



2021 Virginia General Assembly Legislative Session Updates

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2021 Virginia General Assembly Criminal Justice Legislation

The 2021 Virginia General Assembly Legislative Session was a busy one. The Assembly passed a series of bills that will greatly impact Criminal Defense in the Commonwealth. These changes range from increasing the fine for littering to abolishing the death penalty – a first for the South. Compiled in this document is a summary of the bills along with a quick look at the changes.

Some of the most important changes are:

Abolishing the Death Penalty (Retroactive)

Repeal of Felony Petit Larceny for Subsequent Offenses

Robbery Reclassification Based on Injuries/Use of Weapons

Repeal of Habitual Offender Statute

Marijuana Legalization Effective July 1, 2021 for Possession

Search Warrant Limitations – “No Knock” and Night-time

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Each of the entries below links to the General Assembly page for a full review of each new law. This list does not include legislation that was considered but failed to pass. Each law below has been signed by the Governor and enacted. To the extent identical bills in the House and Senate were passed, the explanation will be listed under the House bill, though both bills are included below for completeness.

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SB 1391 Pretrial data collection; VCSC to collect and disseminate on an annual basis.

SB 1397 Parole and conditional release; notice by electronic means and certification.

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SB 1406 Marijuana; legalization of simple possession, etc.

SB 1412 Pet shops, dealers, and dog breeders; employees convicted of animal abuse, penalty.

SB 1415 Protective orders; violations of preliminary child protective order, changes punishment, etc.

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SB 1431 Unrestorably incompetent defendant; competency report.

SB 1456 Juveniles; eligibility for commitment to the Department of Juvenile Justice.

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SB 1464 Drug Control Act; adds certain chemicals to Schedule I of Act.

SB 1475 Search warrants; date and time of issuance, exceptions.

BILL SUMMARIES

House Bills

HB 1801 Disposing of litter; penalty.

Increases the minimum fine for dumping or disposing of litter, trash, or other unsightly matter on public or private property from \$250 to \$500.

HB 1806 Suspension or modification of sentence; transfer to the Department of Corrections.

Provides that if a person has been sentenced for a felony to the Department of Corrections (the Department), the court that 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 the Department, or within 60 days of such transfer, suspend or otherwise modify the unserved portion of such a sentence. Under current law, the court may only suspend or otherwise modify the unserved portion of such a sentence prior to the transfer of such person to the Department.

HB 1821 Experiencing or reporting overdoses; prohibits arrest and prosecution.

Prohibits the arrest or prosecution of an individual for the unlawful purchase, possession, or consumption of alcohol, possession of a controlled substance, possession of marijuana, intoxication in public, or possession of controlled paraphernalia if (i) such individual, 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; (ii) such individual remains at the scene of the overdose or at any location to which

he or the individual requiring emergency medical attention has been transported; (iii) such individual identifies himself to the law-enforcement officer who responds; and (iv) the evidence for a prosecution of one of the enumerated offenses would have been obtained only as a result of the individual's rendering emergency care or assistance.

Current law prohibits arrest or prosecution for such offenses only to an individual who seeks or obtains emergency medical attention for himself or another individual or who is experiencing an overdose when another individual seeks or obtains emergency medical attention for him.

HB 1867 Victims of crime; compensation, reporting requirement.

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 does not apply to claims of sexual abuse. Under current law, the exception to such requirement applies only to claims of sexual abuse that occurred while the victim was a minor.

HB 1878 Juvenile intake and petition; appeal to a magistrate on a finding of no probable cause.

Limits the ability to appeal a decision by an intake officer not to authorize a petition relating to an offense that, if committed by an adult, would be punishable as a Class 1 misdemeanor or felony, when the decision is based solely upon a finding of no probable cause. The bill requires the application for a warrant to the magistrate to be filed within 10 days of the issuance of the written notification from the intake officer to the complainant of the refusal to authorize a petition. The bill also provides that such written notification shall indicate that the intake officer made a finding that no probable cause exists and provide notice that the complainant has 10 days to apply for a warrant to the magistrate. The bill requires the complainant to provide the magistrate with a copy of the written notification upon

application to the magistrate. The bill also specifies that if an intake officer finds (i) probable cause and (ii) that the matter is appropriate for diversion, this decision is final, and the complainant shall not have the right to appeal the decision to a magistrate.

