

# **VIRGINIA BEACH BAR ASSOCIATION**

## **LEGISLATIVE UPDATE**

July 30, 2020

2:00 p.m. to 5:00 p.m.

Virginia Museum of Contemporary Art

2200 Parks Avenue

Virginia Beach, VA 23451

and Via Zoom Webcast

**DISCLAIMER:** The speakers who present at this CLE have graciously agreed to prepare and present material at this CLE session. The views expressed by them are entirely their own, and are not necessarily those of the Virginia Beach Bar Association. The Virginia Beach Bar Association's decision to allow these speakers to present at a CLE session does not constitute an endorsement or recommendation of them by the Virginia Beach Bar Association.

# **VIRGINIA BEACH BAR ASSOCIATION**

## **LEGISLATIVE UPDATE**

**JULY 30, 2020 3:00 P.M. TO 5:00 P.M.**

**VIRGINIA MUSEUM OF CONTEMPORARY ART  
2200 PARKS AVENUE, VIRGINIA BEACH, VA 23451  
AND VIA ZOOM**

Presented By:

Delegate Joseph C. Lindsey – 90<sup>th</sup> District  
Principal of Joseph Lindsey PC

Delegate Jason S. Miyares – 85<sup>th</sup> District  
Partner, Hanger Law

Delegate Jay Jones – 89<sup>th</sup> District  
Partner, Bischoff Martingayle PC

Hon. Gregory D. Habeeb, former Delegate – 8<sup>th</sup> District  
Partner, Gentry Locke

# Virginia Mandatory Continuing Legal Education

Virginia State Bar

1111 East Main Street, Suite 700

Richmond, VA 23219-0026

(804) 775-0577

[www.vsb.org](http://www.vsb.org)

June 15, 2020

Via E-mail

Mitchell D. Broudy  
Virginia Beach Bar Association  
1206 Laskin Road Ste 101  
Virginia Beach, VA 23451

RE: VIHH002

Dear Mitchell Broudy:

The course titled "Virginia Beach Bar Association's Legislative Update" has been approved for 2.0 credit hours including (0.0) credit hours for Ethics by the Virginia Mandatory Continuing Legal Education Board.

Accreditation of this program is approved through October 31, 2020. Enclosed are the applicable certification forms for your course. Virginia attorneys may certify their attendance at our website upon receipt of this form and the course ID# may not be provided without it. Course attendance lists are not processed as certification of attendance.

Any recording of this program for future presentation by any delivery means requires a separate application.

Please contact the MCLE Department if you have any questions.

Sincerely,



Demetrios J. Melis

Director of Regulatory Compliance

# Virginia MCLE Board

## CERTIFICATION OF ATTENDANCE (FORM 2)

MCLE requirement pursuant to Paragraph 17, of Section IV, Part Six, Rules of the Supreme Court of Virginia and the MCLE Board Regulations.

Certify Your Attendance Online at [www.vsb.org](http://www.vsb.org)

MCLE Compliance Deadline - October 31. MCLE Reporting Deadline - December 15.

A \$100 fee will be assessed for failure to comply with either deadline.

Member Name: \_\_\_\_\_ VSB Member Number: \_\_\_\_\_  
Address: \_\_\_\_\_ Daytime Phone: \_\_\_\_\_  
\_\_\_\_\_ Email: \_\_\_\_\_  
\_\_\_\_\_ City State Zip

Course ID Number: VIHH002

Sponsor: Virginia Beach Bar Association

Course/Program Title: Virginia Beach Bar Association's Legislative Update

Live Interactive \* CLE Credits (Ethics Credits): 2.0 (0.0)

Date Completed: \_\_\_\_\_ Location: \_\_\_\_\_

### By my signature below I certify

- \_\_\_\_ I attended a total of \_\_\_\_\_ (hrs/mins) of **approved CLE**, of which (\_\_\_\_\_) (hrs/mins) were in **approved Ethics**.  
Credit is awarded for actual time in attendance (0.5 hr. minimum) rounded to the nearest half hour. (Example: 1hr 15min = 1.5hr)  
\_\_\_\_ The sessions I am claiming had written instructional materials to cover the subject.  
\_\_\_\_ I participated in this program in a setting physically suitable to the course.  
\_\_\_\_ I was given the opportunity to participate in discussions with other attendees and/or the presenter.  
\_\_\_\_ I understand I may not receive credit for any course/segment which is not materially different in substance than a course/segment for which credit has been previously given during the same completion period or the completion period immediately prior.  
\_\_\_\_ I understand that a materially false statement shall be subject to appropriate disciplinary action.

\* NOTE: A maximum of 8.0 hours from pre-recorded courses may be applied to meet your yearly MCLE requirement. Minimum of 4.0 hours from live interactive courses required.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

This form may be mailed to:  
Virginia MCLE Board  
Virginia State Bar  
1111 East Main Street, Suite 700  
Richmond, VA 23219-0026  
(804) 775-0577  
[www.vsb.org](http://www.vsb.org)

# Virginia MCLE Board

## CERTIFICATION OF TEACHING (FORM 3)

MCLE requirement pursuant to Paragraph 17, of Section IV, Part Six, Rules of the Supreme Court of Virginia  
and the MCLE Board Regulations.

Email this form to [mymcle@vsb.org](mailto:mymcle@vsb.org)

MCLE Compliance Deadline - October 31. MCLE Reporting Deadline - December 15.  
A \$100 fee will be assessed for failure to comply with either deadline.

Member Name: \_\_\_\_\_ VSB Member Number: \_\_\_\_\_  
Address: \_\_\_\_\_ Daytime Phone: \_\_\_\_\_  
\_\_\_\_\_  
Email: \_\_\_\_\_  
\_\_\_\_\_  
City State Zip

Course ID Number: VIHH002

Sponsor: Virginia Beach Bar Association

Course/Program Title: Virginia Beach Bar Association's Legislative Update

Live Interactive \* CLE Credits (Ethics Credits): 2.0 (0.0)

Date(s) of Teaching: \_\_\_\_\_ Location(s): \_\_\_\_\_

ONLY SESSIONS WITH WRITTEN INSTRUCTIONAL MATERIALS ARE APPROVABLE FOR CREDIT

- My teaching segment was \_\_\_\_\_ (hrs/mins) of CLE, of which (\_\_\_\_\_) (hrs/mins) were in Ethics.
- In addition, I attended *other* segments totaling \_\_\_\_\_ (hrs/mins) of CLE, of which (\_\_\_\_\_) (hrs/mins) were in Ethics.
- I spent \_\_\_\_\_ hours preparing for teaching my segment of the course.
- No more than four (4) hours of preparation credit may be claimed per one hour of instructional time in your presentation, and no more than eight (8) hours total for any one course. Total credit is awarded for actual time spent teaching, attendance and preparation rounded to the nearest half hour. (Example: 1hr 15min = 1.5hr)
- A materially false statement shall be subject to appropriate disciplinary action.

\* NOTE: A maximum of 8.0 hours from pre-recorded courses may be applied to meet your yearly MCLE requirement. Minimum of 4.0 hours from live interactive courses required.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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# Virginia Mandatory Continuing Legal Education

Virginia State Bar  
1111 East Main Street, Suite 700  
Richmond, VA 23219-0026  
(804) 775-0577  
[www.vsb.org](http://www.vsb.org)

June 15, 2020

Via E-mail

Mitchell D. Broudy  
Virginia Beach Bar Association  
1206 Laskin Road Ste 101  
Virginia Beach, VA 23451

RE: VIH003

Dear Mitchell Broudy:

The webcast course titled "Virginia Beach Bar Association's Legislative Update" has been approved for 2.0 credit hours including (0.0) credit hours for Ethics by the Virginia Mandatory Continuing Legal Education Board.

Accreditation of this program is approved through October 31, 2020. Enclosed are the applicable certification forms for your course. These forms must be made available to Virginia attorneys completing the course once you have verified their attendance. The course ID number may not be provided without this form. Virginia attorneys may certify their attendance online at our website.

Any recording of this program for future presentation by any delivery means requires a separate application.

Please contact the MCLE Department if you have any questions.

Sincerely,



Demetrios J. Melis  
Director of Regulatory Compliance

# Virginia MCLE Board

## CERTIFICATION OF ATTENDANCE (FORM 2D)

MCLE requirement pursuant to Paragraph 17, of Section IV, Part Six, Rules of the Supreme Court of Virginia  
and the MCLE Board Regulations.

