Williams Graves): Driving privileges, certain; Commissioner of DMV to reinstate privileges and waive fees……..…..…...…pg. 19

SB 1135 (Senator David Marsden): Dangerous dogs; restructures procedure for adjudication, penalty…….……..……...…….….pg. 19

SB 1165 (Senator Scott Surovell): Abolition of the Death Penalty……..……...pg. 20

SB 1181 (Senator Scott Surovell): Special immigrant juvenile status; jurisdiction.....pg. 20

SB 1213 (Senator John Edwards): Restricted licenses; DMV authorizes to issue….....pg. 21

SB 1426 (Senator William Stanley, Jr.): Orders of restitution; docketed on behalf of victim, enforcement…….....pg. 22

SB 1468 (Senator Scott Surovell): Victims of crime; certifications for victims of qualifying criminal activity……..pg. 22

SB 1475 (Senator Richard Stuart): Search warrants; date and time of issuance, exceptions…….....…….....pg. 22

CRIME

HB 1801 (Delegate James Edmunds, II): Disposing of litter; penalty….……...pg. 23

HB 1821 (Delegate David Bulova): Overdoses; prohibits arrest and prosecution when experiencing or reporting……...…….……..……pg. 23

HB 1846 (Delegate Roxann Robinson): License restrictions for minors; prohibition on use of handheld personal communications devices.……...pg. 24

HB 1936 (Delegate Vivian Watts): Robbery; penalties…….…….....pg. 24

HB 2132 (Delegate Danica Roem): Homicides and assaults and bodily woundings; certain matters not the constitute defenses…….……...pg. 25

HB 2133 (Delegate Karrie Delaney): Commercial sex trafficking; issuance of vacatur for victims…….…….……...pg. 25

HB 2169 (Delegate Candi King): Prostitution; reorganizes the statute penalizing into two distinct sections…….....pg. 26

HB 2194 / SB 1113 (Delegate James "Jay" Leftwich / Senator Lionell Spruill, Sr.): Communicating threats of death or bodily injury to a person with intent to intimidate; penalty……..…….……..pg. 26

HB 2290 (Delegate Kenneth Plum): Larceny; repeals punishment for conviction of second or subsequent misdemeanor……..……..pg. 27

SB 1122 (Senator William Stanley): Habitual offenders; repeals remaining provisions of the Habitual Offender Act…….……..pg. 27

SB 1138 (Senator Mamie Locke / Senator Jennifer McClellan): Sexually transmitted infections; infected sexual battery, penalty……..…pg. 27

SB 1335 (Senator Richard Stuart): Learner's permits; use of personal communication devices, restrictions…….……...pg. 28

SB 1336 (Senator Richard Stuart): Ignition interlock systems; restricted permits to operate a motor vehicle……pg. 28

SB 1461 (Senator Lynwood Lewis, Jr.): Bribery in correctional facilities; penalty…....pg. 29

DETENTION

HB 1806 (Delegate Terry Kilgore): Suspension or modification of sentence; transfer to the Department of Corrections……..…….pg. 29

HB 2010 (Delegate Jeffrey Campbell): Earned sentence credits; rate at which sentence rates may be earned, prerequisites……pg. 29

HB 2295 / SB 1381 (Delegate Mark Levine / Senator Adam Ebbin): Firearm; carrying within Capital Square and the surrounding area, state-owned buildings……....pg. 30

EDUCATION

HB 1823 (Delegate Alex Askew): Public schools, child day programs, and certain other programs; carbon monoxide detectors required……...……pg. 31

HB 1980 (Delegate David Reid): Enslaved Ancestors College Access Scholarship and Memorial Program established, report……...…...…….pg. 31

HB 2019 (Delegate Delores McQuinn): Public elementary and secondary schools; administration of undesignated stock albuterol inhalers.……..pg. 32

HB 2117 (Delegate Schuyler VanValkenburg): Children's Services Act; funds expended special education programs.……..pg. 32

HB 2182 (Delegate Tony Wilt): Board of Education; definition of "traumatic brain injury ……pg. 33

HB 2204 (Delegate Eileen Filler-Corn): Get Skilled, Get a Job, Give Back (G3) Fund and Program……..pg. 33

HB 2299 / SB 1288 (Delegate Betsy Carr / Senator Siobhan Dunnavant): Special Education; Department of and the Board of Education to develop new policies and procedures….pg. 33

HB 2316 (Delegate Candi Mundon King): Department of Education and Board of Education; special education and related services for students with disabilities……pg. 34

SB 1196 (Senator Mamie Locke): Teachers and other license school board employees; cultural competency training……...pg. 35

SB 1257 (Senator Jennifer McClellan): Standards of Quality; specialized student support positions ……..……pg. 35

SB 1303 (Senator Siobhan Dunnavant): Local school divisions; availability of virtual and in-person learning to all students.…….……pg. 35

SB 1322 (Senator Bill DeSteph): Public schools; seizure management and action plans, biennial training, effective date.……pg. 36

SB 1357 (Senator Siobhan Dunnavant): Local school divisions; core subject competency assessments.…….……...pg. 37

SB 1387 (Senator Jennifer Boysko): Students; eligibility for in-state tuition ……....pg. 37

FIREARMS

HB 1992 (Delegate Kathleen Murphy): Firearms, purchase, etc., following conviction for assault and battery of a family member……..…….pg. 38

HB 2128 (Delegate Alfonso Lopez): Sale or transfer of firearms; criminal history record information check delay…….....pg. 38

MARIJUANA

HB 2312 / SB 1406 (Delegate Charniele Herring / Senators Adam Ebbin and Louise Lucas): Marijuana; legalization of simple possession, etc.……pg. 39

MENTAL HEALTH & MEDICAL

HB 2061 (Delegate Rodney Willett): VIIS; any health care provider in the Commonwealth that administers immunizations to participate……pg. 46

HB 2166 (Delegate Patrick Hope): Involuntary admission; provisions governing involuntary inpatient & mandatory outpatient treatment……...pg. 47

HB 2322 (Delegate Charniele Herring): Establishing an Opioid Abatement Authority……pg. 47

SB 1220 (Senator Barbara Favola): State facilities; admission of certain aliens……pg. 47

SB 1431 (Senator Montgomery Mason): Unrestorably incompetent defendant; competency report……..pg. 48

SEX OFFENSES & SEX OFFENDERS

HB 1867 (Delegate Karrie Delaney): Victims of Crime; compensation, reporting requirement.……...pg. 48

HB 1868 (Delegate Karrie Delaney): Commercial driver's licenses; disqualification for life from holding license, human trafficking……..pg. 49

SOCIAL SERVICES

HB 1912 (Delegate Patrick Hope): Child support payments; juvenile in custody of or committed to the Department of Juvenile Justice……..……pg. 49

HB 1961 (Delegate Robert Bell): Special identification cards; application by guardian……..pg. 50

HB 1962 (Delegate Wendy Gooditis): Foster care; termination of residual parental rights; relatives and fictive kin……pg. 50

SB 1206 (Senator George Barker): Confidentiality of juvenile records; exceptions……pg. 50

HB 2117 / SB 1313 (Delegate Schuyler VanValkenburg / Senator Montgomery Mason): Children's Services Act; funds expended special education programs……..……..pg. 51

HB 2125 (Delegate Alfonso Lopez): Voter registration; preregistration for persons 16 years of age or older…….pg. 52

HB 2138 (Delegate Elizabeth Guzman): Identification privilege cards; fee; confidentiality; penalties……..pg. 53

HB 2212 (Delegate Kenneth Plum): Children's Services Act; effective monitoring and implementation.....pg. 53

SB 1168 (Senator Louise Lucas): "Abused or neglected child"; definition……..pg. 53

STATE & LOCAL ADMINISTRATION OF GOVERNMENT

HB 1811 (Delegate Dan I. Helmer): Virginia Public Procurement Act; preference for energy-efficient and water efficient goods……. pg. 54

HB 1814 (Delegate Paul Krizek): Garnishment of wages; protected portion of disposable earnings……..pg. 54

HB 1848 (Delegate Mark Sickles): Virginia Human Rights Acts; adds discrimination on the basis of disability…….....pg. 55

HB 1876 (Delegate Suhas Subramanyam): Workforce development; expands type of data sharing……...……..pg. 55

HB 1891 (Delegate Hala Ayala): Department of Human Resource Management; duties of the Department; annual public health training…….pg. 56

HB 1931 (Delegate Mark Levine): Virginia Freedom of Information Act; public body authorized to conduct electronic meetings……..pg. 56

HB 1985 (Delegate Chris Hurst): Workers' compensation; presumption of compensability for COVID-19……..……...pg. 57

HB 1990 (Delegate Lashrecse Aird): Racial and ethnic impact statements for criminal justice legislation……...pg. 57

HB 1993 (Delegate Alex Askew): State agencies and their appointing authorities; diversity, equity, and inclusion strategic plans…….....pg. 58

HB 2004 (Delegate Chris Hurst): Virginia Freedom of Information Act; law-enforcement criminal incident information, criminal files……pg. 58

HB 2025 (Delegate Wendy Gooditis): Virginia FOIA; record exclusion for personal contact information provided to a public body……pg. 59

HB 2031 (Delegate Lashrecse Aird): Facial recognition technology; authorization of use by local law enforcement agencies……..pg. 59

HB 2134 (Delegate Amanda Batten): Employee classification; provision of personal protective equipment in response to a disaster……...……pg. 59

HB 2161 / SB 1410 (Delegate Kathy Tran / Senator John Bell): Active military or a military spouse; prohibits discrimination in public accommodations, etc……..pg. 60

HB 2207 / SB 1375 (Delegate Jerrauld "Jay" Jones / Senator Richard Saslaw): Workers' compensations; presumption of compensability for COVID-19…….pg. 60

SB 1271 (Senator Jeremy McPike): Virginia Freedom of Information Act; meetings held through electronic communication means……...pg. 61

HJ 555 (Delegate Charniele Herring): Constitutional amendment (first reference); franchise and officers; felon disenfranchisement…….pg. 61

DJJ LEGISLATION

SB 1456 (Senator David Marsden): Juveniles; eligibility for commitment to the Department of Juvenile Justice.

- **Prior Law:**
  - There was no age requirement for pre-dispositional confinement in a secure facility.
  - A juvenile had to be at least 11 years of age to be eligible for commitment to DJJ.

- **Reason for Legislation:**
  - Under the Transformation Plan, the Department of Juvenile Justice has been working and making strides towards reducing reliance on confinement facilities and replacing them with community alternatives.
  - Confinement in a secured facility is particularly counterproductive to the younger age youth, especially by having them mixed in populations with older youth.
  - Young people with still developing brains are impacted both emotionally and behaviorally by justice system involvement and should not be placed in secure facilities unless it is absolutely necessary.
  - Pre-dispositional Detention Between FY17 and FY20: One youth under the age of 9 was detained in FY18; one nine year old youth was detained in FY17; one 10 year old was detained in FY17; for youth age 11, there were 19 (0.3%) in FY17, 16 (0.3%) in FY18, 30 (0.6%) in FY19, and 13 (0.3) in FY20.
  - Commitment to DJJ Between FY 17 and FY20: There were no youth age 12 or under committed to DJJ; for youth age 13, two (0.6%) were admitted in FY17, three (0.9%) in FY18, five (1.5%) in FY19, and three (1.3%) in FY20. For youth age 14, 12 (3.6%) were admitted in FY17, 18 (5.5%) in FY18, 13 (3.9%) in FY19, and 10 (4.3%) in FY20.

- **Impact of Legislation (effective July 1, 2021):**
  - Sets an eligibility age of 11 for pre-dispositional confinement in a secure facility. Those that are age 10 and under charged with violent juvenile felonies (offenses enumerated in subsections B and C of §16.1-269.1 such as murder, rape and robbery) may initially be detained in a secure facility, but may not remain in a secure facility.
    - Effective July 1, 2021, pursuant to § 16.1-248.1(A)(5) a youth under the age of 11 who is alleged to have committed one or more of the delinquent acts enumerated in subsections B or C of § 16.1-269.1 may initially be detained in a secure facility. Consequently, a youth 10 years old or younger and alleged to have committed one of the enumerated, violent juvenile felony offenses, can be detained initially but may only remain there "pending a court hearing." It seems that the intent was to allow such youth to be detained in a secure facility pursuant to an intake officer's detention order until they have the opportunity to appear for a detention hearing. After the detention hearing, such a youth can no longer remain in a JDC but may be ordered to remain in one of the three alternatives listed in the statute. These alternatives include: 1) an approved foster home or a home otherwise authorized by law to provide

such care; 2) a facility operated by a licensed child welfare agency; or 4) any other suitable place designated by the court and approved by the department. The new language does not elaborate on what the "pending court hearing" is, but the apparent intent is a detention hearing, which means the time limitations set out in § 16.1-250 would apply.
        - This legislative change is expected to impact the DAI process given that fewer youth will be eligible for predispositional detention. Consequently, we expect that CSU staff will be completing fewer DAIs. The DAI workgroup will be working on updating the procedure to reflect these legislative changes, and more specific guidance will be provided once the procedure is updated.
    - Increases the eligibility age for commitment to DJJ from 11 to 14 years of age. However, 11-13 year olds charged with certain violent juvenile felonies (offenses enumerated in subsections B and C of §16.1-269.1 such as murder, rape and robbery) may be committed to DJJ.
    - Governor's Amendment: HB 1936 creates degrees of punishment corresponding to the severity of particular robbery offenses:
        - Robbery + causes serious bodily injury or death of any other person = Class 2 felony.
        - Robbery by using or displaying a firearm in a threatening manner = Class 3 felony.
        - Robbery by using physical force not resulting in serious bodily injury or by using or displaying a deadly weapon other than a firearm in a threatening manner = Class 5 felony.
        - Robbery by using threats or intimidation or any means not involving a deadly weapon = Class 6 felony.
    - The Governor's amendment to HB 1936 amends §16.1-269.1(C) to include among the enumerated offenses that give rise for prosecutorial discretion transfer only the Class 2 and Class 3 robbery offenses. Thus, the Class 5 and Class 6 categories of robbery are extracted from §16.1-269.1(C) and, consequently, are extracted from the definition of "violent juvenile felony," defined in § 16.1-228 as any of the delinquent acts enumerated in subsection B or C of § 16.1-269.1 when committed by a juvenile 14 years of age or older.

HB 1878 (Delegate Clinton Jenkins): Juvenile intake and petition; appeal to magistrate on a finding of no probable cause.

- **Prior Law:**
    - Virginia Code §16.1-260(E) provided: "If the intake officer refuses to authorize a petition relating to an offense that if committed by an adult would be punishable as a Class 1 misdemeanor or as a felony, the complainant shall be notified in writing at that time of the complainant's right to apply to a magistrate for a warrant. If the magistrate determines that probable cause exists, he shall issue a warrant returnable to the juvenile and domestic relations district court. The warrant shall be delivered forthwith to the juvenile court, and the intake officer shall accept and file a petition founded upon the warrant."

- **Reason for Legislation:**
  - Under the existing language, the complainant could obtain a warrant even after 120 days when the youth has started or successfully completed diversion. So a youth can successfully complete a diversion only to end up with a petition and brought before the court for the same offense. Also, some intake officers may not divert an appropriate case because they know the magistrate will issue a petition.
  - If the intake officer finds probable cause but ALSO, especially after becoming informed about the youth, thinks that a diversion is the best course of action, the decision may be appealed to a magistrate. The problem is the magistrate SHALL issue a warrant if probable cause exists REGARDLESS of their opinion of the propriety of a diversion decision. If the magistrate finds probable cause, even if diversion is appropriate, a petition must be filed.
  - If the intake officer finds that no probable cause exists (and therefore, does not make a diversion decision) it seems appropriate that the complainant may go to the magistrate to essentially "appeal" the finding of no probable cause. However, it is not in the best interest of the child that the complainant can get the magistrate to overrule a diversion decision, especially when the magistrate is only considering probable cause. The magistrate does not have nor may they under current law consider information that only the intake officer knows about the youth.