HB 1894 Naloxone or other opioid antagonist; certain employees of DJJ authorized to administer.

Authorizes employees of the Department of Juvenile Justice designated as probation and parole officers or as juvenile correctional officers to possess and administer naloxone or other opioid antagonist for overdose reversal pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice.

HB 1930 Higher educational institutions, public; admissions applications criminal history questions.

Prohibits each public institution of higher education, with the exception of the Virginia Military Institute and a law school of a public institution of higher education that is accredited by the American Bar Association, from (i) utilizing an institution-specific admissions application that contains questions about the criminal history of the applicant or (ii) denying admission to any applicant on the basis of any criminal history information provided by the applicant on any third-party admissions application accepted by the institution. The bill permits each public institution of higher education to inquire into the criminal history of any individual who has been admitted to but has yet to enroll at the institution and withdraw an offer of admission to any individual whom the institution subsequently determines to have a criminal history that poses a threat to the institution's community. The bill has a delayed effective date of January 1, 2022.

HB 1936 Robbery; penalties.

Creates degrees of punishment corresponding to the severity of a robbery offense. Any person who commits a robbery and causes serious bodily

injury to or the death of another person is guilty of a Class 2 felony. Any person who commits robbery by using or displaying a firearm 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 by using threat or intimidation or by any other means not involving a deadly weapon is guilty of a Class 6 felony. Under current law, any robbery is punishable by confinement in a state correctional facility for life or any term not less than five years.

HB 1988 Cannabis oil; processing and dispensing by pharmaceutical processors.

Effects numerous changes to the processing and dispensing of cannabis oil by pharmaceutical processors in the Commonwealth. The bill defines the term "designated caregiver facility" and allows any staff member or employee of a designated caregiver facility to assist with the possession, acquisition, delivery, transfer, transportation, and administration of cannabis oil for any patients residing in the designated caregiver facility.

HB 1990 Criminal justice legislation; racial and ethnic impact statements.

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 2012 Protective orders; violations of preliminary child protective order, changes punishment, etc.

Changes the punishment and sentencing requirements for a violation of a preliminary child protective order so that the maximum penalty is a Class 1 misdemeanor and the court is no longer required to enter a permanent family abuse protective order (i.e., a protective order with a maximum duration of two years) upon a conviction of a violation of a preliminary child protective order. The bill provides that a violation of a preliminary child protective order is punishable as contempt of court; however, 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, it is punishable as a Class 1 misdemeanor. Under current law, violations of preliminary child protective orders constitute contempt of court and are also subject to the same penalties as violations of preliminary, emergency, and permanent family abuse protective orders, including enhanced penalties for certain violations. As introduced, this bill was a recommendation of the Virginia Criminal Justice Conference. This bill is identical to SB 1415.

HB 2018 Emergency order for adult protective services; acts of violence, etc., or financial exploitation.

Allows the circuit court, upon a finding that an incapacitated adult has been, within a reasonable period of time, subjected to an act of violence, force, or threat or been subjected to financial exploitation, to include in an emergency order for adult protective services one or more of the following conditions to be imposed on the alleged perpetrator: (i) a prohibition on acts of violence, force, or threat or criminal offenses that may result in injury to person or property; (ii) a prohibition on such other contacts by the alleged perpetrator with the adult or the adult's family or household members as the court deems necessary for the health and safety of such persons; or (iii) such other conditions as the court deems necessary to prevent (a) acts of violence, force, or threat; (b) criminal offenses that may

result in injury to persons or property; (c) communication or other contact of any kind by the alleged perpetrator; or (d) financial exploitation by the alleged perpetrator. The bill provides that any person who violates any such condition is guilty of a Class 1 misdemeanor. Also, the bill provides that hearings on emergency orders for adult protective services shall be held no earlier than 24 hours and no later than 72 hours after the notice required has been given, unless such notice has been waived by the court. Current law just requires such hearing be held no earlier than 24 hours. Lastly, the bill provides that if the court enters an order containing any of the aforementioned conditions, the primary law-enforcement agency providing service and entry of protective orders shall enter the name of the perpetrator into the Virginia Criminal Information Network and the order shall be served forthwith on the perpetrator. This bill is identical to SB 1297.