Certify Your Attendance Online at [www.vsb.org](http://www.vsb.org)

MCLE Compliance Deadline - October 31. MCLE Reporting Deadline - December 15.

A \$100 fee will be assessed for failure to comply with either deadline.

Member Name: \_\_\_\_\_ VSB Member Number: \_\_\_\_\_  
Address: \_\_\_\_\_ Daytime Phone: \_\_\_\_\_  
\_\_\_\_\_  
Email: \_\_\_\_\_  
\_\_\_\_\_  
City State Zip

Course ID Number: VIHH003

Sponsor: Virginia Beach Bar Association

Course/Program Title: Virginia Beach Bar Association's Legislative Update

Live Interactive \* Approved CLE Credits (Ethics Credits): 2.0 (0.0)

Date of telephone/webcast: \_\_\_\_\_ Location(s): \_\_\_\_\_

### By my signature below I certify

- \_\_\_\_ I attended a total of \_\_\_\_\_ (hrs/mins) of **approved CLE**, of which (\_\_\_\_) (hrs/mins) were in **approved Ethics**.  
Credit is awarded for actual time in attendance (0.5 hr. minimum) rounded to the nearest half hour. (Example: 1hr 15min = 1.5hr)  
\_\_\_\_ The sessions I am claiming had written instructional materials to cover the subject.  
\_\_\_\_ I participated in this program in a setting physically suitable to the course.  
\_\_\_\_ I was given the opportunity to interact with the presenter (in real time if live interactive or other method if pre-recorded).  
\_\_\_\_ I understand I may not receive credit for any course/segment which is not materially different in substance than a course/segment  
for which credit has been previously given during the same completion period or the completion period immediately prior.  
\_\_\_\_ I understand that a materially false statement shall be subject to appropriate disciplinary action.

\* NOTE: A maximum of 8.0 hours from pre-recorded courses may be applied to meet your yearly MCLE requirement. Minimum of 4.0  
hours from live interactive courses required.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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Virginia MCLE Board  
Virginia State Bar  
1111 East Main Street, Suite 700  
Richmond, VA 23219-0026  
(804) 775-0577  
[www.vsb.org](http://www.vsb.org)

# Virginia MCLE Board

## CERTIFICATION OF TEACHING (FORM 3)

MCLE requirement pursuant to Paragraph 17, of Section IV, Part Six, Rules of the Supreme Court of Virginia  
and the MCLE Board Regulations.

Email this form to [mymcle@vsb.org](mailto:mymcle@vsb.org)

MCLE Compliance Deadline - October 31. MCLE Reporting Deadline - December 15.  
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Address: \_\_\_\_\_ Daytime Phone: \_\_\_\_\_  
\_\_\_\_\_  
Email: \_\_\_\_\_  
\_\_\_\_\_  
City State Zip

Course ID Number: VIHH003

Sponsor: Virginia Beach Bar Association

Course/Program Title: Virginia Beach Bar Association's Legislative Update

Live Interactive \* Approved CLE Credits (Ethics Credits): 2.0 (0.0)

Date(s) of Teaching: \_\_\_\_\_ Location(s): \_\_\_\_\_

ONLY SESSIONS WITH WRITTEN INSTRUCTIONAL MATERIALS ARE APPROVABLE FOR CREDIT

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\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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2020  
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TION

VIRGINIA TRIAL LAWYERS ASSOCIATION

**VIRTUAL**  
~~ANNUAL~~  
**CONVENTION**

MARCH 26–27, 2020

JOIN US  
FOR THE  
ONLINE  
CONVENTION!

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## 5. Legislative Update

**Mark D. Dix, Esq.**

*Commonwealth Law Group, PLLC*

3311 W. Broad St.

Richmond VA 23230

Phone: 804-999-9999

Email: [mdix@vtla.com](mailto:mdix@vtla.com)

Website: <http://www.hurtinva.com/>

With:

**The Hon. John S. Edwards**, 21<sup>st</sup> District

**The Hon. Jeffrey Bourne**, 71<sup>st</sup> District

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# 2020 Bills of Interest

Passed or Considered  
by the  
2020 Session  
of the  
General Assembly of Virginia



## **Virginia Trial Lawyers Association's 2020 Bills of Interest**

Tort Law .....	page 2
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Domestic Relations / Family Law .....	page 54
General Practice .....	page 60
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Employment.....	page 65
Product Liability .....	page 73

The final disposition of the bills are presumed accurate as of March 15, 2020.  
If you have a question regarding the status of legislative action of the  
2020 Acts of the General Assembly, please visit <http://leg1.state.va.us/lis.htm>.

## 2020 VT LA BILLS OF INTEREST

### TORT LAW

– PASSED –

**[HB 651](#) Recoupment.** Specifies what actions qualify for statutory recoupment to include all defenses arising out of the transaction, whether such defenses are in law or equity.

**[HB 764](#) Domesticated animal premises; liability for transmission of domesticated animal pathogen.** Provides that no owner or operator of a domesticated animal premises, defined in the bill, shall be liable for damages arising from a claim by a person visiting such premises alleging injury or death caused by a domesticated animal pathogen if the owner or operator took reasonable precautions to prevent the transmission of such pathogen. The bill also requires the posting of a warning sign and the provision of a hand-washing station at the premises and provides that liability may arise if the person proves that no warning sign was posted or hand-washing station provided as required. The provision of the bill protecting the owner or operator from liability shall not apply if the transmission of the pathogen was due to the owner's or operator's gross negligence, willful and wanton conduct, or intentional act.

**[HB 781](#) Accrual of cause of action; diagnoses of nonmalignant and malignant asbestos-related injury.** Provides that a diagnosis of a nonmalignant asbestos-related injury or disease shall not accrue an action based upon the subsequent diagnosis of a malignant asbestos-related injury or disease and that such subsequent diagnosis shall constitute a separate injury that shall accrue an action when such diagnosis is first communicated to the

person or his agent by a physician. The bill is intended to reverse *Kiser v. A.W. Chesteron*, 285 Va. 12 (2013). This bill is identical to [SB 661](#).

**[HB 792](#) Appeals of right in general district court; order or judgment altering prior final orders.** Provides that there shall be an appeal of right to a court of record from any order entered or judgment rendered in a general district court that alters, amends, overturns, or vacates any prior final order. The bill further provides that, if any party timely notices such an appeal, such notice of appeal shall be deemed a timely noticed of appeal by any other party on a final order or judgment entered in the same or a related action arising from the same conduct, transaction, or occurrence as the underlying action. As introduced, the bill was a recommendation of the Boyd-Graves Conference. This bill is identical to [SB 545](#).

**[HB 819](#) Real estate settlements; kickbacks and other payments; remedies; penalties.** Relocates from Chapter 9 (Real Estate Settlements) to Chapter 10 (Real Estate Settlement Agents) within Title 55.1 the existing provision that prohibits persons from paying or receiving a kickback, rebate, commission, thing of value, or other payment pursuant to an agreement to refer business incident to a settlement. This relocation authorizes the State Corporation Commission to impose penalties, issue injunctions, and require restitution in cases where a person who does not hold a license from the appropriate licensing authority has violated the provision. The measure also adds to Chapter 10 of Title 55.1 provisions that (i) authorize a court to assess civil penalties of not more than \$5,000 per violation of the chapter and (ii) authorize the recovery of costs

and reasonable expenses and attorney fees.  
acts

**[HB 870](#) Statute of limitations; sexual abuse.**

Provides that, for a cause of action accruing on or after July 1, 2020, every action for injury to the person resulting from sexual abuse shall be brought within 10 years after the cause of action accrues. This bill does not change the current 20-year statute of limitations for actions for injury to the person resulting from sexual abuse that occurred during the infancy or incapacity of such person.

**[HB 874](#) Handheld personal communications devices; holding devices while driving a motor vehicle.**

Prohibits any person from holding a handheld personal communications device while driving a motor vehicle. Current law prohibits (i) the reading of any email or text message and manually entering letters or text in such a device as a means of communicating and (ii) holding a personal communications device while driving in a work zone. The bill expands the exemptions to include handheld personal communications devices that are being held and used (a) as an amateur radio or a citizens band radio or (b) for official Department of Transportation or traffic incident management services. The bill has a delayed effective date of January 1, 2021. This bill is identical to [SB 160](#).