- **Impact of Legislation (effective July 1, 2021):**
  - This legislation seeks to amend Virginia Code §16.1-260(E) to restrict the application to the magistrate from a refusal of the intake officer to file a petition to matters in which the intake officer's refusal is based solely upon a finding of no probable cause.
  - This bill will prevent a decision to divert an eligible case from being overturned by a magistrate only assessing probable cause. The complainant may still address concerns with the Commonwealth's Attorney and may still appeal probable cause decisions to the magistrate. This bill will also prevent a warrant being issued by a magistrate while a youth is participating in or has completed a successful diversion.

HB 1894 (Delegate Kaye Kory): Naloxone or other opioid antagonist; certain employees of DJJ authorized to administer.

- **Prior Law:**
  - Section 54.1-3408(X) permits certain individuals or employees of certain state agencies to possess and administer naloxone in the case of a life-threatening overdose. It includes law enforcement officers, DOC probation and parole officers, DOC correctional officers, employees of regional jails, school nurses, etc. However, DJJ is not included among the agencies listed.

- **Reason for Legislation:**
  - The number of opioid overdoses continues to be a critical concern for Virginia and states across the country:

        - Fatal drug overdose has been the leading method of unnatural death in Virginia since 2013 and opioids have been the driving force behind the large increases in fatal overdoses since 2013.
        - In 2013, there were a total of 683 fatal opioid overdoses. In 2019, there were a total of 1298 fatal opioid overdoses--an increase of 89.8%.
        - The Office of Chief Medical Examiner predicts that there will be a total of 1350 fatal opioid overdoses in 2020.
    - Naloxone or other opioid antagonists are medication designed to rapidly reverse opioid overdoses.

- **Impact of Legislation (effective July 1, 2021):**
    - Adds employees of DJJ designated as probation and parole officers or juvenile correctional officers to the list of individuals who may possess and administer naloxone or other opioid antagonist, provided that they have completed a training program.
    - Must complete training program to possess and administer.
    - DBHDS will provide "train the trainer" sessions.

COURTS / INTAKE

HB 1866 (Delegate Karrie Delaney): Court-appointed special advocates; information sharing.

- **Existing Law:**
    - Section 9.1-153 provides that services in each local court-appointed special advocate program shall be provided by volunteer court-appointed special advocates. Their duties include 1) investigating assigned cases to provide independent factual information to the court, 2) submitting to the court a written report of the investigation in compliance with the provisions of §16.1-274, 3) monitoring assigned cases to ensure compliance with the court's orders, 4) assisting the guardian ad litem to represent the child in providing effective representation of the child's needs and best interests, and 5) reporting a suspected abused or neglected child. The program director shall assign an advocate to a child when requested to do so by the judge of the JDR district court having jurisdiction over the proceedings. The advocate shall continue association with each case to which he or she is assigned until relieved of his or her duties by court or by the program director.

- **Impact of Legislation (effective July 21, 2021):**
    - Section 9.1-153 is amended by adding that the program director may assign an advocate to attend and participate in family partnership meetings as defined by the Department of Social Services and in meetings of family assessment and planning teams established pursuant to §2.2-5208, multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5, individualized education program teams pursuant to Article 2 (§22.1-213 et seq.) of Chapter 13 of Title 22.1, and multidisciplinary teams established pursuant to §§63.2-1503 and 63.2-1505.

- The bill also amends §9.1-156, pertaining to inspection and copying of records by the advocate and the confidentiality of records. The current statute states an advocate shall not disclose the contents of any document or records to which he becomes privy, which is otherwise confidential pursuant to provisions of the Code. The amendment creates exceptions to this prohibition (i) upon order of a court of competent jurisdiction or (ii) if the advocate has been assigned pursuant to subsection C of §19.1-153 to attend and participate in family partnership meetings as defined by the Department of Social Services or in meetings of family assessment and planning teams established pursuant to § 2.2-5208, multidisciplinary child sexual abuse response teams established pursuant to §15.2-1627.5, individualized education program teams established pursuant to §§63.2-1503 and 63.2-1505, in which the advocate may verbally disclose any information contained in such document or record related to the child to which he is assigned at such meetings, provided that such information shall not be disclosed further.

HB 1895 (Delegate Sally Hudson): Fines and costs; accrual of interest, deferral or installment payment agreements.

- **Existing Law:**
  - Section 19.2-354 provides that when a defendant is unable to pay a fine, restitution, forfeiture, or penalty within 30 days of sentencing, the court shall order the defendant to pay by deferred payment or installment. The bill amends Section 19.2-354 by removing this mandate and authorizing all defendants to pay their fines, restitution, forfeiture, or penalties and costs through deferred payments or installments, irrespective of their ability to pay within 30 days of sentencing. The proposal amends §19.2-354.1 to require the court to offer any defendant the opportunity to enter into a deferred payment agreement, modified payment agreement, or installment payment agreement, rather than limiting the option to defendants unable to pay their fines and costs in full within 30 days of sentencing. The proposal prohibits the court from assessing any fees in connection with the deferred or installment payment agreement. The proposal also removes the court's authority to assess a one-time fee, currently capped at $10, for defendants unable to make payment within 90 days of sentencing.
  - Current law permits a court to require a down payment in certain specified minimum amounts in order for a defendant to enter into a deferred, modified deferred, or installment payment agreement. Further, courts are obligated to require a down payment when defendants who have defaulted on a payment agreement enter into a subsequent payment agreement. The bill proposes to prohibit courts from requiring such down payments, but proposes to permit the court, at its discretion, to require a down payment for defendants who have defaulted on a payment agreement and petition the court to enter into a subsequent payment agreement.

- **Impact of Legislation (effective July 1, 2021):**
  - This bill amends several sections of Title 19.2 pertaining to fines for criminal and traffic offenses. The bill amends §19.2-353.5 by extending the period during which no interest may accrue on fines or costs imposed in criminal cases or cases involving traffic infractions from 40 days to 180 days following the date of the final judgment for such

fines or costs. The proposal also prohibits the accrual of interest for the 180-day period after a defendant with an active term of incarceration is released from incarceration. Under the proposal, "incarcerated" or "incarceration" includes confinement in a juvenile correctional facility, as well as in a local or regional correctional facility, state correctional facility, residential detention center, or facility operated pursuant to the Corrections Private Management Act.

- Currently, §19.2-354 provides that when a defendant is unable to pay a fine, restitution, forfeiture, or penalty within 30 days of sentencing, the court shall order the defendant to pay by deferred payment or installment. The bill amends §19.2-354 by removing this mandate and authorizing all defendants to pay their fines, restitution, forfeiture, or penalties and costs through deferred payments or installments, irrespective of their ability to pay within 30 days of sentencing. The bill amends §19.2-354.1 to require the court to offer any defendant the opportunity to enter into a deferred payment agreement, modified payment agreement, or installment payment agreement, rather than limiting the option to defendants unable to pay their fines and costs in full within 30 days of sentencing. Current law permits a court to require a down payment in certain specified minimum amounts in order for a defendant to enter into a deferred, modified deferred, or installment payment agreement. Currently, courts are obligated to require a down payment when defendants who have defaulted on a payment agreement enter into a subsequent payment agreement. The bill prohibits courts from requiring such down payments, but permits a court, at its discretion, to require a down payment for defendants who have defaulted on a payment agreement and petition the court to enter into a subsequent payment agreement.

HB 1991 (Delegate Jerrauld "Jay" Jones): Juveniles; release and review hearing for serious offender, plea agreement or commitment order.

- **Existing Law:**
  - Section 16.1-285.1(F) provides that juveniles committed as serious offenders shall not be released at a time earlier than that specified by the court in its dispositional order except as provided for in §16.1-285.2 (release and review hearing for serious offender). Section 16.1-285.1(F) further provides, however, that DJJ may petition the committing court for a hearing pursuant to §16.1-285.2 for an earlier release when good cause exists for an earlier release. In addition, DJJ SHALL petition the committing court for a determination as to the continued commitment of such a juvenile at least 60 days prior to the second anniversary of the juvenile's date of commitment and sixty days prior to each annual anniversary thereafter. Section 16.1-285.2(D) provides that at the conclusion of the hearing, the court shall order (i) continued commitment of the juvenile to DJJ for the completion of the original determinate period of commitment or such lesser time as the court may order, or (ii) release of the juvenile under such terms and conditions as the court may prescribe. The court shall consider enumerated factors in making its decision.

    Notwithstanding the requirements of §§16.2-285.1(F) and 16.1-285.2(D) and (E), requiring the hearing and making clear the court's authority to modify the commitment and terms, it has been reported that when the commitment of a serious

offender results from a plea agreement, some courts are inclined to think they must adhere to, and cannot modify, the terms of the plea agreement. This bill will clarify, by inserting the words "notwithstanding the terms of any plea agreement" in §§16.2-285.1(F) and 16.1-285.2(D) and (E), that DJJ, in filing the petition, and the court, in its review hearing order, need not adhere to the terms of any plea agreement and that the court has the authority to modify the punishment notwithstanding any plea agreement.

- **Impact of Legislation (effective July 1, 2021):**
  - HB 1991 amends §§16.1-285.1(F) and 16.1-285.2(D) and (E) to clarify that the release hearing, and the courts consideration in such a hearing, for a juvenile committed as a serious offender shall be notwithstanding the terms of any plea agreement.

HB 2012 (Delegate Jeffrey Campbell): Protective orders; violations of preliminary child protective order, changes in punishment, etc.

- **Existing Law:**
  - Section 16.1-253(J), pertaining to preliminary protective orders, provides that a violation of such an order shall constitute contempt of court.

- **Impact of Legislation (effective July 1, 2021):**
  - Amends §16.2-253(J) to provide that a violation of such an order shall be punishable as a Class 1 misdemeanor if the violation involves an act or acts of commission or omission that endanger the child's life, health, or normal development or result in bodily injury to the child.

HB 2017 (Delegate Michael Mullin): Juvenile offenders; youth justice diversion programs.

- **Existing Law:**
  - Not applicable.

- **Impact of Legislation (effective July 1, 2021):**
  - HB 2017 creates a new §16.1-309.11 that will allow localities to establish youth justice diversion programs as additional diversion options for youth alleged to have committed a delinquent offense excluding a felony offense or Class 1 misdemeanor. The bill defines "youth justice diversion program" as a program that (i) is monitored by a local advisory committee, (ii) uses juvenile volunteers as lawyers, jurors, and other court personnel, (iii) uses volunteer attorneys as judges, (iv) conducts peer trials for juveniles referred to the program by an intake officer, and (v) imposes sentences emphasizing restitution, rehabilitation, accountability, competency building, and education, but not incarceration. The bill allows all jurisdictions to implement such programs, provided they have established an advisory committee and received approval from the chief judge of the juvenile court serving the jurisdiction. The bill requires the consent of the parent or legal guardian before the juvenile may participate in the diversion program and provides that a juvenile referred to the program may be required to contribute to

the cost of the program pursuant to guidelines developed by the advisory committee. Finally, the bill directs the intake officer, in making referrals to the youth justice diversion program, to advise the juvenile; the parent, guardian, or other person standing in loco parentis; and the complainant that failure to comply with the program sentence within 180 days of the sentencing date may result in the filing of a petition. The intake officer must provide the required advisement.

HB 2047 / SB 1315 (Delegate Jeffrey Bourne / Senator Jennifer McClellan): Criminal proceedings; consideration of mental condition and intellectual, etc.

- **Existing Law:**
  - Not applicable.

- **Impact of Legislation (effective July 1, 2021):**
  - Creates a new §19.2-271.6, pertaining to admissibility of evidence of a defendant's mental condition. It permits the admission of evidence by the defendant concerning a defendant's mental condition at the time of an alleged offense, including expert testimony, if such evidence is relevant and is not evidence concerning an ultimate issue of fact and (i) tends to show the defendant did or did not have the intent required for the offense charged and (ii) is otherwise permissible pursuant to the general rules of evidence. It provides that to establish a mental condition for such purposes, the defendant must show that his condition existed at the time of the offense and that such condition satisfies the diagnostic criteria for (i) a mental illness, as defined in the bill, (ii) an intellectual or developmental disability, as defined in the bill, or (iii) an autism spectrum disorder, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders. If the defendant intends to present such evidence, it requires him or his counsel to give notice in writing to the attorney for the Commonwealth within specified time periods. The bill also clarifies that a court, in addition to a magistrate, may enter an emergency order in such cases if the criteria required under current law for emergency custody orders are met.
  - Clarifies that a diagnosis of an intellectual or developmental disability shall be considered by a judicial officer for the purpose of rebuttal of a presumption against bail and that a court may order that a sentencing report prepared by a probation officer contain any diagnosis of an intellectual or developmental disability.
  - It adds to the requirements to be met for qualification as a court-appointed attorney two hours of continuing legal education, which shall cover the representation of individuals with behavioral or mental health disorders and individuals with intellectual or developmental disabilities.
  - Requires the Office of the Executive Secretary of the Supreme Court to collect data regarding the cases that use the evidence leading to a presumption against bail and the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century to study and make recommendations about the standard of danger to self or others that may be appropriately applied for such persons found not guilty under the provisions of the bill in the issuance of emergency custody orders, involuntary temporary detention orders, or the ordering of other mandatory mental health treatments.

HB 2113 / SB 1339 (Delegate Charniele Herring / Senator Scott Surovell): Criminal records; sealing of records, Sealing Fee Fund created, penalties, report.

- **Existing Law:**
  - Section 19.2-389.3 pertains to marijuana possession and the limits on dissemination of criminal history record information; and prohibited practices by employers, educational institutions, and state and local governments and provides for penalties.