HB 2038 Probation, revocation, and suspension of sentence; limitations on sentence, technical violation.

Limits the amount of active incarceration a court can impose as a result of a revocation hearing for a probation violation. The bill provides that if the court finds the basis of a violation of the terms and conditions of a suspended sentence or probation is that the defendant was convicted of a criminal offense or violated another condition other than a technical violation, the court may pronounce whatever sentence might have been originally imposed. The bill defines "technical violation" and provides specific limitations on the sentence a court may impose depending on whether the violation is a first, second, or third or subsequent technical violation. The bill also provides that a court may fix the period of probation for up to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned and any period of supervised probation shall not exceed five years from the release of the defendant from any active period of incarceration. The bill also provides

that a court must measure any period of suspension of sentence from the date of entry of the original sentencing order.

HB 2047 Criminal proceedings; consideration of mental condition and intellectual, etc.

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 admissible pursuant to the general rules of evidence. The bill 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 (a) a mental illness, as defined in the bill; (b) an intellectual or developmental disability, as defined in the bill; or (c) an autism spectrum disorder, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association. If a defendant intends to present such evidence, the bill 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 a temporary detention order in such cases if the criteria required under current law for temporary detention orders are met. This bill is identical to SB 1315.

HB 2081 Polling places; prohibited activities, unlawful possession of a firearm, penalty.

Prohibits any person from knowingly possessing a firearm within 40 feet of any building, or part thereof, used as a polling place, including one hour before and one hour after its use as a polling place, except for (i) a qualified law-enforcement officer or retired law-enforcement officer, (ii) any person occupying his own private property that falls within 40 feet of the polling

place, or (iii) a licensed armed security officer whose employment or performance of his duties occurs within 40 feet of the polling place. The bill further provides that no person shall knowingly possess a firearm within 40 feet of a meeting place for the local electoral board while the electoral board meets to ascertain the results of an election or any place used as the setting for a recount. A violation of the provisions of the bill is a Class 1 misdemeanor.

HB 2110 Pretrial data collection; VCSC to collect and disseminate on an annual basis.

Requires the Virginia Criminal Sentencing Commission to collect and disseminate, on an annual basis, statewide and locality-level data related to adults charged with criminal offenses punishable by confinement in jail or a term of imprisonment. The bill provides that any personal or case identifying information within the data shall not be subject to the Virginia Freedom of Information Act and shall not be made publicly available. The bill does not require that the Virginia Criminal Sentencing Commission submit such annual report prior to December 1, 2022. Additionally, the bill requires the Virginia State Crime Commission to provide the Virginia Criminal Sentencing Commission with the final dataset of all adults charged with a criminal offense punishable by confinement in jail or a term of imprisonment in October 2017 and that the Virginia Criminal Sentencing Commission make such statewide and locality-level data publicly available on a website established and maintained by the Virginia Criminal Sentencing Commission as an electronic dataset, excluding any personal and case identifying information, by October 1, 2021, and on an electronic interactive data dashboard tool that displays aggregated data based on characteristics or indicators selected by the user by December 1, 2022. As introduced, this bill was a recommendation of the Virginia State Crime Commission.

HB 2113 Criminal records; sealing of records, Sealing Fee Fund created, penalties, report.

Establishes a process for the automatic sealing of police and court records, defined in the bill, for certain convictions, deferred dispositions, and acquittals and for offenses that have been nolle prossed or otherwise dismissed. The bill also allows a person to petition for the sealing of police

and court records relating to certain convictions. The bill has staggered delayed effective dates in order to develop systems for implementing the provisions of the bill. As introduced, this bill was a recommendation of the Virginia State Crime Commission and is identical to SB 1339.

HB 2128 Firearms; criminal history record information check delay increased to five days.

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.

HB 2132 Homicides and assaults and bodily woundings; certain matters not to constitute defenses.

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, voluntary manslaughter, or assault and bodily wounding-related crimes and is not provocation negating or excluding malice as an element of murder.

HB 2150 Jurisdiction over criminal cases; certification or appeal of charges.

Provides 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, 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. As introduced, this bill was a recommendation of the Virginia Criminal Justice Conference.