**[HB 1066](#) Signals; overtaking vehicle.** Removes the requirement that the driver of an overtaking vehicle use his lights or an audible method to signal to the driver of a slower vehicle to move to the right. The bill does not change the requirement that the slower-moving vehicle move to the right for an overtaking vehicle.

**[HB 1226](#) Collection of debts by hospitals affiliated with public institutions of higher education.** Prohibits the Virginia Commonwealth University Health System

Authority and the University of Virginia Medical Center from participating in debt collection efforts pursuant to the Virginia Debt Collection Act or the Setoff Debt Collection Act unless all reasonable efforts have been made to determine if the individual with delinquent debt is eligible for financial assistance. The bill requires both hospitals to develop debt collection policies that adhere, at a minimum, to Internal Revenue Service policies regarding financial assistance by tax-exempt hospitals as they were in effect on January 1, 2020.

**[HB 1359](#) Jurisdiction of civil claims; amending amount of claim; concurrent jurisdiction.**

Provides that, while a matter is pending in a circuit court, upon motion of the plaintiff seeking to decrease the amount of the claim to within exclusive or concurrent jurisdiction of the general district court, the circuit court shall order transfer of the matter to the general district court having jurisdiction over the claim without requiring a dismissal of the claim or a nonsuit. The bill provides that the tolling of the applicable statutes of limitations governing the pending matter shall be unaffected by the transfer. The bill further provides that, except for good cause shown, no such order of transfer shall issue unless the motion to amend and transfer is made at least 10 days before trial and requires that the plaintiff shall pay filing and other fees to the clerk of the court to which the case is transferred, prepare and present the order of transfer to the transferring court for entry, and provide a certified copy of the transfer order to the receiving court.

**[HB 1378](#) Signature defects on pleadings, motions, and other papers.** Clarifies that any pleading, motion, or other paper that is not properly signed is defective and voidable. The bill further provides that failure to timely raise signature defects waives any challenge based on such a defect, and that a signature defect shall be cured within 21 days after it is brought

to the attention of the pleader or movant, or the pleading, motion, or other paper that contains the signature defect shall be stricken. This bill is identical to [SB 229](#).

[HB 1705](#) **Pedestrians; drivers to stop when yielding the right-of-way.** Clarifies the duties of vehicle drivers to stop when yielding to pedestrians at (i) clearly marked crosswalks, whether at midblock or at the end of any block; (ii) any regular pedestrian crossing included in the prolongation of the lateral boundary lines of the adjacent sidewalk at the end of a block; or (iii) any intersection when the driver is approaching on a highway where the maximum speed limit is not more than 35 miles per hour. The bill contains technical amendments.

[SB 24](#) **Agritourism activities; adds horseback riding or stabling to definition.** Adds horseback riding to the definition of "agritourism activity." Agritourism activities have limited liability for the inherent risks of the activity under certain conditions.

[SB 401](#) **Immunity of persons at public hearing; attorney fees; costs.** Allows for the award of reasonable attorney fees and costs to any person who has a subpoena against him quashed in an action for statements made at a public hearing before the governing body of a locality or other local entity when he is immune from liability for such statements. Current law provides for the award of attorney fees and costs upon the dismissal of such an action.

[SB 408](#) **Appeal from district court; civil cases; notice of docketing.** Provides that the clerk of the appellate court to which an order of protection is appealed shall have the parties served with notice of the appeal stating the date and time of the hearing and that such a hearing shall not take place unless the appellee has been served or has waived service.

[SB 437](#) **Bicyclists and other vulnerable road users; penalty.** Provides that a person who

operates a motor vehicle in a careless or distracted manner and is the proximate cause of serious physical injury to a vulnerable road user, defined in the bill as a pedestrian or a person operating a bicycle, electric wheel chair, electric bicycle, wheelchair, skateboard, skates, motorized skateboard or scooter, or animal-drawn vehicle or riding an animal, is guilty of a Class 1 misdemeanor. The bill also prohibits the driver of a motor vehicle from crossing into a bicycle lane to pass or attempt to pass another vehicle, except in certain circumstances.

[SB 545](#) **Appeals of right in general district court; order or judgment altering prior final orders.** Provides that there shall be an appeal of right to a court of record from any order entered or judgment rendered in a general district court that alters, amends, overturns, or vacates any prior final order. The bill further provides that, if any party timely notices such an appeal, such notice of appeal shall be deemed a timely noticed of appeal by any other party on a final order or judgment entered in the same or a related action arising from the same conduct, transaction, or occurrence as the underlying action. This bill is identical to [HB 792](#).

[SB 658](#) **Contracts with design professionals; provisions requiring a duty to defend void.** Provides that any provision contained in any contract relating to the planning or design of a building, structure, or appurtenance thereto, including moving, demolition, or excavation connected therewith, or any provision contained in any contract relating to the planning or design of construction projects by which any party purports to impose a duty to defend on any other party to the contract, is against public policy and is void and unenforceable.

[SB 693](#) **Common-law defense of intra-family immunity; abolished in certain cases.** Abolishes the common-law defense of intra-family

immunity for wrongful death actions that accrue on or after July 1, 2020.

**SB 752 Virginia Fraud Against Taxpayers Act; illegal gambling device.** Adds possession of an illegal gambling device and knowingly concealing, avoiding, or decreasing an obligation to pay or transmit money to the Commonwealth that is derived from the operation of such device to the list of violations for which a civil penalty may be assessed against a person who is found to have committed any such violation.

**SB 771 Interlocutory appeals; immunity.** Provides that, when the circuit court has entered in any pending civil action an order or decree that is not otherwise appealable, a party may file in such court a motion requesting that the court certify such order or decree for interlocutory appeal. The bill further provides that if such certification is opposed by any party the parties may brief the motion. Within 15 days of the entry of an order granting such certification, a petition for appeal may be filed with the appellate court having jurisdiction from a final judgment in the proceeding. Current law specifies that such petition must be filed within 10 days of such certification. The bill further provides that when, prior to the commencement of trial, the circuit court has entered an order granting or denying a plea of sovereign, absolute, or qualified immunity that, if granted, would immunize the movant from compulsory participation in the proceeding, the order is eligible for immediate appellate review. The bill specifies that any person aggrieved by such order may file a petition for review with the appropriate appellate court. The bill provides that the failure of a party to seek interlocutory review shall not preclude review of the issue on appeal from a final order and that an order denying such review shall not preclude review of the issue on appeal from a final order.

## TORT LAW

### – CARRIED OVER –

**HB 610 Limitations period; previously time-barred actions; sexual abuse; two-year time period to file.** Creates a two-year time period, on or after July 1, 2020, but before July 1, 2022, within which persons previously time-barred from filing an action for injury to such person for sexual abuse occurring during the infancy or incapacity of such person due to the expiration of the statute of limitations may file such an action.

**SB 285 Intentional or negligent infliction of injury or death; bystander claims for emotional distress.** Provides that a bystander who witnesses, live and in-person, an event during which the intentional or negligent infliction of injury to or death of a victim occurs may recover damages for resulting emotional distress, proven by a preponderance of the evidence, with or without a physical impact or physical injury to the bystander, if (i) the bystander is related to the victim or (ii) although not related to the victim, the bystander is in close proximity to the victim at the time the event occurs and is aware that such event is causing injury to or the death of the victim.

**SB 641 Civil action; sale of personal data.** Requires a person that disseminates, obtains, maintains, or collects personal data about a consumer for a fee to implement security practices to protect the confidentiality of a consumer's personal data, obtain express consent of a parent of a minor before selling the personal data of such minor, provide access to consumers to their own personal data that is held by the entity, refrain from maintaining or selling data that it knows to be inaccurate, and provide a means by which a consumer can opt out of the sale of his personal data. The bill



provides that a violation could result in a civil penalty of up to \$7,500 or damages to be awarded to a consumer. The bill also provides for the award of attorney fees and costs.