- **Impact of Legislation (staggered effective dates):**
  - Establishes a process for the automatic sealing of police and court records, defined in the bill, for certain convictions (possession of marijuana), deferred dispositions, and acquittals and for offenses that have been nolle prossed or otherwise dismissed. It also allows a person to petition for sealing of police and court records relating to certain marijuana convictions.
  - Establishes a Sealing Fee Fund. The funds received shall be paid to the state treasury and credited to the fund. Interest earned on the fund shall remain in the fund and be credited to it. Any moneys remaining in the fund, including interest thereon, at the end of each fiscal year, shall not revert to the general fund but shall remain in the fund. The fund shall be administered by the Executive Secretary of the Supreme Court, who shall use such funds solely to fund the costs for the compensation of court appointed counsel. Expenditures from the fund shall be limited by an appropriation in the general appropriation act. Expenditures from the fund shall be made by the State Treasurer on warrants issued by the Comptroller upon request of the Executive Secretary.
  - Adds the allowance for dissemination: (i) to any employer or prospective employer where federal law requires the employer to inquire about prior criminal charges or, to any employer or prospective employer where the position that a person is applying for, or where access to the premises in or upon which any part of the duties of such position is performed or is to be performed, is subject to any requirement imposed on the interest of national security, to any person authorized to engage in the collection of court costs, fines, or restitution under subsection C of §19.2-349 for purposes of collecting such moneys, (iv) to administer and utilize the DNA Analysis and Data Bank, (v) to publish decisions of the courts, (vi) to any full time or part time employee of a court, the Office of the Executive Secretary, the Division of Legislative Services, or the Chairs of the House Committee for Courts of Justice and the Senate Committee on the Judiciary for the purpose of screening any person for full time or part time employment as a clerk, magistrate, or judge, (vii) to any employer or prospective employer where the Code or a local ordinance requires the employer to inquire about prior criminal charges or convictions, (viii) to any employer or prospective employer that is allowed access to such sealed records in accordance with the rules and regulations adopted pursuant to §9.1-128 and procedures adopted pursuant to §9.1-134, (ix) to any business screening service for purposes of complying with §19.2-392.16, (x) to any attorney for the Commonwealth and any person accused of a violation of law, or counsel for the accused, in order to comply with any constitutional and statutory duties to provide exculpatory, mitigating, and impeachment evidence to an accused, (xi) to any party in a criminal or civil proceeding for use as authorized by law in such proceeding, (xii) to any party for use in a protective order hearing as authorized by law, (xiii) to the Department of Social Services or any local department of social services for purposes

of performing any statutory duties, (xiv) to the attorney for the Commonwealth and the court for purposes of determining eligibility for sealing pursuant to §19.2-392.12, (xv) to determine a person's eligibility to be empaneled as a juror, and (xvi) to the person arrested, charged or convicted of the offense that was sealed.
    - Prohibits agencies, officials, and employees of state and local governments, private employers, and educational institutions from requiring an applicant for employment or admission to disclose any information concerning an arrest, criminal charge, or conviction against him when the record relating to such arrest, criminal charge, or conviction is not open for public inspection. Some exceptions to this prohibition include applicants for work with state or local police or when required by federal law.
    - Prohibits requiring such information in any application for sale or rental or insurance.
    - The section does not prohibit the disclosure of any arrest, criminal charge, or conviction that is not open for public inspection or any information from such records among law enforcement officers and attorneys when such disclosures are made by such officers or attorneys while engaged in the performance of their duties for purposes solely relating to the disclosure or use of exculpatory, mitigating, or impeachment evidence or between attorneys for the Commonwealth when related to the prosecution of a separate crime.
    - Creates a new Chapter 23.2, "Sealing of Criminal History Record Information and Court Records," (§19.2-392.5 et seq.).
    - Provides for the automatic sealing of marijuana offenses resulting in a deferred and dismissed disposition or conviction.
    - On at least a monthly basis, the Department of State Police shall determine which offenses in the Central Criminal Records Exchange meet the criteria for automatic sealing and provide an electronic list to the Executive Secretary of the Supreme Court and to any circuit court clerk who maintains a case management system. The clerk of each circuit court shall, at least monthly, prepare an order for the judge directing that the eligible offenses be sealed. The clerk shall provide a copy of the order to the State Police.
    - Provides for the automatic sealing of offenses resulting in acquittal, nolle prosequi, or dismissal or in the case of mistaken identity.
    - Allows a person to petition for the sealing of police and court records relating to certain convictions.

HB 2150 (Delegate Les Adams): Jurisdiction over criminal cases; certification or appeal of charges.

- **Existing Law:**
    - Sections 16.1-123.1 and 16.1-241 pertain to the jurisdiction of general district courts.

- **Impact of Legislation (effective July 1, 2021):**
    - Amends §§16.1-123.1 and 16.1-241 to provide that upon (i) certification by the general district court of any felony charge and ancillary misdemeanor charge or when an appeal of a conviction of an offense in general district court is noted or (ii) certification by the juvenile and domestic relations district court of any felony charge and ancillary misdemeanor charge committed by an adult or when an appeal of a conviction or

adjudication of an offense is noted, the jurisdiction as to such charges shall vest in the circuit court unless such case is reopened, modified, vacated, or suspended or the appeal has been withdrawn in the district court within 10 days.

HB 2163 (Delegate Kathy Tran): Department of Motor Vehicles; limits the release of privileged information to government entities.

- **Existing Law:**
  - Does not include language on release of privileged information.

- **Impact of Legislation (effective July 1, 2021):**
  - Limits the release of Department of Motor Vehicles (DMV) privileged information to government entities and law-enforcement agencies for the purpose of civil immigration enforcement unless (i) the subject of the information provides consent or (ii) the requesting agency presents a lawful judicial order, judicial subpoena, or judicial warrant. The bill requires the DMV to notify the subject of the request that such a request was made and the identity of the entity that made the request. The bill requires any entity receiving privileged information from the DMV to enter into a written agreement with the DMV prior to such release of such information and prohibits any entity from rereleasing any such DMV information to any third party unless explicitly permitted to do so in the entities agreement with the DMV. The bill contains requirements for any such written agreement between the DMV and the Department of State Police.

HB 2284 (Delegate Angela Williams Graves): Driving privileges, certain; Commissioner of DMV to reinstate privileges and waive fees.

- **Existing Law:**
  - Not applicable.

- **Impact of Legislation (effective July 1, 2021):**
  - Section 1 bill that provides that the Commissioner of DMV shall reinstate a person's privilege to drive a motor vehicle that was suspended prior to July 1, 2019, solely pursuant to former Article 18 (§46.2-944.1 et seq.) of Chapter 8 of Title 46.2, as it was in effect at the time of suspension, and shall waive all fees relating to reinstating such person's privilege to drive. This does not require the Commissioner to reinstate a person's privilege to drive if such privilege has been otherwise lawfully suspended or revoked, or if such person is otherwise ineligible for a driver's license.

SB 1135 (Senator David Marsden): Dangerous dogs; restructures procedure for adjudication, penalty.

- **Existing Law:**
  - Section 3.2-6540 governs the investigation, summons, and hearing related to dangerous dogs.

- **Impact of Legislation (effective July 1, 2021):**
  - Restructures the procedure for adjudication of a dog as a dangerous dog to provide for (i) written notice by an animal control officer to the owner of the dog that he has applied for a summons, and a prohibition on disposal of the dog by the owner for 30 days; (ii) the issuance of a summons with an option rather than a requirement that the officer confine the dog, a prohibition on the disposal of the dog other than by euthanasia, and an authorization for the court to compel the implanting of electronic identification; (iii) the holding of a hearing within 30 days unless good cause is shown; (iv) the authority of the court of deferring further proceedings without adjudicating to compel the implanting of electronic identification; and (v) a limit of 30 days for any appeal of a dangerous dog adjudication.
  - The bill authorizes an officer to obtain a summons for a hearing to determine whether a dog that has been surrendered is a dangerous dog and provides that any dangerous dog not reclaimed from the animal control officer within 10 days of notice shall be considered abandoned.
  - The bill imposes new requirements for the transfer of dangerous dogs, requiring a releasing agency that is transferring or releasing for adoption a dangerous dog in the Commonwealth to notify the receiving party of the legal requirements for keeping a dangerous dog. If the agency is transferring the dog outside the Commonwealth, it is required to notify the appropriate animal control officer of the dog's adjudication as dangerous. An owner who is bringing a dog found to be dangerous in another state to reside in the Commonwealth shall notify the local animal control officer. Any owner who disposes of a dangerous dog by gift, sale, transfer, trade, or surrender shall notify the receiver in writing of the dog's adjudication as dangerous, with a violation penalized as a Class 3 misdemeanor.
  - Finally, the bill provides that if a dangerous dog adjudication occurred within 60 days of the end of the calendar year, the first renewal of the dangerous dog registration shall be included in the initial registration at no additional charge. The bill contains conforming amendments.

SB 1165 (Senator Scott Surovell): Abolition of the Death Penalty.

- **Existing Law:**
  - Certain Class 1 felonies allowed a sentence of death.

- **Impact of Legislation (effective July 1, 2021):**
  - Abolishes the death penalty, including for those persons currently under a death sentence. The bill provides that no person may be sentenced to death or put to death on or after its effective date for any violation of law.

SB 1181 (Senator Scott Surovell): Special immigrant juvenile status; jurisdiction.

- **Existing Law:**
  - Section 16.1-241(A)(1), pertaining to the jurisdiction of juvenile and domestic relations district courts, currently grants the court jurisdiction to make specific findings of fact

required by state or federal law to enable a child to apply for or receive a state or federal benefit.

- **Impact of Legislation (effective July 1, 2021):**
  - Amends §16.1-241(A)(1), to provide greater clarification to the existing language by stating that, for the purposes of §16.1-241(A)(1), when the court has obtained jurisdiction over the case of any child, the court may continue to exercise its jurisdiction until such person reaches 21 years of age, for the purpose of entering findings of fact or amending past orders, to include findings of fact necessary for the person to petition the federal government for status as a special immigrant juvenile, as defined by 8 U.S.C. §1101(a)(27)(J).
  - Pursuant to 8 U.S.C. §1101(a)(27)(J), an immigrant (i) who has been declared dependent on a juvenile court or whom such court has legally committed to, or placed under the custody of, an agency or department of a state, or an individual or entity appointed by a state or juvenile court, and whose reunification with one or both of the juvenile's parents is not viable due to abuse, neglect, abandonment, or a similar basis, (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the juvenile's best interest to be returned to their or their parent's previous home country, and (iii) in whose case the Secretary of Homeland Security consents to grant special immigrant juvenile status, is afforded protections and rights as a special immigrant juvenile. Special immigrant juvenile status (SIJS) is an immigration classification available to certain undocumented immigrants under 21 who have been abused, neglected, or abandoned by one or both parents. It is a way for such immigrants under 21 to apply for and obtain legal permanent residence in the U.S. Benefits of SIJS in that it waives several types of inadmissibility that would otherwise prevent an immigrant from becoming a lawful permanent resident (getting a green card), such as unlawful entry, working without authorization, status as a public charge, and certain immigration violations. Once a minor receives SIJS, they will be able to adjust their status to lawful permanent resident, obtain work authorization, and eventually apply for citizenship. In order for the process to start, however, the juvenile must participate in a proceeding in the local juvenile court where they reside in order to obtain a special findings order that declares the minor's eligibility for SIJS.

SB 1213 (Senator John Edwards): Restricted licenses; DMV authorizes to issue.

- **Existing Law:**
  - Section 18.2-271.1 pertains to the probation, education and rehabilitation of a person charged with driving under the influence.

- **Impact of Legislation (effective July 1, 2021):**
  - Amends §18.2-271.1(E) to authorize the Department of Motor Vehicles to issue restricted driving credentials to individuals with driver's license suspensions resulting from drug related offenses.

SB 1426 (Senator William Stanley, Jr.): Orders of restitution; docketed on behalf of victim, enforcement.

- **Existing Law:**
  - Required that the victim make a written request for restitution.

- **Impact of Legislation (effective July 1, 2021):**
  - Provides that an order of restitution shall be docketed in the name of the Commonwealth, or a locality if applicable, on behalf of a victim, unless the victim named in the order of restitution requests in writing that the order be docketed in the name of the victim.
  - The bill provides that an order of restitution, docketed in the name of the victim, shall be enforced by the victim as a civil judgment.
  - The bill also states that the clerk of such court shall record and disburse restitution payments in accordance with orders of restitution or judgments for restitution docketed in the name of the Commonwealth or a locality is satisfied, the court shall, at the written request of the victim, order the circuit court clerk to execute and docket an assignment of the judgment to the victim and remove from its automated financial system the amount of unpaid restitution.
  - Additionally, the bill states that if the victim requests that the order of restitution be docketed in the name of the victim or that a judgment of restitution previously docketed in the name of the Commonwealth or a locality be assigned to the victim, the victim shall provide to the court an address where the defendant can mail payment for the amount due and such address shall not be confidential.

SB 1468 (Senator Scott Surovell): Victims of crime; certifications for victims of qualifying criminal activity.

- **Existing Law:**
  - Not applicable.

- **Impact of Legislation (effective July 1, 2021):**
  - Adds Chapter 15 (§§9.1-1500, 9.1-1501, and 9.1-1502) in Title 9.1 which establishes a process for a state or local law-enforcement agency, an attorney for the Commonwealth, the Attorney General, or any other agency or department employing law-enforcement officers to complete a certification form or declaration that is required by federal immigration law certifying that a person is a victim of qualifying criminal activity.

SB 1475 (Senator Richard Stuart): Search warrants; date and time of issuance, exceptions.

- **Existing Law:**
  - Section 19.2-56 pertains to whom a search warrant may be directed, what it shall command, what it shall include, the affidavit to be attached, and the timeframe for execution.

- **Impact of Legislation (effective March 1, 2021):**
  - Amends §19.2-56 to provide that for any search warrant for any place of abode, that the audible notice that the law enforcement officer must provide of his authority and purpose be reasonably "designed" to be heard by the occupants. After entering and securing the place to be searched, and prior to undertaking the search, the law enforcement officer shall provide a copy of the affidavit, in addition to the search warrant to the person to be searched or the owner of the place to be searched. If the placed is unoccupied at the time, the law enforcement officer shall leave a copy of the affidavit, in addition to the search warrant, "in a conspicuous place within" or affixed to the place.
  - Further adds to §19.2-56 that search warrants for any place of abode shall be executed only in the daytime hours between 8:00 a.m. and 5:00 p.m. unless (i) a judge or a magistrate, if a judge is not available, authorizes the execution of the warrant at another time for good cause shown by particularized facts in an affidavit or (ii) prior to the issuance of the search warrant, law enforcement officers lawfully entered and secured the place to be searched and remained at such place continuously.
  - Further adds that a law enforcement officer shall make reasonable efforts to locate a judge before seeking authorization to execute the warrant at another time, unless circumstances require the issuance of the warrant after 5:00 p.m., pursuant to the provisions of this subsection, in which case the law enforcement officer may seek such authorization from a magistrate without first making reasonable efforts to locate a judge.

CRIME

HB 1801 (Delegate James Edmunds, II): Disposing of litter; penalty.

- **Existing Law:**
  - Section 33.2-802 makes it unlawful for a person to dump or otherwise dispose of trash, garbage, refuse, litter, a companion animal for the purpose of disposal, or other unsightly matter on (i) public property, including a public highway, right of way, or property adjacent to such highway or right of way, or (ii) private property without the written consent of the owner or his agent.
  - A person convicted for a violation of this section is guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than $250 or more than $2,500, either or both.

- **Impact of Legislation (effective July 1, 2021):**
  - Increases the minimum monetary penalty from $250 to $500.

HB 1821 (Delegate David Bulova): Overdoses; prohibits arrest and prosecution when experiencing or reporting.

- **Existing Law:**

- Section 18.2-251.03 provides that no person shall be subject to arrest or prosecution for the unlawful purchase, possession, or consumption of alcohol pursuant to §4.1-305, possession of a controlled substance pursuant to §18.2-250, possession of marijuana pursuant to §18.2-250.1, intoxication in public pursuant to §18.2-388, or possession of controlled paraphernalia pursuant to §54.1-3466 if:
    - Such individual, (i) in good faith, seeks or obtains emergency medical attention for himself or for another person if he or the other person is experiencing an overdose, or (ii) is experiencing an overdose and another individual, in good faith, seeks or obtains emergency medical attention for such individual, by contemporarily reporting such overdose to a firefighter, emergency medical services personnel, a law-enforcement officer, or an emergency 911 system.

- **Impact of Legislation (effective July 1, 2021):**
    - Amends §18.2-251.03 to provide that an individual would not be subject to arrest and prosecution for the listed offenses if such person, in good faith, renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing an overdose while another individual seeks or obtains emergency medical attention.

HB 1846 (Delegate Roxann Robinson): License restrictions for minors; prohibition on use of handheld personal communications devices.

- **Existing Law:**
    - Pertaining to provisional licenses issued to persons less than 18 years old provided that except in a driver emergency or when the vehicle is lawfully parked or stopped, the holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth while using any cellular telephone or any other wireless telecommunications device, regardless of whether such device is or is not handheld.