HB 2169 Prostitution; reorganizes the statute penalizing into two distinct sections.

Reorganizes the statute penalizing prostitution into two distinct sections. The penalties for all offenses remain unchanged. This bill is a recommendation of the Virginia State Crime Commission.

HB 2194 Communicating threats of death or bodily injury to a person with intent to intimidate; penalty.

Provides that any person 18 years of age or older who communicates 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 is guilty of a Class 5 felony. The bill provides that any person younger than 18 years of age who commits such offense is guilty of a Class 1 misdemeanor. This bill is identical to SB 1113.

HB 2233 Orders of restitution; docketed on behalf of victim, enforcement.

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. The bill provides that at any time before a judgment 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. Similarly, the bill provides that if a judge of the district court orders the circuit court clerk to execute and docket an assignment of the judgment to the victim, the district court clerk shall 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 for 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. This bill is identical to SB 1426.

HB 2236 Behavioral health docket; transfer of supervision.

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. The bill provides that at any time before a judgment 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. Similarly, the bill provides that if a judge of the district court orders the circuit court clerk to execute and docket an assignment of the judgment to the victim, the district court clerk shall 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 for 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. This bill is identical to SB 1426.

HB 2263 Death penalty; abolition of current penalty.

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. The bill incorporates HB 1779 and is identical to SB 1165.

HB 2284 Driving privileges, certain; Commissioner of DMV to reinstate privileges and waive fees.

Directs the Commissioner of the Department of Motor Vehicles to reinstate driving privileges, and to waive fees related to the reinstatement, for individuals whose privileges were suspended prior to July 1, 2019, for failure to pay court fines and costs in other jurisdictions.

HB 2290 Larceny; repeals punishment for conviction of second or subsequent misdemeanor.

Repeals the enhanced penalties for a second or subsequent misdemeanor larceny conviction. Under current law, 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, or any subsequent offense, he shall be guilty of a Class 6 felony.

HB 2295 Firearm; carrying within Capitol Square and the surrounding area, state-owned bldgs.

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 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. This bill is identical to SB 1381.

HB 2300 Hospitals; emergency treatment for substance use-related emergencies.

Requires each hospital with an emergency department that is currently regulated by the State Board of Health (the Board) to establish a protocol for treatment and discharge of individuals experiencing a substance use-related emergency, which shall include provisions for (i) appropriate screening and assessment of individuals experiencing substance use-related emergencies and (ii) recommendations for follow-up care, which may include dispensing of naloxone or other opioid antagonist used for overdose reversal, issuance of a prescription for naloxone, and information about accessing naloxone at a community pharmacy or organization that

dispenses naloxone or other opioid antagonist to persons without a prescription. Such protocols may also include referrals to peer recovery specialists and community-based providers of behavioral health services or providers of pharmacotherapy for the treatment of drug or alcohol dependence or mental health diagnoses. The bill also directs the Department of Health Professions, together with the Department of Health, to convene a work group to develop recommendations for best practices for the treatment and discharging of patients in emergency departments experiencing opioid-related emergencies, including overdose, which shall include recommendations for best practices related to (a) performing substance use assessments and screenings for patients experiencing opioid-related overdose and other high-risk patients; (b) prescribing and dispensing naloxone or other opioid antagonists used for overdose reversal; (c) connecting patients treated for opioid-related emergencies, including overdose, and their families with community substance abuse resources, including existing harm reduction programs and other treatment providers; and (d) identifying barriers to and developing solutions to increase the availability and dispensing of naloxone or other opioid antagonist used for overdose reversal at hospitals and community pharmacies and by other community organizations. The bill also provides that hospitals in the Commonwealth may enter into agreements with the Department of Health for the provision to uninsured patients of naloxone or other opioid antagonist used for overdose reversal.

HB 2310 Concealed handgun permits; demonstration of competence.

Provides that any applicant for a concealed handgun permit who completed an online course to demonstrate competence with a handgun and contacted the circuit court clerk's office prior to January 1, 2021, but was prohibited from appearing in person at a circuit court clerk's office because of COVID-19 restrictions is eligible to apply for such permit through April 30, 2021.

HB 2312 Marijuana; legalization of simple possession, etc.