**SB 780 Campgrounds; inherent risks, liability.**

Provides that a person who goes camping at a campground shall be presumed to have known the inherent risks of camping, which is defined in the bill. The bill states that a campground, an owner or operator of a campground, and any employee or officer of a campground shall be immune from civil liability for acts or omissions related to camping at a campground if a person is injured or killed, or the property of an individual or group is damaged, as a result of the inherent risks of camping. An owner or operator of a campground, and any employee or officer of a campground, may be held civilly liable under this section if the person or agents of the campground seeking immunity intentionally cause injury, death, or property damage; act with a willful or wanton disregard for the safety of others or the property of others; or fail to conspicuously post warning signs of a dangerous inconspicuous condition known on the property if the owner of the campground is aware of the condition by reason of a prior injury involving the same location or the same mechanism of injury.

**SB 1060 For good cause shown or upon agreement of all parties, court may dismiss action without prejudice.** Provides that, for good cause shown or upon agreement of all parties, the court may dismiss an action without prejudice and the plaintiff may recommence such action within the original period of limitation.

## TORT LAW

### – FAILED –

**HB 16 Safety belt system; all occupants of motor vehicles to utilize.** Requires all occupants of motor vehicles to utilize a safety belt system. Current law requires the use of safety belts only by (i) occupants under the age of 18, (ii) drivers, and (iii) passengers 18 years of age or older occupying the front seat. The bill changes a violation of safety belt system requirements by a person occupying a front seat from a secondary offense to a primary offense. This bill was incorporated into [HB 1414](#).

**HB 616 Vehicle headlights; required to be lighted.** Requires every vehicle in operation to display lighted headlights. Currently headlights are required to be lighted only (i) from sunset to sunrise; (ii) during any other time when, because of rain, smoke, fog, snow, sleet, insufficient light, or other unfavorable atmospheric conditions, visibility is reduced to a degree whereby persons or vehicles on the highway are not clearly discernible at a distance of 500 feet; and (iii) whenever windshield wipers are in use as a result of fog, rain, sleet, or snow. The bill removes provisions making the failure to display lighted headlights when windshield wipers are in use as a result of fog, rain, sleet, or snow (a) a secondary offense, (b) subject to no demerit points being assessed, and (c) not a defense to any claim for personal injury or recovery of medical expenses for injuries sustained in a motor vehicle accident.

**HB 628 Sanctions; improper purpose; claims filed in retaliation for certain actions.** Provides that, for the purpose of awarding sanctions, improper purpose includes certain claims filed in retaliation for or in order to discourage actions taken by victims of violence to obtain an order of protection or criminal charges based on such conduct.



**[HB 759](#) Strategic lawsuits against public participation; special motion to dismiss; stay of discovery.** Establishes a procedure by which a party alleging that a claim filed against him is a strategic lawsuit against public participation (SLAPP), as defined in the bill, may file a special motion to dismiss. The bill provides that the filing of such a special motion to dismiss shall stay discovery proceedings related to the claim, pending the entry of an order adjudicating the special motion to dismiss. The bill provides that a court shall award reasonable expenses related to a special motion to dismiss, including attorney fees and costs, if the moving party prevails, in whole or in part, on such a special motion. The bill allows the court to award such reasonable expenses to a prevailing responding party to a special motion to dismiss if the court finds that such a motion was filed in bad faith or solely with the intent to delay the underlying proceedings.

**[HB 1550](#) Franchises; covenants not to compete.** Declares that any covenant not to compete executed on or after July 1, 2020, between a franchisor and any of its franchisees that restricts the ability of a former franchisee to conduct a business that will compete with the franchisor or another of its franchisees is void unless the franchisor or other franchisee has conducted such a business within 150 miles of the former franchisee's authorized area at any time during the 12 months preceding the termination or expiration of the former franchisee's franchise.

**[SB 375](#) Immunity of persons; statements regarding matters of public concern or made at a public hearing.** Provides that a person claiming immunity from certain claims for making statements at a public hearing or regarding matters of public concern may file a special plea to dismiss the underlying claim. The bill further provides that, upon the filing of such a plea, discovery related to such underlying

claim shall be stayed pending the entry of an order adjudicating the plea.

**[SB 529](#) Admissibility of statements of a deceased or incompetent party; hearsay.**

Provides that statements made by a deceased or incompetent party when such party was competent shall not be excluded as inadmissible hearsay, provided that such statements are relevant and otherwise admissible. Under current law, such statements are admissible provided that they are relevant.

**[SB 644](#) Traffic incident management vehicles.**

Adds traffic incident management vehicles, defined in the bill, operated by persons who meet certain training requirements to a list of vehicles exempt from certain traffic regulations at or en route to the scene of a traffic accident or similar incident. The bill also allows such vehicles to be equipped with sirens and flashing red or red and white secondary warning lights.

**[SB 645](#) Local arbitration agreements.** Requires a locality, for any procurement contract for goods and services except for construction, construction-related services, transportation construction, or transportation-related construction--and any purchasing decision to ensure that solicitations require the bidder or offeror to disclose certain information regarding pre-dispute arbitration clauses and consider each bidder or offeror's policies and practices related to arbitration. The bill requires each locality to seek to contract with qualified entities and business owners that can demonstrate or will certify that they do not use pre-dispute arbitration clauses in contracts with employees or consumers, and to evaluate bidders and offerors based on disclosures required under the bill, in the event no bidder or offeror can demonstrate or will certify that they do not use pre-dispute arbitration clauses in contracts with employees or consumers.

**[SB 655](#) Consideration of bills that create immunity from civil liability for physical injuries or death.** Requires that any bill that creates immunity from civil liability for physical injuries or death caused to a person include an appropriation of \$50,000 to the Department of Medical Assistance Services for the provision of medical assistance services as a condition of consideration by the General Assembly. The bill requires that the \$50,000 appropriation be included in a final enactment clause to such bill that creates immunity and requires the Department of Planning and Budget, in conjunction with other state agencies, to ensure that the fiscal impact statement for such bill states that the bill creates immunity from civil liability for physical injuries or death caused to a person.

**[SB 656](#) Offender medical and mental health information and records; exchange of information to facility.** Provides that a health care provider who has provided services within the last year to a person committed to a local or regional correctional facility shall disclose to such correctional facility any information and records necessary to ensure continuity of care. The bill provides immunity from civil liability for such disclosures absent bad faith or malicious intent.

**[SB 659](#) Contributory negligence; motor vehicle accident involving a pedestrian, bicyclist, etc.** Provides that the negligence of a pedestrian, bicyclist, or other person lawfully using a device other than a motor vehicle on a public highway who is involved in a collision with a motor vehicle shall not bar a plaintiff's recovery in any civil action unless the plaintiff's negligence is (i) a proximate cause of the plaintiff's injury and (ii) greater than the aggregated total amount of negligence of all the defendants that proximately caused the plaintiff's injury.

**[SB 663](#) Practice of medicine and other healing arts; provision of litigation assistance.** Requires practitioners of medicine and other healing arts to provide litigation assistance to treated patients and their attorneys. Such litigation assistance includes providing a legal consult fee schedule upon request, scheduling and participating in meetings with a treated patient's attorney upon request, participating in trial or de bene esse depositions as needed, and providing a written estimate of the cost of the patient's medical services related to the litigation. The bill prohibits providers from refusing services to a patient who is insured or otherwise has the ability to pay for provided services on the ground that such person was involved in an incident that is the subject of litigation or could result in litigation

**[SB 1043](#) Civil actions; filed on behalf of multiple persons.** Provides that a circuit court may enter an order joining, coordinating, consolidating, or transferring civil actions upon finding that separate civil actions brought by a plaintiff on behalf of multiple similarly situated persons involve common questions of law or fact and arise out of the same transaction, occurrence, or series of transactions or occurrences. Under current law, such order is permitted only where six or more plaintiffs have filed such actions. The bill further requires the Supreme Court to promulgate rules no later than November 1, 2020, governing such actions. The bill has a delayed effective date of July 1, 2021.

## MEDICAL MALPRACTICE

– PASSED –

**[HB 115](#) Health care providers, certain; programs to address career fatigue and wellness, civil immunity.** Expands civil immunity for health care professionals serving as members of or consultants to entities that function primarily to review, evaluate, or make recommendations related to health care services to include health care professionals serving as members of or consultants to entities that function primarily to address issues related to career fatigue and wellness in health care professionals licensed to practice medicine or osteopathic medicine or licensed as a physician assistant. The bill also clarifies that, absent evidence indicating a reasonable probability that a health care professional who is a participant in a professional program to address issues related to career fatigue or wellness is not competent to continue in practice or is a danger to himself, his patients, or the public, participation in such a professional program does not trigger the requirement that the health care professional be reported to the Department of Health Professions. The bill contains an emergency clause.