- **Impact of Legislation (effective March 1, 2021):**
    - Eliminates the provision prohibiting a holder of a provisional driver's license to operate a vehicle while using a wireless communication device.
    - Note: Under a different current law, all drivers, including those with a provisional driver's license, are prohibited from holding a personal communications device while operating a vehicle.

HB 1936 (Delegate Vivian Watts): Robbery; penalties.

- **Existing Law:**
    - Section 18.2-58 provides that a person who commits robbery by partial strangulation, or suffocation, or by striking or beating, or by other violence to the person, or by assault or otherwise putting a person in fear of serious bodily harm, or by the threat or presenting of firearms, or other deadly weapon or instrumentality whatsoever, is guilty

of a felony and shall be punished by confinement in a state facility for life or any term not less than five years.

- **Impact of Legislation (effective July 1, 2021):**
  - Section 18.2-58 is amended to create different degrees of punishment corresponding to the severity of the robbery offense.
  - Any person who commits robbery and causes serious bodily injury to or the death of any other person is guilty of a Class 2 felony.
  - Any person who commits robbery by using or displaying a firearm, as defined in §18.2-308.2:2, in a threatening manner is guilty of a Class 3 felony.
  - Any person who commits robbery by using physical force not resulting in serious bodily injury or by using or displaying a deadly weapon other than a firearm in a threatening manner is guilty of a Class 5 felony.
  - Any person who commits robbery using threat or intimidation or any other means not involving a deadly weapon is guilty of a Class 6 felony.
  - A Governor's amendment to HB 1936 amends §16.1-269.1(C) to only include among the enumerated offenses that give rise for prosecutorial discretion transfer the Class 2 and Class 3 robbery offenses. Thus, the Class 5 and Class 6 categories of robbery are extracted from §16.1-269.1(C) and, consequently, are extracted from the definition of "violent juvenile felony," defined in §16.1-228 as any of the delinquent acts enumerated in subsection B or C of §16.1-269.1 when committed by a juvenile 14 years of age or older.

HB 2132 (Delegate Danica Roem): Homicides and assaults and bodily woundings; certain matters not to constitute defenses.

- **Existing Law:**
  - Not applicable.

- **Impact of Legislation (effective July 1, 2021):**
  - Creates §18.2-37.1, which provides that another person's actual or perceived sex, gender, gender identity, or sexual orientation is not, in and of itself, or together with an oral solicitation, a defense to any charge of capital murder, murder in the first degree, murder in the second degree, or voluntary manslaughter and is not, in and of itself, or together with an oral solicitation, provocation negating or excluding malice as an element of murder.
  - Creates §18.2-57.5, which provides that another person's actual or perceived sex, gender, gender identity, or sexual orientation is not, in and of itself, or together with an oral solicitation, a defense to assaults and bodily woundings.

HB 2133 (Delegate Karrie Delaney): Commercial sex trafficking; issuance of vacatur for victims.

- **Existing Law:**
  - Not applicable.

- **Impact of Legislation (effective July 1, 2021):**
  - Establishes a procedure for victims of sex trafficking to file a petition of vacatur in circuit court to have certain convictions vacated and the police and court records expunged for such convictions. It requires the court to grant the writ and vacate a qualifying offense if it finds the petitioner (i) was convicted or adjudicated delinquent of a qualifying offense, and (ii) committed the qualifying offense as a direct result of being a victim of sex trafficking. The qualifying offenses are prostitution and frequenting a bawdy place in violation of §§18.2-346 and 18.2-347, respectively.

HB 2169 (Delegate Candi King): Prostitution; reorganizes the statute penalizing into two distinct sections.

- **Existing Law:**
  - Section 18.2-346 sets forth the penalties for both prostitution and solicitation of prostitution.

- **Impact of Legislation (effective July 1, 2021):**
  - Reorganizes §18.2-346, penalizing prostitution, into two distinct sections by adding a new §18.2-346.01. Section 18.2-346 continues to punish prostitution and the new §18.2-346.01 punishes the crime of solicitation of prostitution. The penalties for all offenses remain the same. Conforming amendments are made to other sections.

HB 2194 / SB 1113 (Delegate James "Jay" Leftwich / Senator Lionell Spruill, Sr.): Communicating threats of death or bodily injury to a person with intent to intimidate; penalty.

- **Existing Law:**
  - Section 18.2-60 pertains to threats of death or bodily injury to a person or member of his family, threats of death or bodily injury to persons on school property, and threats of death or bodily injury to health care providers.

- **Impact of Legislation (effective July 1, 2021):**
  - Adds to §18.2-60 that it is a Class 5 felony for any person 18 years of age or older to communicate a threat in writing, including an electronically transmitted communication producing a visual or electronic message, to another to kill or to do serious bodily injury to any other person and makes such threat with the intent to (i) intimidate a civilian population at large, (ii) influence the conduct or activities of a government, including the government of the United States, a state, or a locality, through intimidation, or (iii) compel the emergency evacuation, or avoidance, of any place of assembly, any building or other structure, or any means of mass transportation.
  - Any person younger than 18 years of age who commits such offense is guilty of a Class 1 misdemeanor.

HB 2290 (Delegate Kenneth Plum): Larceny; repeals punishment for conviction of second or subsequent misdemeanor.

- **Existing Law:**
  - Section 18.2-104 provides that when a person is convicted of a second larceny offense, he shall be confined in jail not less than 30 days nor more than 12 months, and for a third, he shall be guilty of a Class 6 felony.

- **Impact of Legislation (effective July 1, 2021):**
  - Repeals §18.2-104; eliminating the enhanced penalties for a second or subsequent misdemeanor larceny conviction.

SB 1122 (Senator William Stanley): Habitual offenders; repeals remaining provisions of the Habitual Offender Act.

- **Existing Law:**
  - The Habitual Offender Act is set forth in Article 9 (§§46.2-355.1 through 46.2-363) of Chapter 3 of Title 46.2.

- **Impact of Legislation (effective July 1, 2021):**
  - Repeals the remaining provisions of the Habitual Offender Act. .
  - The bill also requires that the Commissioner of the Department of Motor Vehicles reinstate a person's privilege to drive a motor vehicle that was suspended or revoked solely on the basis that such person was determined to be or adjudicated a habitual offender pursuant to the Habitual Offender Act.
  - The bill also authorizes the Virginia Alcohol and Safety Action Program to continue to administer intervention for individuals who were ordered to attend an intervention interview on or before June 30, 2021.
  - Makes other conforming amendments.

SB 1138 (Senator Mamie Locke / Senator Jennifer McClellan): Sexually transmitted infections; infected sexual battery, penalty.

- **Existing Law:**
  - Section 18.2-62 sets forth the procedure for testing of persons charged with certain offenses for HIV or hepatitis B or C.
  - Section 18.2-67.4:1 pertains to infected sexual battery. It provides that any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anilingus, or anal intercourse with the intent to transmit the infection to another is guilty of a Class 6 felony. A knowingly infected person who has not previously disclosed the existence of this infection to the other person is guilty of a Class 1 misdemeanor.

- **Impact of Legislation (effective July 1, 2021):**
  - Section 18.2-62 is repealed.

- Section 18.2-67.4:1 is amended to state that any person who is diagnosed with a sexually transmitted infection and engages in sexual behavior that poses a substantial risk of transmission to another person with the intent to transmit the infection to that person and transmits such infection to that person is guilty of a Class 6 felony.
- The bill removes the provision set forth in subsection B of §18.2-67.4:1 regarding the Class 1 misdemeanor violation for any person who, knowing they are infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anilingus, or anal intercourse with another person without having previously disclosed the existence of his infection to the other person.

SB 1335 (Senator Richard Stuart): Learner's permits; use of personal communication devices, restrictions.

- **Existing Law:**
  - Section 46.2-334.01 pertains to licenses issued to persons less than 18 years of age being subject to restrictions. It currently provides, in part, that except in a driver emergency or when the vehicle is lawfully parked or stopped, the holder of a provisional driver's license shall not operate a motor vehicle on the highways of the Commonwealth while using any cellular telephone or other wireless telecommunications device, regardless of whether such device is or is not handheld.
  - Section 46.2-335 pertains to learner's permits. It currently provides, in part, that except in a driver emergency or when the vehicle is lawfully parked or stopped, no holder of a learner's permit shall operate a motor vehicle on the highways of the Commonwealth while using any cellular telephone or other wireless telecommunications device, regardless of whether or not such device is hand held.

- **Impact of Legislation (effective March 1, 2021):**
  - Eliminates the provisions prohibiting a holder of a learner's permit or a holder of a provisional license from operating a vehicle while using a communications device.
  - Under a different current law, all drivers, including those with a learner's permit or provisional license, are prohibited from holding a handheld personal communications device while operating a vehicle.

SB 1336 (Senator Richard Stuart): Ignition interlock systems; restricted permits to operate a motor vehicle.

- **Existing Law:**
  - Not applicable. New statute.

- **Impact of Legislation (effective July 1, 2021):**
  - Creates §18.2-271.5, which provides that in any criminal case for reckless or improper driving where a defendant's license to operate a motor vehicle, engine, or train is subject to revocation or suspension and the court orders a defendant, as a condition of probation or otherwise, to enter into and successfully complete an alcohol safety action program, the court may issue the defendant a restricted license to operate a motor vehicle where the only restriction is to prohibit the defendant from operating a motor vehicle that is

not equipped with a functioning, certified ignition interlock system for a period of not less than six consecutive months without alcohol-related violations of the interlock requirements.

SB 1461 (Senator Lynwood Lewis, Jr.): Bribery in correctional facilities; penalty.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation (effective July 1, 2021):**
  - Creates §18.2-474.2, which makes it a Class 4 felony for any person to receive a pecuniary benefit or other consideration to act in the unlawful delivery of items or contraband to prisoners. Any law enforcement officer, jail officer, or correctional officer who violates this section will be decertified and shall be forever ineligible for reemployment as a law enforcement officer, jail officer, or correctional officer in the Commonwealth.

DETENTION

HB 1806 (Delegate Terry Kilgore): Suspension or modification of sentence; transfer to the Department of Corrections.

- **Existing Law:**
  - Section 19.2-303 provides, in part, that if a person has been sentenced for a felony to the Department of Corrections (DOC) but has not been transferred to a receiving unit of DOC, the court which heard the case, if it appears compatible with the public interest and there are circumstances in mitigation of the offense, may, at any time before the person is transferred to DOC, suspend or otherwise modify the unserved portion of such a sentence.

- **Impact of Legislation (effective July 1, 2021):**
  - Amends §19.2-303 to provide that the ability of the court to so suspend or otherwise modify the unserved portion of such a sentence, can also be exercised within 60 days of transfer to DOC, rather than only before the transfer.

HB 2010 (Delegate Jeffrey Campbell): Earned sentence credits; rate at which sentence rates may be earned, prerequisites.

- **Existing Law:**
  - Current law allows every person convicted of a felony offense committed on or after January 1, 1995, and sentenced to a term of incarceration in a state or local correctional facility to be eligible for a deduction from the person's term of confinement ("sentence credit"). The inmate may earn such credits by adhering to various facility rules, participating in facility programming, and meeting other statutory and regulatory requirements. Since 2008, juveniles convicted as adults and sentenced as serious

juvenile offenders also have been eligible to earn sentence credits for their time served with DJJ, provided they adhere to the facility's rules and make progress toward treatment goals and objectives during the duration of their DJJ sentence. For each earned sentence credit, a person has one day subtracted from their incarceration term.
    - Under current law, adult inmates and serious juvenile offenders may earn a maximum of four and one-half sentence credits for each 30 days served, conditioned upon full participation in and cooperation with their assigned programs.
    - Current law also permits courts in cases in which they have suspended a sentence, to revoke such suspension for any cause at any time within the probation period, court-fixed period of suspension, or where neither are established, any purpose that occurred within the maximum period for which the defendant might originally have been sentenced.

- **Impact of Legislation (effective July 1, 2022):**
    - Creates a classification system for earning sentence credits, effective July 1, 2022. Individuals who commit certain enumerated serious felony offenses will be entitled to the maximum 4.5 sentence credits for every 30 days served, while individuals incarcerated for all other offenses will be subject to a 4-tier classification system based on their level of participation in assigned programs and extent of compliance with facility rules. Under the classification system, Level I offenders are entitled to a 15-day deduction for every 30 days served, Level II offenders, to a 7.5 day deduction for every 30 days served, Level III offenders, to a 3.5 day deduction for every 30-days served, and Level IV offenders, to no sentence credits.
    - This bill clarifies that when a court exercises its option to revoke a suspended sentence stemming from one of the underlying offenses enumerated in §53.1-202(A), the revoked sentence also would be eligible for the maximum 4.5 sentence credits.
    - This bill will impact every person convicted of a felony offense committed on or after January 1, 1995 and incarcerated in a state or local correctional facility, as well as juveniles convicted as adults and sentenced as serious juvenile offenders.

HB 2295 / SB 1381 (Delegate Mark Levine / Senator Adam Ebbin): Firearm; carrying within Capital Square and the surrounding area, state-owned buildings.

- **Existing Law:**
    - Not applicable. New Statute.

- **Impact of Legislation (effective July 1, 2021):**
    - Makes it a Class 1 misdemeanor for a person to carry any firearm or explosive material within (i) the Capitol of Virginia; (ii) Capitol Square and the surrounding area; (iii) any building owned or leased by the Commonwealth or any agency thereof; or (iv) any office where employees of the Commonwealth or agency thereof are regularly present for the purpose of performing their official duties. The bill provides exceptions for the following individuals while acting in the conduct of such person's official duties: any law-enforcement officer, any authorized security personnel, any active military personnel, any fire marshal when such fire marshal has been granted police powers, or any member of a cadet corps while such member is participating in an official

ceremonial event for the Commonwealth. The prohibitions of the bill that apply to any building owned or leased by the Commonwealth or any office where state employees are performing official duties do not apply to retired law-enforcement officials visiting a gun range owned or leased by the Commonwealth or any of the following while acting in the conduct of official duties: a bail bondsman, an employee of the Department of Corrections or a state juvenile correctional facility, an employee of the Department of Conservation and Recreation, or an employee of the Department of Wildlife Resources. Such prohibitions also do not apply to an individual carrying a weapon into a courthouse who is statutorily exempt, any property owned or operated by a public institution of higher education, any state park, or any magistrate acting in the conduct of the magistrate's official duties. The bill requires that notice of the provisions prohibiting the carrying of such firearms or explosive material be posted at each of the public entrances to Capitol Square and the other locations where such firearms and explosive material are prohibited in the bill. The bill provides that any firearm or explosive material carried in violation of these provisions is subject to seizure by a law-enforcement officer and forfeiture to the Commonwealth.

EDUCATION

HB 1823 (Delegate Alex Askew): Public schools, child day programs, and certain other programs; carbon monoxide detectors required.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation (effective July 1, 2021):**
  - Requires each building that was built before 2015 and that houses any public school classroom for students, licensed child day program, or other program that serves preschool-age children to be equipped with at least one carbon monoxide detector.

HB 1980 (Delegate David Reid): Enslaved Ancestors College Access Scholarship and Memorial Program established, report.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation (effective July 1, 2021):**
  - Establishes the Enslaved Ancestors College Access Scholarship and Memorial Program, whereby Longwood University, the University of Virginia, Virginia Commonwealth University, the Virginia Military Institute, and The College of William and Mary in Virginia, with any source of funds other than state funds or tuition or fee increases, are required to annually (i) identify and memorialize, to the extent possible, all enslaved individuals who labored on former and current

institutionally controlled grounds and property and (ii) provide a tangible benefit such as a college scholarship or community-based economic development program for individuals or specific communities with a demonstrated historic connection to slavery that will empower families to be lifted out of the cycle of poverty. The bill requires the State Council of Higher Education for Virginia to collaborate with such institutions to establish guidelines for the implementation of the Program and to annually collect information on the implementation of the Program from such institutions and report such information to the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, the Senate Committee on Finance and Appropriations, and the Virginia African American Advisory Board.