Eliminates criminal penalties for simple possession of up to one ounce of marijuana by persons 21 years of age or older, modifies several other criminal penalties related to marijuana, and imposes limits on dissemination of criminal history record information related to certain marijuana offenses. The bill creates the Virginia Cannabis Control Authority (the Authority), the Cannabis Oversight Commission, the Cannabis Public Health Advisory Council, the Cannabis Equity Reinvestment Board and Fund, and the Virginia Cannabis Equity Business Loan Program and Fund and establishes a regulatory and licensing structure for the cultivation, manufacture, wholesale, and retail sale of retail marijuana and retail marijuana products, to be administered by the Authority. The bill contains social equity provisions that, among other things, provide support and resources to persons and communities that have been historically and disproportionately affected by drug enforcement. The bill has staggered effective dates, and numerous provisions of the bill are subject to reenactment by the 2022 Session of the General Assembly. This bill incorporates HB 1815 and is identical to SB 1406.

Senate Bills

SB 1113 Communicating threats of death or bodily injury to a person with intent to intimidate; penalty.

Identical to HB 2194

SB 1119 Law-enforcement agencies; body-worn camera systems.

Creates a special nonreverting fund to be known as the Body-Worn Camera System Fund to assist state or local law-enforcement agencies with the costs of purchasing, operating, and maintaining body-worn camera systems. The bill has an expiration date of July 1, 2023.

SB 1122 Habitual offenders; repeals remaining provisions of Habitual Offender Act.

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.

SB 1138 Sexually transmitted infections; infected sexual battery, penalty.

Provides 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 infected sexual battery, punishable as a Class 6 felony. The bill also repeals the crime of donating or selling blood, body fluids, organs, and tissues by persons infected with human immunodeficiency virus and the provisions regarding the testing of certain persons for human immunodeficiency virus or hepatitis B or C viruses. The bill contains technical amendments.

SB 1165 Death penalty; abolition of current penalty.

See HB 2263.

SB 1242 Personal appearance by two-way electronic video and audio communication; entry of plea

Provides that with the consent of the court and all parties, an appearance in a court may be made by two-way electronic video and audio communication for the purpose of (i) entry of a plea of guilty or nolo contendere and the related sentencing of the defendant charged with a misdemeanor or felony, (ii) entry of a nolle prosequi or dismissal, or (iii) a revocation proceeding. As introduced, this bill was a recommendation of the Judicial Council of Virginia and the Committee on District Courts.

SB 1266 Admission to bail; rebuttable presumptions against bail.

Eliminates provisions regarding the rebuttable presumptions against being admitted to bail. The bill also provides that in making a bail determination, a judicial officer shall consider all relevant information, including a number of factors specified in the bill.

SB 1297 Emergency order for adult protective services; acts of violence, etc., or financial exploitation.

See HB 1218

SB 1300 Inmates; Board of Local and Regional Jails to review services provided during pregnancy, etc.

Directs the Board of Local and Regional Jails (the Board), in consultation with a stakeholder work group, to (i) identify and analyze all obstetric and gynecological services and any other services provided by local and regional jails to inmates during pregnancy, pregnancy termination, labor and delivery, and postpartum recovery; (ii) compare such services to best practices recommended by the American Correctional Association, American Jail Association, National Commission on Correctional Health Care, and American College of Obstetricians and Gynecologists; and (iii)

develop recommendations to ensure that proper services are provided to inmates during pregnancy, pregnancy termination, labor and delivery, and postpartum recovery. The bill directs the Board to (a) post its findings and recommendations on its website and report such findings and recommendations to the Secretary of Public Safety and Homeland Security and the Chairmen of the Senate Committee on the Judiciary, Senate Committee on Rehabilitation and Social Services, House Committee for Courts of Justice, and House Committee on Public Safety by July 1, 2022, and (b) adopt regulations consistent with its findings and recommendations.

SB 1315 Criminal proceedings; consideration of mental condition and intellectual, etc.

See HB 2047

SB 1329 Summons; promises to appear after issuance.

Provides that if any person refuses to give a written promise to appear, the arresting officer shall give such person notice of the time and place of the hearing, note such person's refusal to give his written promise to appear on the summons, and forthwith release him from custody. Under current law, any person refusing to give such written promise to appear is required to be taken immediately by the arresting officer before a magistrate or other issuing officer having jurisdiction.