**[HB 165](#) Teledentistry; definition, establishes requirements for the practice of teledentistry, etc.** Defines "teledentistry," establishes requirements for the practice of teledentistry and the taking of dental scans for use in teledentistry by dental scan technicians, and clarifies requirements related to the use of digital work orders for dental appliances in the practice of teledentistry.

**[HB 385](#) Chiropractic, practice of; clarifies definition.** Clarifies the definition of "practice of chiropractic" to make clear that a doctor of chiropractic may (i) request, receive, and review a patient's medical and physical history,

including information related to past surgical and nonsurgical treatment of the patient and controlled substances prescribed to patients, and (ii) document in a patient's record information related to the condition and symptoms of the patient, the examination and evaluation of the patient made by the doctor of chiropractic, and the treatment provided to the patient by the doctor of chiropractic.

**[HB 908](#) Naloxone; possession and administration; employee or person acting on behalf of a public place.** Authorizes an employee or other person acting on behalf of a public place, as defined in the bill, who has completed a training program on the administration of naloxone or other opioid antagonist to possess and administer naloxone or other opioid antagonist, other than naloxone in an injectable formulation with a hypodermic needle or syringe, in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health. The bill also provides that a person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose. The bill provides immunity from civil liability for a person who, in good faith, administers naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose, unless such act or omission was the result of gross negligence or willful and wanton misconduct. This bill incorporates [HB 650](#), [HB 1465](#), and [HB 1466](#).

**[HB 1059](#) Certified registered nurse anesthetists; prescriptive authority.** Authorizes certified registered nurse anesthetists to prescribe Schedule II through Schedule VI

controlled substances and devices to a patient requiring anesthesia as part of the periprocedural care of the patient, provided that such prescribing is in accordance with requirements for practice by certified registered nurse anesthetists and is done under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry. This bill is identical to [SB 264](#).

[HB 1084](#) **Surgical assistants; licensure.** Defines "surgical assistant" and "practice of surgical assisting" and directs the Board of Medicine to establish criteria for the licensure of surgical assistants. Currently, the Board may issue a registration as a surgical assistant to eligible individuals. The bill also establishes the Advisory Board on Surgical Assisting to assist the Board of Medicine regarding the establishment of qualifications for and regulation of licensed surgical assistants.

[HB 1261](#) **Athletic trainers; naloxone or other opioid antagonist.** Authorizes licensed athletic trainers 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 1332](#) **Telehealth services.** Directs the Board of Health to develop and implement, by January 1, 2021, and thereafter maintain as a component of the State Health Plan a Statewide Telehealth Plan (the Plan) to promote an integrated approach to the introduction and use of telehealth services and telemedicine services, as those terms are defined in the bill. The bill requires the Plan to include provisions for (i) the use of remote patient monitoring services and store-and-forward technologies, including in cases involving patients with chronic illness; (ii) the promotion of the inclusion of telehealth services in hospitals, schools, and state agencies; (iii) a strategy for

the collection of data regarding the use of telehealth services; and (iv) other provisions.

[HB 1701](#) **Practice of medicine; license not required, person licensed in a contiguous state.**

Directs the Department of Health to determine the feasibility of establishing a Medical Excellence Zone Program to allow citizens of the Commonwealth living in rural underserved areas to receive medical treatment via telemedicine services from providers licensed or registered in a state that is contiguous with the Commonwealth and directs the Department of Health Professions to pursue reciprocal agreements with such states for licensure for certain primary care practitioners licensed by the Board of Medicine. The bill states that reciprocal agreements with states that are contiguous with the Commonwealth for the licensure of doctors of medicine, doctors of osteopathic medicine, physician assistants, and nurse practitioners shall only require that a person hold a current, unrestricted license in the other jurisdiction and that no grounds exist for denial based on the acts of unprofessional conduct. The Department of Health Professions is required to report on its progress in establishing such agreements to the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1, 2020. The bill requires the Board of Medicine to prioritize applications for licensure by endorsement as a doctor of medicine or osteopathic medicine, a physician assistant, or a nurse practitioner from such states through a streamlined process with a final determination regarding qualification to be made within 20 days of the receipt of a completed application. This bill is identical to [SB 757](#).

[SB 122](#) **Teledentistry; definition, report.**

Defines "teledentistry," establishes requirements for the practice of teledentistry and the taking of dental scans for use in

teledentistry by dental scan technicians, and clarifies requirements related to the use of digital work orders for dental appliances in the practice of teledentistry. This bill incorporates [SB 210](#) and [SB 884](#) and is identical to [HB 165](#).

**[SB 540](#) Health professionals; unprofessional conduct; reporting.** Requires the chief executive officer and the chief of staff of every hospital or other health care institution in the Commonwealth, the director of every licensed home health or hospice organization, the director of every accredited home health organization exempt from licensure, the administrator of every licensed assisted living facility, and the administrator of every provider licensed by the Department of Behavioral Health and Developmental Services in the Commonwealth to report to the Department of Health Professions any information of which he may become aware in his professional capacity that indicates a reasonable belief that a health care provider is in need of treatment or has been admitted as a patient for treatment of substance abuse or psychiatric illness that may render the health professional a danger to himself, the public or his patients, or that he determines, following review and any necessary investigation or consultation with the appropriate internal boards or committees authorized to impose disciplinary action on a health professional, indicates that there is a reasonable probability that such health professional may have engaged in unethical, fraudulent, or unprofessional conduct. Current law requires information to be reported if the information indicates, after reasonable investigation and consultation with the appropriate internal boards or committees authorized to impose disciplinary action on a health professional, a reasonable probability that such health professional may have engaged in unethical, fraudulent, or unprofessional conduct. This bill is identical to [HB 471](#).

**[SB 544](#) Advance directives; physician assistants; capacity determinations.** Expands the class of health care practitioners who can make the determination that a patient is incapable of making informed decisions to include a licensed physician assistant. The bill provides that such determination shall be made in writing following an in-person examination of the person and certified by the physician assistant. This bill is identical to [HB 362](#).

**[SB 565](#) Collaborative practice agreements; adds nurse practitioners and physician assistants to list.** Adds nurse practitioners and physician assistants to the list of health care practitioners who shall not be required to participate in a collaborative agreement with a pharmacist and his designated alternate pharmacists, regardless of whether a professional business entity on behalf of which the person is authorized to act enters into a collaborative agreement with a pharmacist and his designated alternate pharmacists. As introduced, this bill is a recommendation of the Joint Commission on Healthcare. This bill is identical to [HB 517](#).

**[SB 566](#) Naloxone or other opioid antagonist; possession and administration.** Provides that a person who is not otherwise authorized to administer naloxone or other opioid antagonist used for overdose reversal may administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose, provided that the administration is in good faith and absent gross negligence or willful and wanton misconduct.

## MEDICAL MALPRACTICE

### – FAILED –

[HB 303](#) **Clinical psychologists; telepsychology; out of state.** Allows clinical psychologists to provide services by telepsychology to established patients who are out of state at the time services are provided. The bill establishes the criteria that must be met for the clinical psychologist to offer telepsychology services. Clinical psychologists who offer telepsychology services must comply with the Standards of Practice set by the Board of Psychology.

[HB 532](#) **Safe reporting of overdoses; immunity from prosecution.** Provides that no individual (i) who sought or obtained emergency medical attention for himself or for another individual because of a drug or alcohol-related overdose or (ii) is experiencing a drug or alcohol-related overdose and another individual, in good faith, seeks or obtains emergency medical attention for such individual shall be prosecuted for unlawful purchase, possession, or consumption of alcohol, simple possession of a controlled substance, possession of marijuana, intoxication in public, or possession of controlled paraphernalia.

[HB 548](#) **Virginia Freedom of Information Act; exclusions; Department of Behavioral Health Services.** Exempts from mandatory disclosure under the Virginia Freedom of Information Act records of active investigations that are being conducted by the Department of Behavioral Health and Developmental Services.