HB 2019 (Delegate Delores McQuinn): Public elementary and secondary schools; administration of undesignated stock albuterol inhalers.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of New Law (effective January 1, 2022):**
  - Requires each local school board to adopt and implement policies for possession and administration of undesignated stock albuterol inhalers and valved holding chambers in every public school in the local school division, to be administered by any school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by the local health director and trained in the administration of albuterol inhalers and valved holding chambers for any student believed to be in good faith to be in need of such medication. The bill requires the Department of Education, in conjunction with the Department of Health, to develop and implement policies for the administration of stock albuterol in public schools.

HB 2117 (Delegate Schuyler VanValkenburg): Children's Services Act; funds expended special education programs.

- **Existing Law:**
  - Does not include language on where funds can be expended.

- **Impact of Legislation (effective July 1, 2021):**
  - Requires that funds expended for private special education services under the Children's Services Act only be expended on educational programs that are licensed by the Board of Education or an equivalent out-of-state licensing agency. The bill also provides that as of July 1, 2022, such funds may only be expended for programs that the Office of Children's Services certify as having reported their tuition rates.
  - The bill adds children and youth previously placed in approved private school educational programs for at least six months who will receive transitional services in a public school setting to the target population for eligibility for the state pool of

funds. The bill provides that state funds shall be allocated for no longer than 12 months for transitional services.

- The bill requires the Secretaries of Education and Health and Human Resources, in conjunction with the Office of Children's Services and the Department of Education, to establish a work group with appropriate stakeholders to develop a detailed plan to direct the transfer of Children's Services Act funds currently reserved for children requiring an educational placement in a private special education day school or residential facility to the Department of Education, as well as several other topics. The bill requires that the work group submit its plan and recommendations to the Chairmen of the House Committee on Appropriations and Senate Committee on Finance and Appropriations by November 1, 2021, as well as a final plan and recommendations by November 1, 2022.

HB 2182 (Delegate Tony Wilt): Board of Education; definition of "traumatic brain injury".

- **Existing Law:**
  - The current regulatory definition of "traumatic brain injury" includes only an acquired brain injury caused by an external physical force.

- **Impact of Legislation (effective July 1, 2021):**
  - Requires the Board of Education to amend its regulatory definition of "traumatic brain injury," for the purpose of the provision of special education for children with disabilities, to include an acquired injury to the brain caused by a medical condition, including stroke, anoxia, infectious disease, aneurysm, brain tumors, and neurological insults resulting from medical or surgical treatments.

HB 2204 / SB 1405 (Delegate Eileen Filler-Corn / Senator Richard Saslaw): Get Skilled, Get a Job, Give Back (G3) Fund and Program.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation (effective July 1, 2021):**
  - Establishes the Get Skilled, Get a Job, Give Back (G3) Fund and requires the Virginia Community College System to establish the G3 Program for the purpose of providing financial assistance from the Fund to certain low-income and middle-income Virginia students who are enrolled in an educational program at an associate-degree-granting public institution of higher education that leads to an occupation in a high-demand field. The bill contains provisions for student eligibility, financial assistance award amounts, and data reporting.

HB 2299 / SB 1288 (Delegate Betsy Carr / Senator Siobhan Dunnavant): Special Education; Department of and the Board of Education to develop new policies and procedures.

- **Existing Law:**

- Section 22.1-215 pertains to the requirement for school divisions to provide special education, §22.1-253.13:4 pertains to student achievement and graduation requirements, and §22.1-298.1 pertains to regulations governing licensure.

- **Impact of Legislation (effective July 1, 2021):**
  - Requires the Department of Education and the Board of Education to develop new policies and procedures and effect modifications to existing policies and procedures to improve the administration and oversight of special education.
  - Creates a new §22.1-214.4, which requires the Department of Education to (1) provide training and guidance documents to local school divisions on the development of IEPs, (2) develop a required training module for individuals who participate in an IEP meeting, (3) annually conduct structured reviews of a sample of IEPs from a sufficiently large sample of local school divisions to verify that IEPs are in compliance with state and federal laws and regulations governing IEP content, (4) develop and maintain a statewide plan for improving its oversight of local practices related to transition planning and services for children with disabilities and technical assistance and guidance provided for postsecondary transition planning and services for children with disabilities, and (5) develop a statewide strategic plan for recruiting and retaining special education teachers.
  - Amends §22.1-215 to provide that each local school division shall complete a self-assessment and action planning instrument addressing inclusion practices, as developed by the Department, once every three years and report the results of the assessment and plans for improvement to the Department, the division's superintendent, the division's special education director, and the chairs of the local school board and local special education advisory committee.
  - Amends §22.1-253.13:4, regarding student achievement and graduation requirements, to require that the Board develop and implement statewide requirements for earning an Applied Studies diploma at the beginning of the 2022-23 school year and to provide that each local school board shall provide guidance to the Department to parents of students with disabilities regarding the Applied Studies diploma and its limitations at a student's annual IEP meeting corresponding to grades 3 through 12 when curriculum or statewide assessment decisions are being made that impact the type of diploma for which the student can qualify.
  - Amends §22.1-298.1, regarding regulations governing licensure, to provide that every person seeking renewal of a license as a teacher shall complete training in the instruction of students with disabilities that includes (i) differentiating instructions for students depending on their needs, (ii) understanding the role of general education teachers on the IEP team, (iii) implementing effective models of collaborative instruction, including co-teaching, and (iv) understanding the goals and benefits of inclusive education for all students.

HB 2316 (Delegate Candi Mundon King): Department of Education and Board of Education; special education and related services for students with disabilities.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation (effective July 1, 2021):**
  - Requires the Department of Education to update its special education eligibility worksheets as necessary, including clarifying any ambiguity or vagueness in eligibility criteria, and provide to each local school division the appropriate level of guidance on eligibility determinations for special education and related services. The bill requires the Board of Education to amend its regulations to ensure that each education preparation program graduate in a K-12 general education endorsement area demonstrates proficiency in understanding the role of general education teachers on the individualized education program (IEP) team.

SB 1196 (Senator Mamie Locke): Teachers and other license school board employees; cultural competency training.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation (effective July 1, 2021):**
  - Requires teacher, principal, and division superintendent evaluations to include an evaluation of cultural competency. The bill requires every person seeking initial licensure or renewal of a license from the Board of Education (i) to complete instruction or training in cultural competency and (ii) with an endorsement in history and social sciences to complete instruction in African American history, as prescribed by the Board. The bill also requires each school board to adopt and implement policies that require each teacher and any other school board employee holding a license issued by the Board to complete cultural competency training, in accordance with guidance issued by the Board, at least every two years.

SB 1257 (Senator Jennifer McClellan): Standards of Quality; specialized student support positions.

- **Existing Law:**
  - Included calculations for lesser numbers of students.

- **Impact of Legislation (effective July 1, 2021):**
  - Modifies a school personnel requirement in Standard 2 of the Standards of Quality to require each school board to provide at least three specialized student support positions, including school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, per 1,000 students.

SB 1303 (Senator Siobhan Dunnavant): Local school divisions; availability of virtual and in-person learning to all students.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation (effective July 1, 2021):**
  - Creates a new act that requires each school board to offer in-person instruction to each student enrolled in the local school division in a public elementary and secondary school for at least the minimum number of required instructional hours and to each student enrolled in the local school division in a public school-based early childhood care and education program for the entirety of the instructional time provided pursuant to such program. The bill contains certain exceptions to the above mentioned requirement. The bill requires each school board to provide such in-person instruction in a manner in which it adheres, to the maximum extent practicable, to any currently applicable mitigation strategies for early childhood care and education programs and elementary and secondary schools to reduce the transmission of COVID-19 that have been provided by the federal Centers for Disease Control and Prevention. The bill requires the Department of Education to establish benchmarks for successful virtual learning and guidelines for providing interventions to students who fail to meet such benchmarks and for transitioning such students back to in-person instruction. The bill also requires all teachers and school staff to be offered access to receive an approved COVID-19 vaccination through their relevant local health district. The bill has an expiration date of August 1, 2022.

SB 1322 (Senator Bill DeSteph): Public schools; seizure management and action plans, biennial training, effective date.

- **Existing Law:**
  - Section 8.01-225 pertains to persons rendering emergency care.

- **Impact of Legislation (effective July 1, 2022):**
  - Creates a new §22.1-274.6 to provide that the parent of a student with a diagnosed seizure disorder may submit to the local school division a seizure management and action plan developed by the treating physician for review by the school employees with whom the student has regular contact. The plan shall, in part, identify the health care services the student may receive at school or at a school activity and identify seizure related medication prescribed to the student that must be administered in the event of a seizure. Each local school division shall require all school nurses to complete, on a biennial basis, an online course of instruction for school nurses regarding treating students with seizure disorders that includes information about seizure recognition and related first aid. Each local school division shall require all employees whose duties include regular contact with students to complete, on a biennial basis, an online course of instruction for school employees regarding treating students with seizure disorders that includes information about seizure recognition and related first aid.
  - Amends §8.01-225 to provide that a school employee or employee of a local health department who, while on school property or at a school sponsored event, renders care in accordance with a seizure management plan pursuant to §22.1-274.6, shall not be liable for civil damages for ordinary negligence in acts or omissions on the part of such employee while engaged in rendering such care.

SB 1357 (Senator Siobhan Dunnavant): Local school divisions; core subject competency assessments.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation (effective July 1, 2021):**
  - Requires the Board of Education to establish, in lieu of a one-time end-of-year assessment and for the purpose of providing measures of individual student growth over the course of the school year, a through-year growth assessment system, aligned with the Standards of Learning, for the administration of reading and mathematics assessments in grades three through eight.
  - This bill requires such through-year growth assessment system to include at least one beginning-of-year, one mid-year, and one end-of-year assessment in order to provide individual student growth scores over the course of the school year, provided that the total time scheduled for taking all such assessment shall not exceed 150 percent of the time scheduled for taking a single end-of-year proficiency assessment.
  - The bill requires the Department of Education to ensure adequate training for the teachers and principals on how to interpret and use student growth data from such assessments to improve reading and mathematics instruction in grades three through eight throughout the school year.
  - The bill provides that such funds and content as are available for such purpose, such through-year growth assessment system shall provide accurate measurement of a student's performance, through computer adaptive technology, using test items at, below, and above the student's grade level as necessary.
  - The bill requires full implementation of such system no later than the 2022-2023 school year and partial implementation during the 2021-2022 school year, consisting of one beginning-of-year assessment and one end-of-year assessment.

SB 1387 (Senator Jennifer Boysko): Students; eligibility for in-state tuition.

- **Existing Law:**
  - Does not allow in-state tuition based on certain criteria.

- **Impact of Legislation (Effective August 1, 2022):**
  - Provides that students who meet the criteria to be deemed eligible for in-state tuition regardless of their citizenship or immigration status shall be afforded the same educational benefits, including financial assistance programs administered by the State Council of Higher Education for Virginia, the State Board for Community Colleges, or a public institution of higher education, as any other individual who is eligible for in-state tuition. The bill directs the State Council of Higher Education for Virginia, in coordination with institutions of higher education in the Commonwealth, to promulgate regulations to implement the provisions of the bill.

FIREARMS

HB 1992 (Delegate Kathleen Murphy): Firearms, purchase, etc., following conviction for assault and battery of a family member.

- **Existing Law:**
  - Section 18.2-308.9 pertains to disqualifications for a concealed handgun permit and includes individuals who are illegible to possess a firearm pursuant to existing statutes.

- **Impact of Legislation (effective July 1, 2021):**
  - Creates a new statute, §18.2-308.1:8, pertaining to the purchase, possession, or transportation of a firearm after an assault and battery of a family or household member, to provide that it is a Class 1 misdemeanor for any person to knowingly and intentionally purchase, possess, or transport any firearm following a misdemeanor conviction for an offense occurring after July 1, 2021, for the offense of assault and battery of a family or household member.
  - Any person prohibited from purchasing, possessing, or transporting a firearm pursuant to this statute shall be prohibited from purchasing, possessing or transporting a firearm for three years following the date of the conviction at which point the person convicted of such offense shall no longer be prohibited from purchasing, possessing, or transporting a firearm pursuant to this statute. Such person shall have firearms rights restored, unless such person receives another disqualifying conviction, is subject to a protective order that would restrict his rights to carry a firearm, or is otherwise prohibited by law from purchasing, possessing, or transporting a firearm.

HB 2128 (Delegate Alfonso Lopez): Sale or transfer of firearms; criminal history record information check delay.

- **Existing Law:**
  - Allows three business days for a background check to be completed by the Department of State Police.

- **Impact of Legislation (effective July 1, 2021):**
  - Increases from three business days to five business days the time provided for the Department of State Police to complete a background check before a firearm may be transferred. If a dealer who has otherwise fulfilled all requirements is told by the State Police that a response will not be available by the end of the dealer's fifth business day, the dealer may complete the sale or transfer without being deemed in violation.

MARIJUANA

HB 2312 / SB 1406 (Delegate Charniele Herring / Senators Adam Ebbin and Louise Lucas): Marijuana; legalization of simple possession, etc.

- **Existing Law:**
  - Section 18.2-250.1 (as effective March 1, 2021) makes it unlawful for any person to knowingly or intentionally possess marijuana unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as authorized by the Drug Control Act.
  - A violation of this section is subject to a civil penalty of no more than $25 and is a civil offense. Any violation of this section shall be charged by summons which may be executed by a law-enforcement officer when such violation is observed by such officer. The summons shall be in the form the same as the uniform summons for motor vehicle law violations. No court costs shall be assessed for violations of this section.
  - A person's criminal history record information shall not include records of any charges or judgments for a violation of this section, and records of such charges or judgments shall not be reported to the Central Criminal Records Exchange. However, if a violation of this section occurs while an individual is operating a commercial motor vehicle, such violation shall be reported to the DMV and shall be included on such individual's driving record.
  - No law-enforcement officer may lawfully stop, search, or seize any person, place, or thing solely on the basis of the odor of marijuana and no evidence discovered or obtained pursuant to a violation of this restriction, including evidence discovered or obtained with the person's consent, shall be admissible in any trial, hearing, or other proceeding.

- **Impact of Legislation (effective July 1, 2021 for some and effective at later specified dates for legislation related to the industry, retail, etc.):**
  - Eliminates criminal or civil penalties, and thereby legalizes, simple possession of marijuana for persons 21 years of age or older and sets up a framework for the regulation of a marijuana industry, including retail stores, in Virginia.
  - Sections 18.2-248.1 (penalties for sale, gift, distribution or possession with intent to sell, give or distribute marijuana), 18.2-250.1 (possession of marijuana), and 18.2-251.1 (possession or distribution of marijuana for medical purposes permitted) are repealed.

TITLE 4.1
CHAPTER 11
POSSESSION OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS; PROHIBITED PRACTICES GENERALLY
(NEW CHAPTER)

  - Section 4.1-1100 (effective July 1st, 2021) provides that a person 21 years of age or older may lawfully possess on his person or in any public place not more than one

ounce of marijuana. Any person who possesses marijuana or marijuana products in excess of one ounce is subject to a civil penalty of no more than $25. The penalty for any such violation by an adult shall be prepayable. Any person, other than a licensee, who possesses more than one pound of marijuana is guilty of a felony punishable by a term of imprisonment of not less than 1 year nor more than 10 years and a fine of not more than $250,000, or both.