SB 1336 Ignition interlock systems; restricted permits to operate a motor vehicle.

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 1339 Criminal records; sealing of records, Sealing Fee Fund created, penalties, report.

See HB 2113.

SB 1381 Firearm; carrying within Capitol Square and the surrounding area, state-owned bldgs.

See HB 2295.

SB 1391 Pretrial data collection; VCSC to collect and disseminate on an annual basis.

See HB 2110.

SB 1397 Parole and conditional release; notice by electronic means and certification.

Provides that the Department of Corrections shall set the release date for an inmate granted discretionary parole or conditional release no sooner than 30 business days from the date that the Department of Corrections receives notification from the Chairman of the Parole Board of the Board's decision to grant discretionary parole or conditional release, except that the Department of Corrections may set an earlier release date in the case of a terminally ill inmate granted conditional release. The bill provides that in the case of an inmate granted parole who was convicted of a felony and

sentenced to a term of 10 or more years, or an inmate granted conditional release, the Board shall notify the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced (i) by electronic means at least 21 business days prior to such inmate's release that such inmate has been granted discretionary parole or conditional release or (ii) by telephone or other electronic means prior to release that a terminally ill inmate has been granted conditional release where death is imminent.

SB 1406 Marijuana; legalization of simple possession, etc.

See HB 2312

SB 1412 Pet shops, dealers, and dog breeders; employees convicted of animal abuse, penalty.

Prohibits any person from serving as an owner, director, officer, manager, operator, member of staff, or animal caregiver for a pet shop, dealer, or commercial dog breeder if such person has been convicted of animal cruelty. The bill prohibits pet shops from selling or giving for adoption a dog without first obtaining a signed statement from the purchaser or adopter that such person has never been convicted of animal cruelty. A violation of any such requirement is a Class 1 misdemeanor.

SB 1415 Protective orders; violations of preliminary child protective order, changes punishment, etc.

Changes the punishment and sentencing requirements for a violation of a preliminary child protective order so that the maximum penalty is a Class 1 misdemeanor and the court is no longer required to enter a permanent family abuse protective order (i.e., a protective order with a maximum duration of two years) upon a conviction of a violation of a preliminary child protective order. The bill provides that a violation of a preliminary child protective order is punishable as contempt of court; however, 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, it is punishable as a Class 1 misdemeanor. Under current law, violations of preliminary child protective orders constitute contempt of court and are also subject to the same penalties as violations of preliminary,

emergency, and permanent family abuse protective orders, including enhanced penalties for certain violations. As introduced, this bill was a recommendation of the Virginia Criminal Justice Conference.

SB 1426 Orders of restitution; docketed on behalf of victim, enforcement.

See HB 2233

SB 1431 Unrestorably incompetent defendant; competency report.

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. Under current law, the defendant is required to undergo treatment to restore his competency before the court can find a defendant unrestorably incompetent to stand trial.

SB 1456 Juveniles; eligibility for commitment to the Department of Juvenile Justice.

Provides that a juvenile may be committed to the Department of Juvenile Justice (the Department) only if he (i) is adjudicated delinquent of a violent juvenile felony and is 11 years of age or older or (ii) is 14 years of age or older. The bill provides that no juvenile younger than 11 years of age may be detained in a secure facility prior to an order of final disposition unless he is alleged to have committed a violent juvenile felony; in such case, the juvenile may only be detained in an approved foster home, a facility operated by a licensed child welfare agency, or another suitable place designated by the court and approved by the Department, but under no circumstances shall such juvenile be detained in a secure detention facility.

SB 1464 Drug Control Act; adds certain chemicals to Schedule I of Act.

Adds certain chemicals to Schedule I of the Drug Control Act. The Board of Pharmacy has added these substances to Schedule I in an expedited regulatory process. A substance added via this process is removed from the schedule after 18 months unless a general law is enacted adding the substance to the schedule.

SB 1475 Search warrants; date and time of issuance, exceptions.

Provides that a search warrant for the search of any place of abode shall be executed by initial entry of the abode 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 such search 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. The bill also provides 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 p.m., in which case the law-enforcement officer may seek such authorization from a magistrate without first making reasonable efforts to locate a judge. The bill contains an emergency clause.