[HB 1449](#) **Physicians; medical specialty board certification options.** Prohibits requiring maintenance of certification from physicians licensed to practice medicine in the Commonwealth, as a prerequisite to hospital medical staff membership, employment, malpractice liability insurance coverage, network status, or reimbursement for services

provided to a person covered by a health insurance policy.

[SB 858](#) **Naturopathic doctors; Board of Medicine to license and regulate.** Requires the Board of Medicine to license and regulate naturopathic doctors, defined in the bill as an individual, other than a doctor of medicine, osteopathy, chiropractic, or podiatry, who may diagnose, treat, and help prevent diseases using a system of practice that is based on the natural healing capacity of individuals, using physiological, psychological, or physical methods, and who may also use natural medicines, prescriptions, legend drugs, foods, herbs, or other natural remedies, including light and air.



## CRIMINAL LAW

### – PASSED –

**[HB 33](#) Parole; exception to limitation on the application of parole statutes.** Provides that a person is eligible to be considered for parole if (i) such person was sentenced by a jury prior to the date of the Supreme Court of Virginia decision in *Fishback v. Commonwealth*, 260 Va. 104 (June 9, 2000), in which the Court held that a jury should be instructed on the fact that parole has been abolished, for a noncapital felony committed on or after the abolition of parole going into effect (on January 1, 1995); (ii) the person remained incarcerated for the offense on July 1, 2020; and (iii) the offense was not one of the following: (a) a Class 1 felony; (b) if the victim was a minor, rape, forcible sodomy, object sexual penetration, or aggravated sexual battery or an attempt to commit such act; or (c) carnal knowledge.

**[HB 34](#) Refusal of tests; restricted license.** Allows a person convicted of a first offense of unreasonable refusal to have samples of his breath or blood taken for chemical tests to determine the alcohol content of his blood to petition the court 30 days after conviction for a restricted driver's license. The court may, for good cause shown, grant such restricted license for the same purposes as allowed for restricted licenses granted after conviction of driving under the influence if the person installs an ignition interlock system on each motor vehicle owned by or registered to the person and enters into and successfully completes an alcohol safety action program. The bill provides that such restricted license shall not permit any person to operate a commercial motor vehicle.

**[HB 35](#) Juvenile offenders; eligibility for parole.** Provides that any person sentenced to a term of life imprisonment for a single felony offense or multiple felony offenses committed while that

person was a juvenile and who has served at least 20 years of such sentence and any person who has active sentences that total more than 20 years for a single felony offense or multiple felony offenses committed while that person was a juvenile and who has served at least 20 years of such sentences shall be eligible for parole. This bill is identical to [SB 103](#).

**[HB 61](#) Adults sentenced for juvenile offenses; good conduct credit.** Provides that an adult sentenced for a juvenile offense can earn good conduct credit at the rate of one day for each one day served, including all days served while confined in jail or secured detention prior to conviction and sentencing, in which the adult has not violated the written rules and regulations of the jail. This bill is a recommendation of the Virginia Criminal Justice Conference and is identical to [SB 307](#).

**[HB 100](#) Voir dire examination of persons called as jurors; criminal case.** Allows the court and counsel for either party in a criminal case to (i) ask potential jurors any relevant question to ascertain whether the juror can sit impartially in either the guilt or sentencing phase of the case and (ii) inform any potential juror as to the potential range of punishments to ascertain if the person or juror can sit impartially in the sentencing phase of the case. This bill is identical to [SB 325](#).

**[HB 245](#) Fornication; repeal.** Repeals the crime of fornication, i.e., voluntary sexual intercourse by an unmarried person, punishable under current law as a Class 4 misdemeanor.

**[HB 246](#) Law-enforcement agencies, local; body-worn camera systems.** Requires localities to adopt and establish a written policy for the operation of a body-worn camera system, as defined in the bill, that follows identified best practices and is consistent with Virginia law and regulations, using as guidance the model policy established by the Department of Criminal

Justice Services prior to purchasing or deploying a body-worn camera system. The bill also requires localities to make such policy available for public comment and review prior to its adoption. The bill requires the Department to establish a model policy for the operation of body-worn camera systems and the storage and maintenance of body-worn camera system records.

**[HB 253](#) Sex Offender and Crimes Against Minors Registry Act; offenses requiring registration.** Adds a third or subsequent conviction of unlawful dissemination or sale of images of another to the list of offenses requiring registration under the Sex Offender and Crimes Against Minors Registry if the offense was committed on or after July 1, 2020.

**[HB 259](#) Unrestorably incompetent defendant; competency report.** Provides that in cases where a defendant is likely to remain incompetent for the foreseeable future due to an ongoing and irreversible medical condition and prior medical or educational records are available to support the diagnosis, 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. The bill also provides that such person who is found unrestorably incompetent to stand trial shall be prohibited from purchasing, possessing, or transporting a firearm.

**[HB 262](#) Inquiry and report of immigration status; certain victims or witnesses of crimes.** Prohibits law-enforcement officers from inquiring into the immigration status of a person who (i) reports that he is a victim of a crime or a parent or guardian of a minor victim

of a crime or (ii) is a witness in the investigation of a crime or the parent or guardian of a minor witness to a crime. However, a law-enforcement officer is not prohibited from making such an inquiry if it is necessary for the enforcement or implementation of certain criminal provisions or if the parent or guardian has been arrested for, has been charged with, or is being investigated for a crime against the minor victim.

**[HB 276](#) Virginia State Police; reporting hate crimes.** Includes within the definition of "hate crime" a criminal act committed against a person or the person's property because of disability, as defined in the bill, sexual orientation, gender, or gender identification and requires the reporting of the commission of such crime to the State Police. This bill incorporates [HB 1058](#).

**[HB 277](#) Payments of court fines and costs; community work in lieu of payment; during imprisonment.** Provides that a court may permit an inmate to earn credits against any fines and court costs imposed against him by performing community service. Under current law, credits may be earned only before or after imprisonment. This bill incorporates [HB 965](#) and is identical to [SB 736](#).

**[HB 278](#) Home/electronic incarceration program; payment to defray costs.** Changes from mandatory to optional the current requirement that the director or administrator of a home/electronic incarceration program charge an offender or accused a fee for participating in the program to be used for the cost of home/electronic incarceration equipment.

**[HB 298](#) Misdemeanor sexual offenses where the victim is a minor; statute of limitations.** Increases the statute of limitations for prosecuting misdemeanor violations where the victim is a minor from one year after the victim



reaches the age of majority to five years after the victim reaches the age of majority if the offender was an adult at the time of the offense and more than three years older than the victim for the following misdemeanor violations: carnal knowledge of detainee by employee of bail bond company, sexual battery, attempted sexual battery, infected sexual battery, sexual abuse of a child age 13 or 14 by an adult, and tongue penetration by adult of mouth of child under age 13 with lascivious intent.

**[HB 477](#) Juveniles; increases minimum age at which a juvenile must be tried as an adult.**

Increases from age 14 to age 16 the minimum age at which a juvenile must be tried as an adult in circuit court for murder or aggravated malicious wounding; however, if the juvenile is 14 years of age or older but younger than 16 years of age the court, on motion of the attorney for the Commonwealth, shall hold a transfer hearing. The minimum age is also raised from 14 to 16 for certain charges requiring notice of intent to try such juvenile as an adult by the attorney for the Commonwealth. In order to be tried as an adult in circuit court for the charges that under current law require notice of intent to proceed with trial as an adult by the attorney for the Commonwealth, the bill requires that (i) a report of the juvenile be prepared by the court services unit or other qualified agency and (ii) the attorney for the Commonwealth provide written notice that he intends to proceed with a preliminary hearing for trial of such juvenile as an adult, including affirmation that he has read the report. This bill incorporates [HB 1440](#).

**[HB 557](#) Carnal knowledge of pretrial or posttrial offender; bail bondsmen; penalty.**

Increases to a Class 6 felony from a Class 1 misdemeanor the penalty for an owner or employee of a bail bond company that posted bond for a person to carnally know such person

if the owner or employee has the authority to revoke the person's bond.