- Section 4.1-1101 (effective July 1st, 2021) provides that a person 21 years of age or older may cultivate up to four marijuana plants for personal use at their place of residence. At no point shall a household contain more than four marijuana plants. Incremental penalties apply for possession of more than four marijuana plants, depending on the number of plants.
- Section 4.1-1101.1 provides that no civil or criminal penalty may be imposed for adult sharing (between persons who are 21 years of age or older without remuneration) of an amount of marijuana that does not exceed one ounce). (effective July 1st, 2021).
- Section 4.1-1103 (effective July 1st, 2024) provides that it is a Class 2 misdemeanor for a person who is not licensed to sell, give, or distribute any marijuana or marijuana products except as permitted by this chapter or if it constitutes adult sharing of marijuana that does not exceed one ounce. A second or subsequent violation is a Class 1 misdemeanor.
- Section 4.1-1104 (effective July 1st, 2024) provides that it is a Class 1 misdemeanor for any person to sell, give, or distribute any marijuana or marijuana products to any individual when at the time of such sale he knows or has reason to believe that the individual to whom the sale is made is (i) younger than 21, or (ii) intoxicated. It is a Class 1 misdemeanor for any person 21 years of age or older to sell or distribute, or possess with the intent to sell or distribute, marijuana paraphernalia to any person younger than 21 years of age. It is a Class 1 misdemeanor for any person 21 years of age or older to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement is to promote the sale of marijuana paraphernalia to persons younger than 21 years of age. It is a Class 3 misdemeanor for any person who sells any marijuana or marijuana products to an individual who is younger than 21 years of age and at the time of the sale does not require the individual to present bona fide evidence of legal age indicating that the individual is 21 years of age or older.
- Section 4.1-1105.1(A) provides that no person younger than 21 years of age shall consume, purchase, or possess, or attempt to consume, purchase, or possess, any marijuana or marijuana products. Such person may be prosecuted either in the county or city in which the marijuana or marijuana products were possessed or consumed or in the county or city in which the person exhibits evidence of physical indicia of consumption of marijuana or marijuana products. (effective July 1st, 2021).
- Section 4.1-1105.1(B) provides that any person 18 years or older who violates subsection A is subject to a civil penalty of no more than $25 and the court shall require the accused to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused.
- Section 4.1-1105.1(C) provides that any juvenile who violates subsection A is subject to a civil penalty of no more than $25 and the court shall require the accused to enter a substance abuse treatment or education program or both, if available, that in the opinion

of the court best suits the needs of the accused. For purposes of §§16.1-266 (appointment of counsel, GAL), 16.1-273 (investigation of social history), 16.1-278.8 (driver's license suspension, curfew, etc.), 16.1-278.8.01(1st offense, screening, drug test, education and treatment programs), and 16.1-278.9 (loss of driving privileges for alcohol, firearms, drug offenses, and truancy), the court shall treat the child as delinquent.

- Section 4.1-1105.1(D) provides that any such substance abuse treatment or education program to which a juvenile is ordered pursuant to this section shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services or (ii) a program or services made available through a community-based probation services agency established pursuant to Article 9 of Chapter 1 of Title 9.1, if one has been established for the locality. When an offender is ordered to a local community-based probation services agency, the local community-based probation services agency shall be responsible for providing for services or referring the offender to education or treatment services as a condition of probation.
- Section 4.1-1105.1(E) provides that any civil penalties collected pursuant to this section shall be deposited into the Drug Offender Assessment and Treatment Fund.
- Section 4.1-1105.1(E) provides that it is a Class 1 misdemeanor for a person younger than 21 years of age to use or attempt to use any (i) altered, fictitious, facsimile, or simulated license to operate a motor vehicle; (ii) altered, fictitious, facsimile, or simulated document, including but not limited to a birth certificate or student identification card; or (iii) motor vehicle driver's license or other document issued under Chapter 3 of Title 46.2 or the comparable law of another jurisdiction, birth certificate, or student identification card of another person in order to establish a false identification or false age for himself to consume, purchase, or attempt to consume or purchase retail marijuana or retail marijuana products.
- Section 4.1-1105.1(F) provides that any marijuana or marijuana product purchased or possessed in violation of this section shall be deemed contraband and forfeited to the Commonwealth.
- Section 4.1-1106(A) (effective July 1st, 2024) provides that it is a Class 1 misdemeanor for any person to purchase retail marijuana or retail marijuana products for another person if at the time of such purchase he knows or has reason to believe that the person for whom the retail marijuana or retail marijuana products were purchased was intoxicated.
- Section 4.1-1106(B) (effective July 1st, 2024) provides that it is a Class 1 misdemeanor for any person to purchase for, or otherwise give, provide, or assist in the provision of retail marijuana or retail marijuana products to, another person when he knows or has reason to know that such person is younger than 21 years of age.
- Section 4.1-1107 (effective July 1st, 2021) provides that it is a Class 4 misdemeanor for any person to use or consume marijuana or marijuana products while driving a motor vehicle upon a public highway of the Commonwealth or while being a passenger in a motor vehicle being driven upon a public highway of the Commonwealth. A judge or jury may make a permissive inference that a person has consumed marijuana or marijuana products in violation of this section if (i) an open container is located within the passenger area of the motor vehicle, (ii) the marijuana or marijuana products in the open container have been at least partially removed, and (iii) the appearance, conduct,

speech or other physical characteristic of such person, excluding odor, is consistent with the consumption of marijuana or marijuana products. "Open container" means any vessel containing marijuana or marijuana products, except the originally sealed manufacturer's container. "Passenger area" means the area designed to seat the driver of any motor vehicle, any area within the reach of the driver, including an unlocked glove compartment, and the area designed to seat passengers. "Passenger area" does not include the trunk of any passenger vehicle; the area behind the last upright seat of a passenger van, station wagon, hatchback, sport utility vehicle or any similar vehicle; the living quarters of a motor home; or the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, including a bus, taxi, or limousine, while engaged in the transportation of such persons.

- Section 4.1-1109 (effective July 1st, 2021) provides that no person shall consume marijuana or a marijuana product or offer marijuana or a marijuana product to another, whether accepted or not, at or in any public place. A violation of this section is subject to a civil penalty of no more than $25 for a first offense. A person who is convicted under this section of a second offense is subject to a $25 civil penalty and shall be ordered to enter a substance abuse treatment or education program or both, if available, that in the opinion of the court best suits the needs of the accused. A person convicted under this section of a third or subsequent offense is guilty of a Class 4 misdemeanor.
- Section 4.1-1109 (effective July 1st, 2021) provides that it is a Class 2 misdemeanor for a person to possess or consume any marijuana or marijuana product in or upon the grounds of any public elementary or secondary school during school hours or school or student activities. In addition, no person shall consume and no organization shall serve any marijuana or marijuana products in or upon the grounds of any public elementary or secondary school after school hours or school or student activities.
- Section 4.1-1110 (effective July 1st, 2021) provides that it is a Class 1 misdemeanor for any person to possess or consume marijuana or marijuana products while operating a school bus and transporting children.
- Section 4.1-1111 (effective July 1st, 2024) provides that it is a Class 1 misdemeanor to import, ship, transport, or bring marijuana or marijuana products into the Commonwealth.
- Section 4.1-1112 (effective July 1st, 2021) provides that it is a Class 1 misdemeanor to transport marijuana or marijuana products in any motor vehicle that is being used, or is licensed, for the transportation of passengers for hire, except when carried in the possession of a passenger who is being transported for compensation at the regular rate and fare charged other passengers.
- Section 4.1-1113 (effective July 1st, 2024) provides that houses, boathouses, buildings, clubs or fraternity or lodge rooms, boats, cars, and places of every description where marijuana or marijuana products are manufactured, stored, sold, dispensed, given away, or used contrary to law, by any scheme or device whatsoever, shall be deemed a common nuisance. It is a Class 1 misdemeanor for a person to maintain, aid, abet, or knowingly associate with others in maintaining a common nuisance. A judgment may be issued that any such place be closed. Judgment may not be rendered against the owner, lessor, or lienholder of the property unless it is proved that he (i) knew of the unlawful use of the property and (ii) had the right, because of such unlawful use, to enter and repossess the property.

- Section 4.1-1114 (effective July 1st, 2024) provides that any office, store, shop restaurant, dance hall, theater, poolroom, clubhouse, storehouse, warehouse, dwelling house, apartment, or building or structure of any kind that is (i) substantially altered from its original status by means of reinforcement with the intent to impede, deter, or delay lawful entry by a law-enforcement officer into such structure; (ii) being used for the purpose of illegally manufacturing or distributing marijuana; and (iii) the object of a valid search warrant shall be considered a fortified drug house. Any person who maintains or operates a fortified drug house is guilty of a Class 5 felony.
- Section 4.1-1117 (effective July 1st, 2024) provides that it is a Class 1 misdemeanor for any person to deliver, or cause to be delivered, to any prisoner in any state, local, or regional correctional facility or any person committed to DJJ in any juvenile correctional center any marijuana or marijuana products.
- Section 4.1-1118 (effective July 1st, 2024) provides that it is a Class 1 misdemeanor to separate plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of any residential structure.
- Section 4.1-1119 (effective July 1st, 2024) provides that no person shall attempt to do anything prohibited in this subtitle or to aid or abet another in doing, or attempting to do, any of the things prohibited in this subtitle. On an indictment, information, or warrant for the violation of this subtitle, the jury or the court may find the defendant guilty of an attempt, or being an accessory, and the punishment shall be the same as if the defendant were solely guilty of such violation.
- Section 4.1-1120 (effective July 1st, 2021) provides that when a person who has not previously been convicted of any offense under this subtitle pleads guilty to enter a plea of not guilty to an offense under this subtitle, the court, upon such plea, if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place the accused on probation upon terms and conditions. As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant to §19.2-299.2 and enter treatment or an education program or services, or any combination thereof, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon consideration of the substance abuse assessment. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, or a similar program that is made available through the Department of Corrections; (ii) a local community-based probation services agency established pursuant to § 9.1-174; or (iii) an alcohol safety action program (ASAP) certified by the Commission on the Virginia Alcohol Safety Action Program (VASAP). The court shall require the person entering such program to pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based upon the accused's ability to pay, unless the person is determined by the court to be indigent. As a condition of probation, the court shall require the accused (i) to successfully complete treatment, or education programs or services, (ii) to remain drug-free and alcohol-free during the period of probation and to submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug-free and alcohol-free, (iii) to make reasonable efforts to secure and maintain employment, and (iv) to comply with a plan of up to 24 hours of community service.

Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings. When any juvenile is found to have committed a violation of this subtitle, the disposition of the case shall be handled according to the provisions of Article 9 (§16.1-278 et seq.) of Chapter 11 of Title 16.1.

- Section 4.1-1121 (effective July 1st, 2021) provides that any violation under this subtitle that is subject to a civil penalty is a civil offense and shall be charged by summons. A summons for a violation under this subtitle that is subject to a civil penalty may be executed by a law-enforcement officer when such violation is observed by such officer. The summons used by a law-enforcement officer pursuant to this section shall be in a form the same as the uniform summons for motor vehicle law violations. Any civil penalties collected pursuant to this subtitle shall be deposited into the Drug Offender Assessment and Treatment Fund.

TITLE 16.1
CHAPTER 11 (§§16.1-266 et seq.)

- Section 16.1-228 (effective July 1st, 2021) amends the definition of "delinquent act" to strike the language, "[f]or the purposes of §§16.1-241(jurisdiction), 16.1-273 (investigation of social history), 16.1-278.8 (driver's license suspension, curfew, etc.), 16.1-278.8:01 (1st offense, screening, drug test, education and treatment programs), and 16.1-279 (repealed), 'delinquent act' includes a violation of § 18.2-250.1"
    - Note that in the new §4.1-1105.1(C), the juvenile shall be "treated" as delinquent for specifically listed sections within Title 16.1 (see above).
- Section 16.1-260(G)(6), (effective July 1st, 2024), which requires the intake officer to notify the division school superintendent of the filing of a petition and the nature of the offense if the offense involves the manufacture, sale or distribution of marijuana pursuant to Article I (§18.2-247 et seq.) of Chapter 7 of Title 18.2 is conformed to the new sections. A conforming amendment has been made to make reference to Chapter 11 (§4.1-1100 et seq.) of Title 4.1 instead of § 18.2-247 et seq.)
- Section 16.1-260(H)(3) (effective July 1st, 2024) specified that the filing of a petition shall not be necessary in the case of a violation of §18.2-250.1 (possession of marijuana) provided that the juvenile is released to the custody of a parent or legal guardian pending the initial court date, in which case the officer releasing the juvenile to the custody of a parent or legal guardian shall issue a summons to the juvenile and a summons requiring the parent or legal guardian to appear before the court with the juvenile. A conforming amendment has been made to strike reference to "a violation of 18.2-250.1) and insert a misdemeanor violation of §4.1-1104 (Class 1 misdemeanor for any person to sell, give, or distribute any marijuana or marijuana products to any individual when at the time of such sale he knows or has reason to believe that the individual to whom the sale is made is (i) younger than 21, or (ii) intoxicated). Another conforming amendment is made to strike reference to §18.2-250.1 and insert §4.1-1104

in its place so that subsection (H)(3) reads that when a violation of §4.1-305 or 4.1-4104 is charged by summons, the offender shall be entitled to have the charge referred to intake for consideration of informal proceedings, provided that such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of §4.1-305 or 4.1-4104 is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice.

- Section 16.1-273 (effective July 1st, 2024), pertaining to social history reports, makes a conforming amendment changing reference to §18.2-250.1 to 4.1-1104.
- Section 16.1-278.8.01 (effective July 1st, 2021), pertaining to juvenile found delinquent of a first drug offense, is amended to now include any offense under Chapter 11 (§4.1-1100 se seq.) of Title 4.1 (above).
- Section 16.1-278.9 (effective July 1st, 2024), pertaining to loss of driving privileges for alcohol, drug offenses, and truancy, is amended to (i) strike reference to §18.2-248.1 (penalties for sale, gift, distribution or possession with intent to sell, give or distribute marijuana) and §18.2-250.1 (possession of marijuana) and to insert both felony and misdemeanor violations of Chapter 11 (§4.1-1100 et seq.) of Title 4.1 (above).
- Additional, conforming amendments are made throughout the Code.

Specific Questions and Answers Regarding the Marijuana Legislation

Q: It appears that police officers "shall" issue a summons for any violation of the marijuana statutes. Is this correct?

A: This is correct for adults only. All matters that are in the jurisdiction of the J&DR court must be on a petition unless an exception is provided. No exception has been included in the law for the new marijuana violations that go into effect on July 1, 2021.

**Note that in 2024, the offenses listed in § 4.1-1104 involving the sale, gift, or distribution of marijuana or marijuana products to individuals younger than 21 or intoxicated, will be an exception to the petition requirement and may be issued on a summons unless additional changes are made before 2024.*

Q: Does that summons need to come to intake to have the option for diversion?

A. There should not be a summons based on the laws that go into effect on July 1, 2021.

**Note that in 2024, the offenses listed in § 4.1-1104 involving the sale, gift, or distribution of marijuana or marijuana products to individuals younger than 21 or intoxicated, may be issued on a summons and will also be eligible for referral to intake for diversion pursuant to § 16.1.260(H)(3).*

Q: Will there be an opportunity for diversion for juvenile marijuana offenses?

A. Yes. Since there is no exception in § 16.1.260(H)(3) that allows the marijuana offenses that go into effect on July 1, 2021, to be issued on a summons, all violations should be referred to intake and may be considered for diversion.