**[HB 618](#) Hate crimes; gender, disability, gender identity, or sexual orientation, penalty.** Adds gender, disability, gender identity, and sexual orientation to the categories of victims whose intentional selection for a hate crime involving assault, assault and battery, or trespass for the purpose of damaging another's property results in a higher criminal penalty for the offense. The bill also adds gender, disability, gender identity, and sexual orientation to the categories of hate crimes that are to be reported to the central repository of information regarding hate crimes maintained by the Virginia State Police. The bill provides that a person who is subjected to acts of intimidation or harassment, violence directed against his person, or vandalism to his real or personal property, where such acts are motivated by gender, disability, gender identity, or sexual orientation, may bring a civil action to recover his damages. The bill also provides that no provider or user of an interactive computer service on the Internet shall be liable for any action voluntarily taken by it in good faith to restrict access to material that the provider or user considers to be intended to incite hatred on the basis of gender, disability, gender identity, or sexual orientation. The bill also eliminates the mandatory minimum terms of confinement for such hate crimes. The provisions of the bill are contingent on funding in a general appropriation act. This bill incorporates [HB 488](#).

**[HB 639](#) Persons acquitted by reason of insanity; use of two-way electronic communications in proceedings.** Permits the annual or biennial hearing required for persons acquitted of a criminal offense by reason of insanity to be conducted using a two-way electronic video and audio communication system unless objected to by the acquittee, the

acquittee's attorney, or the attorney for the Commonwealth.

**[HB 660](#) Deferred dispositions; property crimes, larceny and receiving stolen goods.** Provides that a 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 him on probation subject to terms and conditions for a first offense misdemeanor larceny, provided that such person has not previously been convicted of any felony. The bill also provides that deferred disposition will no longer be allowed for peeping crimes. This bill incorporates [HB 1592](#).

**[HB 744](#) Sentencing of juvenile tried as adult.** Provides that a court, in the case of a juvenile tried as an adult and convicted of a felony, may depart from any mandatory minimum sentence required by law and suspend any portion of an otherwise applicable sentence. The bill also requires the court, when sentencing a juvenile as an adult, to consider the juvenile's exposure to adverse childhood experiences, early childhood trauma, or any child welfare agency and the differences between juvenile and adult offenders.

**[HB 746](#) Custodial interrogation of a child; consultation with legal counsel; admissibility of statements.** Requires that prior to the custodial interrogation of a child who has been arrested by a law-enforcement officer for a criminal violation, the child's parent, guardian, or legal custodian be notified of the child's arrest and the child have contact with his parent, guardian, or legal custodian. Such notification and contact may be in person, electronically, by telephone, or by video conference. However, notification and contact prior to a custodial interrogation is not required if the parent, guardian, or legal custodian is a codefendant in the alleged offense; the parent, guardian, or legal custodian has been arrested

for, has been charged with, or is being investigated for a crime against the child; the person cannot reasonably be located or refuses contact with the child; or the law-enforcement officer conducting the custodial interrogation reasonably believes the information sought is necessary to protect life, limb, or property from an imminent danger and the questions are limited to those that are reasonably necessary to obtain that information.

**[HB 752](#) Postrelease incarceration of felons sentenced for certain offenses.** Clarifies that offenders who are convicted of knowingly failing to register or reregister with, or knowingly providing materially false information to, the Sex Offender and Crimes Against Minors Registry are subject to added terms of postrelease incarceration. The bill also clarifies that when a sentence is imposed upon conviction of a felony that includes an active term of incarceration and the court does not order a suspended term of confinement of at least six months, a period of postrelease incarceration shall be imposed that is not less than six months or more than three years. The bill also clarifies that it is the period of postrelease incarceration that is required to be suspended, not the period of postrelease supervision. As introduced, this bill was a recommendation of the Judicial Council.

**[HB 787](#) Multi-jurisdiction grand jury; hate crimes.** Adds the following to the list of crimes that a multi-jurisdiction grand jury may investigate: (i) simple assault or assault and battery where the victim was intentionally selected because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin; (ii) entering the property of another for purposes of damaging such property or its contents or interfering with the rights of the owner, user, or occupant where such property was intentionally selected because of the race, religious

conviction, gender, disability, gender identity, sexual orientation, color, or national origin of the owner, user, or occupant; and (iii) various offenses that tend to cause violence.

**[HB 821](#) Saliva or tissue sample required for DNA analysis after arrest for a violent felony.**

Clarifies that the Department of Forensic Science may retain a DNA sample from a person who was arrested for a violent felony if such person was convicted of a misdemeanor offense that would otherwise require the sample to remain in the DNA data bank.

**[HB 824](#) Ex parte requests for expert assistance in criminal cases.** Provides that in any case before a circuit court in which a defendant is charged with a jailable offense and determined to be indigent by the court, the defendant or his attorney, upon notice to the Commonwealth, may move the court to designate another judge in the same circuit to hear an ex parte request for appointment of a qualified expert to assist in the defense. For a motion for expert assistance, the bill requires a defendant or his attorney to state under oath or in a sworn declaration that a need for confidentiality exists. Upon receiving the defendant's or his attorney's declaration of need for confidentiality, the court is required to conduct an ex parte hearing as soon as practicable on the request for authorization to obtain expert assistance. After a hearing upon the motion, the court is required to authorize the defendant or his attorney to obtain expert assistance upon a showing that the requested assistance would materially assist the defendant and the denial of such services would result in a fundamentally unfair trial.

**[HB 873](#) Discovery in criminal cases; penalties.** Establishes requirements and procedures for discovery by an accused and by the Commonwealth in a criminal case. The bill requires a party requesting discovery to request that the other party voluntarily comply with such request prior to filing any motion before a

judge. Upon receiving a negative or unsatisfactory response, or upon the passage of seven days following the receipt of the request without response, the party requesting discovery may file a motion for discovery with the court. The bill details information that is subject to discovery and provides that discovery shall be provided at a reasonable time before trial but that in no case shall it be provided later than (i) 14 days before trial on a misdemeanor in circuit court, (ii) 30 days before trial on a felony or multiple felony counts punishable by confinement in a state correctional facility for an aggregate of 30 years or less, or (iii) 90 days before trial on a felony or multiple felony counts punishable by confinement in a state correctional facility for an aggregate of more than 30 years. The bill also provides a mechanism for redaction of certain personal identifying information and creates a procedure for either party to move the court to enter a protection order with regard to discovery. Finally, the bill grants the court the ability to impose various remedies it deems just if a party fails to comply with any of the requirements. This bill incorporates [HB 1153](#).

**[HB 880](#) Protective orders; motions to dissolve filed by petitioner; ex parte hearing and issuance of order.** Provides that, upon motion by a petitioner to dissolve a protective order, a dissolution order may be issued on an ex parte basis with or without a hearing and that a hearing on such a motion shall be heard by the court as soon as practicable. The bill further provides that a dissolution order granted on an ex parte basis shall be served upon the respondent.

**[HB 885](#) Speeding; reckless driving.** Raises the threshold for per se reckless driving for speeding from driving in excess of 80 miles per hour to driving in excess of 85 miles per hour. The threshold for per se reckless driving for speeding for driving at or more than 20 miles

per hour in excess of the speed limit remains unchanged. The bill also provides that any person who drives a motor vehicle at a speed in excess of 80 miles per hour but below 86 miles per hour on any highway in the Commonwealth having a maximum speed limit of 65 miles per hour shall be subject to an additional fine of \$100. This bill is identical to [SB 63](#).

[HB 972](#) **Possession and consumption of marijuana; penalty.** Decriminalizes simple marijuana possession and provides a civil penalty of no more than \$25. Current law imposes a maximum fine of \$500 and a maximum 30-day jail sentence for a first offense, and subsequent offenses are a Class 1 misdemeanor. The bill provides that any violation of simple possession of marijuana may be charged by a summons in form the same as the uniform summons for motor vehicle law violations and that no court costs shall be assessed for such violations.

[HB 974](#) **Petition for writ of actual innocence.** Provides that a person who was convicted of a felony or who was adjudicated delinquent by a circuit court of an offense that would be a felony if committed by an adult may petition for a writ of actual innocence based on biological evidence or nonbiological evidence regardless of the type of plea he entered at trial.

[HB 904](#) **Child abuse and neglect reporting; public sports programs.** Adds to the list of mandatory reporters of suspected child abuse and neglect athletic coaches, directors, and other persons 18 years of age or older that are employed by or volunteering with a public sports organization or team. Current law applies only to such individuals involved with private sports organizations or teams.