The legislative provisions that will take effect on July 1, 2024, also appear to allow for diversion for one category of marijuana offenses for which a summons is issued. Section 16.1-260(H)(3) (effective July 1st, 2024) provides that when a violation of § 4.1-305 or § 4.1-1104 is charged by summons, the juvenile shall be entitled to have the charge referred to intake for consideration of informal proceedings, provided that such right is exercised by written notification to the clerk not later than 10 days prior to trial. At the time such summons alleging a violation of § 4.1-305 or 4.1-1104 is served, the officer shall also serve upon the juvenile written notice of the right to have the charge referred to intake on a form approved by the Supreme Court and make return of such service to the court. If the officer fails to make such service or return, the court shall dismiss the summons without prejudice. Note that § 4.1-1104 prohibits a number of activities involving the sale or distribution of marijuana or marijuana products to individuals under the age of 21 or intoxicated.

Q: Previously if the marijuana charge was on a petition, it had to be referred to intake or it was dismissed in court. Are there provisions in the new bill for this?

A: All marijuana charges for juveniles that go into effect on July 1, 2021, should be referred to intake for a determination of probable cause and the possibility of diversion or petition.

Q: In those marijuana cases in which a civil penalty is imposed and a summons is issued, will intake not see the summons until disposition? Will that determination be based on the clerk's office?
A. No summons should be issued for a marijuana offense that goes into effect on July 1, 2021.

MENTAL HEALTH & MEDICAL

HB 2061 (Delegate Rodney Willett): VIIS; any health care provider in the Commonwealth that administers immunizations to participate.

- **Existing Law:**
  - Under current law, participation in the Virginia Immunization Information System (VIIS) is optional for authorized health care entities.

- **Impact of Legislation (Effective January 1, 2022):**
  - Requires any health care provider in the Commonwealth that administers immunizations to participate in VIIS and report patient immunization history and information to VISS.

HB 2166 (Delegate Patrick Hope): Involuntary admission; provisions governing involuntary inpatient & mandatory outpatient treatment.

- **Existing Law:**
  - Section 37.2-817 et seq. governs involuntary inpatient and mandatory outpatient treatment.

- **Impact of Legislation (effective July 1, 2022):**
  - Amends provisions set forth in §§37.2-817 et seq, governing involuntary inpatient and mandatory outpatient treatment to (i) revise criteria for entry for a mandatory outpatient treatment order to become effective upon expiration of an order for involuntary inpatient treatment, (ii) eliminate the requirement that a person agree to abide by a mandatory outpatient treatment plan to be eligible for mandatory outpatient treatment and instead require that the judge or special justice find that the person is able to adhere to a mandatory outpatient treatment plan, (iii) eliminate the role of a treating physician in determining when a person is eligible to transition from inpatient to mandatory outpatient treatment under an order for mandatory outpatient treatment following a period of mandatory inpatient treatment, (iv) increase from 90 to 180 days the length of an order for mandatory outpatient treatment, (v) revise requirements for monitoring of a person's adherence to a mandatory outpatient treatment plan by a community services board, (vi) expand the category of persons who may file petitions for various reviews of a mandatory outpatient treatment order or plan, and (vii) add a provision for status hearings during the period of mandatory outpatient treatment.

HB 2322 (Delegate Charniele Herring): Establishing an Opioid Abatement Authority.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation (effective July 1, 2021):**
  - Establishes the Opioid Abatement Authority. The Authority, with the assistance of the Office of the Attorney General, would administer the Opioid Abatement Fund, which would receive moneys from settlements, judgments, verdicts, and other court orders relating to claims regarding the manufacturing, marketing, distribution, or sale of opioids and any other funds received on the Fund's behalf that would be used to provide grants and loans to Virginia agencies and certain localities for the purpose of treating, preventing, or reducing opioid use disorder and the misuse of opioids or otherwise abating or remediating the opioid epidemic in the Commonwealth.

SB 1220 (Senator Barbara Favola): State facilities; admission of certain aliens.

- **Existing Law:**
  - Required that (i) the Commissioner of Behavioral Health and Developmental Services determine the nationality of each person admitted to a state facility and, if the person is an alien, notify the United States immigration officer in charge of the district in which the state facility is located and (ii) upon request of the United States

immigration officer in charge of the district in which a state facility to which a person who is an alien is admitted is located or the judge or special justice who certified or ordered the admission of such alien, the clerk of the court furnish a certified copy of records pertaining to the case of the admitted alien.

- **Impact of Legislation (effective July 1, 2021):**
  - Repeals the requirements that (i) the Commissioner of Behavioral Health and Developmental Services determine the nationality of each person admitted to a state facility and, if the person is an alien, notify the United States immigration officer in charge of the district in which the state facility is located and (ii) upon request of the United States immigration officer in charge of the district in which a state facility to which a person who is an alien is admitted is located or the judge or special justice who certified or ordered the admission of such alien, the clerk of the court furnish a certified copy of records pertaining to the case of the admitted alien.

SB 1431 (Senator Montgomery Mason): Unrestorably incompetent defendant; competency report.

- **Existing Law:**
  - Section 19.2-169.1 provided that a defendant determined to be unrestorably incompetent is required to undergo treatment to restore his competency before the court can find a defendant unrestorably incompetent to stand trial.

- **Impact of Legislation (effective July 1, 2021):**
  - Provides that in cases where a defendant was previously determined to be unrestorably incompetent in the past two years, a competency report may recommend that the court find the defendant unrestorably incompetent to stand trial, and the court may proceed with the disposition of the case based on such recommendation.

SEX OFFENSES & SEX OFFENDERS

HB 1867 (Delegate Karrie Delaney): Victims of Crime; compensation, reporting requirement.

- **Existing Law:**
  - Section 19.2-368.10 provides that the requirement that the Virginia Workers' Compensation Commission find that police records show the crime was promptly reported no more than 120 hours after it occurred in order to award a claimant funds from the Criminal Injuries Compensation Fund. Currently, there is an exception to this requirement that applies only to claims of sexual abuse that occurred while the victim was a minor.

- **Impact of Legislation (effective July 1, 2021):**

- Amends §19.2-368.10 to strike, for the purposes of the exception to the 120 hour requirement, that the sexual abuse occurred while the victim was a minor. Consequently, the exception now applies to all claims of sexual abuse, regardless of age.

HB 1868 (Delegate Karrie Delaney): Commercial driver's licenses; disqualification for life from holding license, human trafficking.

- **Existing Law:**
  - Section 46.2-341.18 provides for the offenses for which a commercial motor vehicle driver can have his license disqualified.

- **Impact of Legislation (effective July 1, 2021):**
  - Amends §46.2-341.18 by providing that the Commissioner shall disqualify for life a person who is convicted of a felony involving an act or practice of severe forms of trafficking in persons defined in 22 U.S.C. §7102(11) while driving a commercial motor vehicle, including any local, state, or federal law substantially similar to or fitting the definition of severe forms of trafficking in persons.
  - Amends §46.2-382 to provide that the Department and every district court or circuit court or the clerk thereof (i) shall not reduce, dismiss, defer, or otherwise conceal the conviction of any person charged with any offense committed while operating a commercial motor vehicle as defined in §46.2-341.4 or any holder of a commercial driver's license or a commercial driver's permit charged with any offense committed while operating a noncommercial motor vehicle and (ii) shall comply with all federal laws and regulations regarding such convictions, including 49 C.F.R. §384.226.

SOCIAL SERVICES

HB 1912 (Delegate Patrick Hope): Child support payments; juvenile in custody of or committed to the Department of Juvenile Justice.

- **Existing Law:**
  - Section 16.1-290(D) provided that whenever a juvenile is placed in the temporary custody of or committed to DJJ, DJJ shall apply for child support with DSS. The parents shall be responsible for child support from the date DJJ receives the juvenile.

- **Impact of Legislation (effective July 1, 2021):**
  - Eliminates this requirement so that DJJ is no longer required to apply for child support, and the parent of a juvenile is no longer responsible to pay child support, for a juvenile who is in the temporary custody of or committed to DJJ.
  - The bill also contains an enactment clause providing that any child support order entered pursuant to the provisions of former subsection D of §16.1-290 and in effect prior to the enactment of this bill is terminated and that such termination does not

modify, reduce, or forgive any arrearages or liens resulting from orders in effect through June 30, 2021.

HB 1961 (Delegate Robert Bell): Special identification cards; application by guardian.

- **Existing Law:**
  - Current law authorizes the parent or legal guardian of any person under the age of 15 to apply for a special identification card on behalf of such person.

- **Impact of Legislation (effective July 1, 2021):**
  - Authorizes the parent of any person under the age of 18 or the legal guardian of any person to apply for a special identification card on behalf of such person.

HB 1962 (Delegate Wendy Gooditis): Foster care; termination of residual parental rights; relatives and fictive kin.

- **Existing Law:**
  - Under current law, a child's involvement is mandatory upon reaching 14 years of age.

- **Impact of Legislation (effective July 1, 2021):**
  - Requires local departments of social services and licensed child-placing agencies to involve in the development of a child's foster care plan the child's relatives and fictive kin who are interested in the child's welfare. The bill requires that a child 12 years of age or older be involved in the development of his foster care plan. The bill contains other amendments to provisions governing foster care and termination of parental rights that encourage the placement of children with relatives and fictive kin.

SB 1206 (Senator George Barker): Confidentiality of juvenile records; exceptions.

- **Existing Law:**
  - Section 16.1-300 pertains to the confidentiality of DJJ records and exceptions to such confidentiality. Under current law, the social, medical, and psychiatric or psychological case files for youth committed to DJJ or under court service unit supervision are confidential and may be inspected only by a specified list of entities.

- **Impact of Legislation (effective July 1, 2021):**
  - The bill expands the list of exceptions to include the state or any local departments of social services who are either providing services or care or have accepted a referral for investigation and services for a juvenile pursuant to a petition for relief of care and custody. The bill also expands such access to the Department of Behavioral Health and Developmental Services (DBHDS) or any local community services board providing treatment, services, or care for a juvenile for a purpose relevant to treatment, services, or care. Under the bill, in order to access this information, these local agencies shall first enter into a formal agreement with DJJ to provide coordinated services to juveniles

who are the subject of the records. The bill directs DJJ or court service units, in turn, to limit the access of such records and reports to those relevant to the youth's treatment, services or care. The bill prohibits the local departments of social services or local community services boards from disseminating information obtained from these records unless expressly authorized by law.

- The bill contains an enactment clause directing the Virginia Commission on Youth to convene a work group with representatives from DJJ, the Department of Social Services, DBHDS, the Department of Education, and several other individuals and entities to review existing data and record-sharing provisions and recommend best practices for sharing, collecting, and using such data and records. Workgroup findings shall be reported to the Governor and applicable House and Senate committees by November 1, 2021.
    - CSUs should encourage their local partners to wait until the Commission on Youth's workgroup completes its study before entering into a formal agreement to share such information. Although the bill does not expressly require this delay, the bill directs the COY to convene a workgroup to make recommendations on best practices for the sharing, collection, and use of such data and to report its findings by November 1, 2021. This language strongly indicates the legislative intent that the report and best practices be released prior to the formation of such agreements. To enter into a formal agreement before issuance of the report would circumvent the very purpose of the required report and recommendations.
- Note: This amends § 16.1-300, which applies to DJJ records only. SB 1206 involves the sharing of DJJ reports and records with DSS and DBHDS, and the local agencies thereof.
- Additional consent specific to behavioral health records is no longer required to be released to DSS and DBHDS so long as all of the following conditions are met: i) these local agencies have entered into a formal agreement with DJJ to provide coordinated services to juveniles who are the subject of the records, ii) prior to making any report or record open for inspection, the CSU or DJJ determines which reports and records are relevant to the treatment, services, or care of such juvenile and limits such inspection to such relevant reports and records; and iii) DSS, DBHDS, or the relevant community service board is providing the services required by the statute.

HB 2117 / SB 1313 (Delegate Schuyler VanValkenburg / Senator Montgomery Mason): Children's Services Act; funds expended special education programs.

- **Existing Law:**
    - Section 2.2-5211 pertains to the state pool of funds for community policy and management teams and provides that funds shall be expended for public and private nonresidential or residential services for troubled youths and families.
    - Section 2.2-5212 pertains to the eligibility for the state pool of funds.

- **Impact of Legislation (effective July 1, 2021):**

- Section 2.2-5211 is amended to add that funds for private special education services shall only be expended on private educational programs that are licensed by the Board of Education or an equivalent out of state licensing agency. Effective July 1, 2022, funds for private special education services shall only be expended on private educational programs that the Office of Children's Services certifies as having reported their tuition rates on a standard reporting template developed by the Office. The Office of Children's Services shall consult with private special education services providers in developing the standard reporting template for tuition rates.
- Section 2.2-5211 is also amended to add that the target population for the use of the funds include children and youth previously placed, for the purpose of special education in approved private school education programs previously funded by the Department of Education through private tuition assistance, in approved private school educational programs for at least six months who will receive transitional services in a public school setting. State pool funds shall be allocated for no longer than 12 months for transitional services. Local agencies may contract with a private school education provider to provide transition services in the public school.
- Section 2.2-5212 is amended to include among the criteria for eligibility for funding for services through the state pool of funds that the youth requires placement for transitional services as set forth in the amended §2.2-5211.
- The enactment clause requires the Secretary of Education and the Secretary of Health and Human Resources, in conjunction with the Office of Children's Services and the Department of Education, to establish a work group to develop a detailed plan to (i) direct the transfer of Children's Services Act funds currently reserved for children requiring an educational placement in a private special education day school or residential facility to the Department of Education, (ii) provide recommendations on the use of Children's Services Act funds to pay for services delivered directly to students with disabilities in public school to enable those who are at risk of out of school placements to remain in a public school setting, and (iii) provide recommendations on the most effective use of Children's Services Act funds to transition students from out of school placements to public school.

HB 2125 (Delegate Alfonso Lopez): Voter registration; preregistration for persons 16 years of age or older.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation (Effective October 1, 2022):**
  - Permits a person who is otherwise qualified to register to vote and is 16 years of age or older, but who will not be 18 years of age on or before the day of the next general election, to preregister to vote. The preregistration does not entitle such person to vote in any election except as already permitted by law. The bill requires the Department of Elections to maintain a record of all preregistered voters in the Virginia voter registration system, which shall automatically register a person who is preregistered upon that person reaching 18 years of age or becoming eligible for

advance registration as already permitted by law, whichever comes first. The bill requires the Department to provide to the general registrars voter confirmation documents for such voters.

HB 2138 (Delegate Elizabeth Guzman): Identification privilege cards; fee; confidentiality; penalties.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation (Effective January 1, 2022):**
  - Authorizes the Department of Motor Vehicles to issue identification privilege cards to applicants who hold a citizenship or legal presence status that is eligible for a special identification card or a limited-duration special identification card and have reported income from Virginia sources or been claimed as a dependent on an individual tax return filed with the Commonwealth in the preceding 12 months. The bill provides that identification privilege cards shall be treated as special identification cards unless otherwise provided in the Code of Virginia. The bill limits the release of certain information stored by the Department.

HB 2212 (Delegate Kenneth Plum): Children's Services Act; effective monitoring and implementation.

- **Existing Law:**
  - Does not include language on monitoring and implementation of CSA.

- **Impact of Legislation (effective July 1, 2021):**
  - Requires the director of the Office of Children's Services to provide for the effective implementation of the Children's Services Act (§2.2-5200 et seq.) in all localities by (i) regularly monitoring local performance measures and child and family outcomes; (ii) using audit, performance, and outcomes data to identify local programs that need technical assistance, and (iii) working with local programs that are consistently underperforming to develop a corrective action plan for submission to the Office and the State Executive Council for Children's Services.

SB 1168 (Senator Louise Lucas): "Abused or neglected child"; definition.

- **Existing Law:**
  - The term "abused or neglected child" is defined in both §16.1-228 and in §63.2-100.

- **Impact of Legislation (effective July 1, 2021):**
  - Conforms the definition of "abused or neglected child" in §16.1-228 with the definition set forth in §63.2-100.
  - Paragraph 2 is amended to add that a decision by parents or such other person who have legal authority for the child who refuses a particular medical treatment for a child with a life threatening condition shall not be deemed a refusal to provide necessary care if

(i) such decision is made jointly by the parents or other person with legal authority and the child, (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment, (iii) the parents or other person with legal authority and the child have considered alternative treatment options, and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest.

- Paragraph 4, which provides that any parent or other person responsible for a child's care commits or allows to be committed any sexual act upon the child, is amended to and any "act of sexual exploitation."

STATE & LOCAL ADMINISTRATION OF GOVERNMENT

HB 1811 (Delegate Dan Helmer): Virginia Public Procurement Act; preference for energy-efficient and water-efficient goods.

- **Existing Law :**
  - Not applicable. New Statute.

- **Impact of Legislation (effective July 1, 2021):**
  - Provides that in the course of procuring goods, if a state agency receives two or more bids for products that are Energy Star certified, meet Federal Energy Management Program (FEMP)-designated efficiency requirements, appear on FEMP's Low Standby Power Product List, or are WaterSense certified, such state agency may only select among those bids. The bill also provides that in the course of procuring goods, if a local public body receives two or more bids for such products, such local public body may only select among those bids unless, before selecting a different bid, the local public body provides a written statement that demonstrates the cost of the products that are Energy Star Certified, meet FEMP-designated efficiency requirements, appear on FEMP's Low Standby Power Product List, or are WaterSense certified was unreasonable.

HB 1814 (Delegate Paul Krizek): Garnishment of wages; protected portion of disposable earnings.

- **Existing Law:**
  - Only takes federal minimum hourly wage into account when calculating disposable earnings.

- **Impact of Legislation (effective July 1, 2021):**
  - Provides that the Virginia minimum hourly wage shall be used to calculate the amount of a person's aggregate disposable earnings protected from garnishment if it is greater than the federal minimum hourly wage.

HB 1848 (Delegate Mark Sickles): Virginia Human Rights Acts; adds discrimination on the basis of disability.

- **Existing Law:**
  - Does not include disability in definition of discrimination.

- **Impact of Legislation (effective July 1, 2021):**
  - Adds discrimination on the basis of disability as an unlawful discriminatory practice under the Virginia Human Rights Act. The bill also requires employers, defined in the bill, to make reasonable accommodation to the known physical and mental impairments of an otherwise qualified person with a disability, if necessary to assist such person in performing a particular job, unless the employer can demonstrate that the accommodation would impose an undue hardship on the employer. The bill also prohibits employers from taking any adverse action against an employee who requests or uses a reasonable accommodation, from denying employment or promotion opportunities to an otherwise qualified applicant or employee because such employer will be required to make reasonable accommodation to the applicant or employee, or from requiring an employee to take leave if another reasonable accommodation can be provided to the known limitations related to the disability.

HB 1876 (Delegate Suhas Subramanyam): Workforce development; expands type of data sharing.

- **Existing Law:**
  - Section 2.2-435.8 pertains to workforce evaluation programs and data sharing among agencies.
  - Currently, §2.2-435.8 requires that data shared not include any personal identifying information, shall be encrypted, and shall be transmitted to the Governor or his designee. Upon receipt of such data, the Governor or his designee shall re encrypt the data to prevent any participating agency from connecting shared data sets with existing agency files.

- **Impact of Legislation (effective July 1, 2021):**
  - This bill amends §2.2-435.8 by expanding the type of workforce development data that specified state agencies, including the DJJ's Youth Industries, Institutional Work Programs, and Career and Technical Education Programs, may share with the Virginia Workforce System. The bill also makes the sharing of such information mandatory rather than permissive. The bill strikes the requirements that personal information be removed from the data and encrypted before being shared among other state agencies and with the Workforce Development System and instead requires the participating agencies to enter into a memorandum of understanding supporting the Virginia Workforce Data Trust. Under current law, the specified agencies may share data within their databases solely to support the workforce program evaluation and policy analysis and to conduct program evaluations that require employment outcomes data to meet

federal reporting requirements. The bill removes the requirement that data be used to conduct education program evaluations and amends the provision to require that the data be used to 1) meet state and federal reporting requirements; 2) improve coordination, outcomes, and efficiency across public workforce programs and partner organizations; 3) enable the development of comprehensive consumer-facing software applications; 4) support requirements for performance-driven contracts; and 5) support workforce initiatives developed by the General Assembly and the Governor. The bill requires shared data to include only the identifying and attribute information required to match entities across programs, support the coordination of services, and evaluate outcomes. Additionally, the bill directs the Governor or his designee, upon receiving the data, to maintain it in an encrypted state pursuant to current law and to restrict data sharing according to the Virginia Workforce Data Trust MOU. Finally, the bill clarifies that the directive to share such information is limited to what is permissible under federal law.

HB 1891 (Delegate Hala Ayala): Department of Human Resource Management; duties of the Department; annual public health training.

- **Existing Law:**
  - Not applicable. New Statute.

- **New Law (effective July 1, 2021):**
  - Requires the Department of Human Resource Management, in coordination with the Secretary of Health and Human Resources or his designee, to develop an online training module addressing safety and disaster awareness, including information on public health safety. The bill also requires that all state employees complete the training annually. The bill requires such training to be incorporated into existing mandatory training.

HB 1931 (Delegate Mark Levine): Virginia Freedom of Information Act; public body authorized to conduct electronic meetings.

- **Existing Law:**
  - Section 2.2-3708.2, pertaining to meetings held through electronic means, provides that public bodies may conduct any meeting through electronic means if, on or before the day of a meeting, a member notifies the chair of the public body that a) such member is unable to attend the meeting due to a temporary or permanent disability or other medical condition that prevents physical attendance, or b) such member is unable to attend the meeting due to a personal matter and identifies the specific nature of the personal nature.
  - Participation through electronic communication is limited for each member to two meetings per calendar year.

- **Impact of Legislation (effective July 1, 2021):**

- Adds to the circumstances that permit electronic communication means, a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance.
- Adds to the limitation to two electronic communication meetings per year for each member, that the limitation can also be 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is longer.

HB 1985 (Delegate Chris Hurst): Workers' compensation; presumption of compensability for COVID-19.

- **Existing Law:**
  - Section 65.2-402.1 pertains to presumptions as to death or disability from infectious disease. It currently provides that specified employees of specified agencies, who has a documented exposure to blood or bodily fluids and who dies or suffers conditions of hepatitis, meningococcal meningitis, tuberculosis, or HIV, shall be presumed to be occupational diseases, suffered in the line of government duty, unless such preponderance is overcome by a preponderance of the evidence.

- **Impact of Legislation (effective July 1, 2021):**
  - Amends §65.2-402.1 to add COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, any health care provider, who as part of the provider's employment is directly involved in diagnosing or treating persons known or suspected to have COVID-19, shall be presumed to be an occupational disease that is covered unless such presumptions are overcome by a preponderance of competent evidence to the contrary.
  - Amends §65.2-402.1 to add that the COVID-19 presumption shall not apply to any person offered by such person's employer a vaccine for the prevention of COVID-19 unless the person is immunized or the person's physician determines in writing that the immunization would pose a significant risk to the person's health.

HB 1990 (Delegate Lashrecse Aird): Racial and ethnic impact statements for criminal justice legislation.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation (effective July 1, 2021):**
  - Provides that the Chair of the House Committee for Courts of Justice or the Chair of the Senate Committee on the Judiciary may request the Joint Legislative Audit and Review Commission (JLARC) to review and prepare a racial and ethnic impact statement for a proposed criminal justice bill to outline its potential impact on racial and ethnic disparities within the Commonwealth. The bill requires JLARC to provide copies of the impact statement to the requesting chair and the patron of the proposed bill. No more than three racial and ethnic impact statements may be

requested by each chair for completion during a single regular session of the General Assembly.

HB 1993 (Delegate Alex Askew): State agencies and their appointing authorities; diversity, equity, and inclusion strategic plans.

- **Existing Law:**
  - Section 2.2-602 requires the heads of state agencies to establish and maintain methods of administration relating to the establishment and maintenance of personnel standards on a merit basis that are approved by the Governor for the proper and efficient enforcement of the Virginia Personnel Act.

- **Impact of Legislation (effective July 1, 2021):**
  - Adds that the heads of state agencies shall establish and maintain a comprehensive diversity, equity, and inclusion strategic plan in coordination with the Governor's Director of Diversity, Equity, and Inclusion. The plan shall integrate the diversity, equity, and inclusion goals into the agency's mission, operations, programs, and infrastructure to enhance equitable opportunities for the populations served by the agency and to foster an increasingly diverse, equitable, and inclusive workplace environment. The plan shall include best practices that i) proactively address potential barriers to equal employment opportunities pursuant to federal and state equal employment opportunity laws, ii) foster pay equity pursuant to federal and state equal pay laws; iii) promote diversity and equity in hiring, promotion, retention, succession planning, and agency leadership opportunities; and iv) promote employee engagement and inclusivity in the workplace. Each agency shall establish an infrastructure to effectively support ongoing progress and accountability in achieving diversity, equity, and inclusion goals in coordination with the Governor's Director of Diversity, Equity, and Inclusion. Each agency shall submit an annual report to the Governor assessing the impact of the strategic plan on the populations served by the agency and on the agency's workforce and budget.

HB 2004 (Delegate Chris Hurst): Virginia Freedom of Information Act; law-enforcement criminal incident information, criminal files.

- **Existing Law:**
  - Section 2.2-3706 pertains to the disclosure of law-enforcement and criminal records. Under current law, the release of criminal investigative files is discretionary

- **Impact of Legislation (effective July 1, 2021):**
  - Creates a new section, §2.2-3706.1, which adds criminal investigative files, defined in the bill, relating to a criminal investigation or proceeding that is not ongoing, also defined in the bill, to the types of law-enforcement and criminal records required to be released under FOIA. It provides that the mandatory release of criminal incident information relating to felony offenses and criminal investigative files shall not be required if the release would likely affect certain results. The new law also extends the amount of additional time a public body has to respond, in the case of criminal

investigative files, from an additional seven work days to an additional 60 work days as long as the public body has communicated to the requestor within the initial allowable five-work-day response period that it is not practically possible to provide the requested records or to determine whether they are available within the five day period.

HB 2025 (Delegate Wendy Gooditis): Virginia FOIA; record exclusion for personal contact information provided to a public body.

- **Existing Law:**
  - Section 2.2-3705.1 pertains to exclusions from FOIA and exclusions of general application to public bodies. Currently, the statute provides protections for personal contact information provided to a public body, not to its members; only applies to electronic mail; and requires the electronic mail recipient to request the public body to not disclose his personal contact information in order for the information to be exempt from mandatory disclosure.

- **Impact of Legislation (effective July 1, 2021):**
  - Amends 2.2-3705.1 to provide that personal contact information provided to a public body or any of its members for the purpose of receiving electronic communications through the public body or any of its members is excluded from the mandated disclosure provisions of FOIA, unless the recipient of such electronic communications indicates his approval for the public body to disclose such information.

HB 2031 (Delegate Lashrecse Aird): Facial recognition technology; authorization of use by local law enforcement agencies.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation (effective July 1, 2021):**
  - Provides that no local law-enforcement agency or campus police department shall purchase or deploy facial recognition technology, defined in the bill, unless such purchase or deployment is expressly authorized by statute. The bill prohibits a local law-enforcement agency or campus police department at a public institution of higher education currently using facial recognition technology from continuing to use such technology without such authorization after July 1, 2021.

HB 2134 (Delegate Amanda Batten): Employee classification; provision of personal protective equipment in response to a disaster.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation (effective July 1, 2021):**

- Creates a new §65.2-301.2 which prohibits the consideration, in any determination regarding whether an individual is an employee or independent contractor, for the purposes of a civil action for employment misclassification, unemployment compensation, and workers' compensation, of the provision of personal protective equipment by a hiring party to the individual in response to a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared.

HB 2161 / SB 1410 (Delegate Kathy Tran / Senator John Bell): Active military or a military spouse; prohibits discrimination in public accommodations, etc.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation (effective July 1, 2021):**
  - Prohibits discrimination in public accommodations, employment, and housing on the basis of a person's military status, defined as a member of the uniformed services of the United States or a reserve component thereof or a spouse or other dependent of the same. The bill also prohibits terms in a rental agreement in which the tenant agrees to waive remedies or rights under the federal Servicemembers Civil Relief Act prior to the occurrence of a dispute between the landlord and the tenant.

HB 2207 / SB 1375 (Delegate Jerrauld "Jay" Jones / Senator Richard Saslaw): Workers' compensation; presumption of compensability for COVID-19.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation (effective July 1, 2021):**
  - Establishes a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, correctional officers, and regional jail officers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that such presumption applies to any death or disability occurring on or after July 1, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after July 1, 2020, and prior to December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs and symptoms of COVID-19 that required medical treatment.

SB 1271 (Senator Jeremy McPike): Virginia Freedom of Information Act; meetings held through electronic communication means.

- **Existing Law:**
  - Section 2.2-3708.2 governs meetings of public bodies held through electronic means. Subsection A(3) provides that any public body, may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency, provided that i) the catastrophic nature of the declared emergency makes it impractical or unsafe to assembly a quorum in a single location and ii) the purpose of the meeting is to address the emergency. The public body convening such a meeting shall, i) give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the public body conducting the meeting, ii) make arrangements for public access to such meeting (does not specify through electronic means, including videoconferencing if used by the public body), and iii) otherwise comply with the provisions of the section.
  - Under current law, public bodies may only meet in such manner when the Governor has declared a state of emergency and only for the purpose of addressing the emergency. Further, there is no requirement to provide the public with opportunity to comment at the meetings of the public body when public comment is customarily received.

- **Impact of Legislation (effective July 1, 2021):**
  - Amends §2.2-3708.2 to allow a public body, or a joint meeting thereof, to meet by electronic communication means without a quorum of the public body physically assembled at one location when a locality in which the public body is located has declared a local state of emergency (in addition to the current allowance for such a meeting when the Governor has declared a state of emergency), provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities.
  - The bill also allows public bodies meeting through electronic communication means during a local or state declaration of a state of emergency to (a) make arrangements for public access to such meeting through electronic communication means, including videoconferencing if already used by the public body, and (b) provide the public with the opportunity to comment at such meetings when public comment is customarily received.

HJ 555 (Delegate Charniele Herring): Constitutional amendment (first reference); franchise and officers; felon disenfranchisement.

- **Existing Law:**
  - Not applicable. New Statute.

- **Impact of Legislation**

- Provides that every person who meets the qualifications of voters set forth in the Constitution shall have the fundament right to vote in the Commonwealth and that such right shall not be abridged by law, except for persons who have been convicted of a felony and persons who have been adjudicated to lack the capacity to understand the act of voting. A person who has been convicted of a felony shall not be entitled to vote during any period of incarceration for such felony conviction, but upon release from incarceration for that felony conviction and without further action required of him, he shall be invested with all political rights, including the right to vote. A person who has been adjudicated to lack the capacity to understand the act of voting shall not be entitled to vote during this period of incapacity until his capacity has been reestablished as prescribed by law.