[HB 1023](#) **Custodial interrogations; recording.** Provides that any law-enforcement officer shall, if practicable, make an audiovisual recording of the entirety of any custodial interrogation of a

person conducted in a place of detention. The bill provides that if an audiovisual recording is unable to be made, the law-enforcement officer shall make an audio recording of the entirety of the custodial interrogation. The bill provides that the failure of a law-enforcement officer to make such a recording shall not affect the admissibility of the statements made during the custodial interrogation, but the court or jury may consider such failure in determining the weight given to such evidence.

[HB 1044](#) **Unauthorized use of electronic tracking device; penalty.** Increases from a Class 3 misdemeanor to a Class 1 misdemeanor the punishment for a person who installs or places an electronic tracking device through intentionally deceptive means and without consent, or causes an electronic tracking device to be installed or placed through intentionally deceptive means and without consent, and uses such device to track the location of any person.

[HB 1047](#) **Fingerprints and photographs by police authorities; reports to the Central Criminal Records.** Provides that all duly constituted police authorities having the power of arrest may take the fingerprints and photographs of persons who plead guilty or are found guilty for driving while intoxicated when charged by summons.

[HB 1150](#) **Inquiry and report of immigration status; persons charged with or convicted of certain crimes.** Removes provisions requiring (i) jail officers to ascertain the citizenship of any inmate taken into custody at a jail, (ii) probation and parole officers to inquire as to the citizenship status of an individual convicted of a felony in circuit court and referred to such officers, and (iii) officers in charge of correctional facilities to inquire as to the citizenship of any person committed to a correctional facility, and therefore such information is not required to be reported to the Central Criminal Records Exchange of the

Department of State Police. The bill also removes the mandatory duty of the clerk of a court committing a convicted alien to a correctional facility to furnish related court records to a United States immigration officer and the requirement that an intake officer report to the Bureau of Immigration and Customs Enforcement of the U.S. Department of Homeland Security any juvenile detained on an allegation that the juvenile, believed to be in the United States illegally, committed a violent felony. This bill incorporates [HB 244](#).

**[HB 1181](#) Violation of provisions of protective order; venue.** Provides that a violation of a protective order may be prosecuted in the jurisdiction where the protective order was issued or in any county or city where any act constituting the violation of the protective order occurred.

**[HB 1196](#) Suspension of driver's license for nonpayment of fines or costs.** Removes the requirement that a court suspend the driver's license of a person convicted of any violation of the law who fails or refuses to provide for immediate payment of fines or costs. The bill provides that the fine for any moving violation while operating a motor vehicle in a designated highway safety corridor shall be no more than \$500 for any violation that is a traffic infraction and not less than \$200 for any violation that is a criminal offense.

**[HB 1437](#) Juvenile confinement for violation of court order.** Reduces from 10 days to seven days the maximum allowable period of confinement of a juvenile in a secure facility for a contempt violation or when a child in need of supervision is found to have willfully and materially violated an order of the court. The bill also provides that any order of disposition of such violation confining the juvenile in a secure facility for juveniles shall (i) identify the valid court order that has been violated; (ii) specify

the factual basis for determining that there is reasonable cause to believe that the juvenile has violated such order; (iii) state the findings of fact that support a determination that there is no appropriate less restrictive alternative available to placing the juvenile in such a facility, with due consideration to the best interest of the juvenile; (iv) specify the length of time of such confinement, not to exceed seven days; and (v) include a plan for the juvenile's release from such facility.

**[HB 1462](#) Admission to bail; rebuttable presumptions against bail.** Eliminates the provision prohibiting a judicial officer who is a magistrate, clerk, or deputy clerk of a district court or circuit court from admitting to bail, that is not set by a judge, any person who is charged with an offense giving rise to a rebuttable presumption against bail without the concurrence of an attorney for the Commonwealth. The bill also eliminates the requirement that notice be provided to the attorney for the Commonwealth before such judicial officer may set or admit a person to bail.

**[HB 1482](#) Involuntary admission or certification of eligibility order; appeals.** Clarifies provisions governing appeals of orders for involuntary admission or for certification as eligible for admission to a training center and provides that in cases in which a person is released during the pendency of an appeal, the appeal shall be in accordance with provisions for testing the legality of detention.

**[SB 1](#) Driver's license; suspension for nonpayment of fines or costs.** Repeals the requirement that the driver's license of a person convicted of any violation of the law who fails or refuses to provide for immediate payment of fines or costs be suspended. The bill also removes a provision allowing the court to require a defendant to present a summary prepared by the Department of Motor Vehicles of the other courts in which the defendant also



owes fines and costs. The bill requires the Commissioner of the Department of Motor Vehicles to return or reinstate any person's driver's license that was suspended prior to July 1, 2019, solely for nonpayment of fines or costs. Such person does not have to pay a reinstatement fee. This bill incorporates [SB 10](#), [SB 514](#), and [SB 814](#).

**[SB 42](#) Aggravated sexual battery by false representation or subterfuge; penalty.**

Provides that any massage therapist, person practicing the healing arts, or physical therapist, or a person purporting to be such practitioner, who sexually abuses another person without the express consent of the complaining witness is guilty of aggravated sexual battery.

**[SB 63](#) Reckless driving; exceeding speed limit.**

Raises the threshold for per se reckless driving for speeding from driving in excess of 80 miles per hour to driving in excess of 85 miles per hour. The threshold for per se reckless driving for speeding for driving at or more than 20 miles per hour in excess of the speed limit remains unchanged. The bill also provides that any person who drives a motor vehicle at a speed in excess of 80 miles per hour but below 86 miles per hour on any highway in the Commonwealth having a maximum speed limit of 65 miles per hour shall be subject to an additional fine of \$100. This bill is identical to [HB 885](#).

**[SB 64](#) Paramilitary activities; penalty.** Provides that a person is guilty of unlawful paramilitary activity if such person brandishes a firearm or any air or gas operated weapon or any object similar in appearance while assembled with one or more persons with the intent of intimidating any person or group of persons with any firearm, any explosive or incendiary device, or any components or combination thereof. Such unlawful paramilitary activity is punishable as a Class 5 felony.

**[SB 133](#) Criminal cases; deferred disposition.**

Allows a court to defer and dismiss a criminal case where the defendant has been diagnosed with autism or an intellectual disability.

**[SB 144](#) Protective orders; issuance upon convictions for certain felonies, penalty.** Allows a court to defer and dismiss a criminal case where the defendant has been diagnosed with autism or an intellectual disability.

**[SB 179](#) Hate crimes; adds gender, disability, gender identity, or sexual orientation, penalty.**

Adds gender, disability, gender identity, and sexual orientation to the categories of victims whose intentional selection for a hate crime involving assault, assault and battery, or trespass for the purpose of damaging another's property results in a higher criminal penalty for the offense. The bill also adds gender, disability, gender identity, and sexual orientation to the categories of hate crimes that are to be reported to the central repository of information regarding hate crimes maintained by the Virginia State Police. The bill provides that a person who is subjected to acts of intimidation or harassment, violence directed against his person, or vandalism to his real or personal property, where such acts are motivated by gender, disability, gender identity, or sexual orientation, may bring a civil action to recover his damages. The bill also provides that no provider or user of an interactive computer service on the Internet shall be liable for any action voluntarily taken by it in good faith to restrict access to material that the provider or user considers to be intended to incite hatred on the basis of gender, disability, gender identity, or sexual orientation. The bill also eliminates the mandatory minimum terms of confinement for such hate crimes.

**[SB 282](#) Ignition interlock for first offense driving under the influence of drugs.** Provides that a court of proper jurisdiction may, as a condition of a restricted license, prohibit an

offender from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for a first offense of driving under the influence of drugs. Under current law, such prohibition is required to be ordered as a condition of a restricted license.

**[SB 286](#) Deferred dispositions; property crimes, larceny and receiving stolen goods.** Provides that a 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 him on probation subject to terms and conditions for a first offense misdemeanor larceny provided such person has not previously been convicted of any felony or had a prior deferred disposition for the same offense. As introduced, this bill was a recommendation of the Virginia Criminal Justice Conference. This bill incorporates [SB 309](#).

**[SB 307](#) Adults sentenced for juvenile offenses; good conduct credit.** Provides that an adult sentenced for a juvenile offense can earn good conduct credit at the rate of one day for each one day served, including all days served while confined in jail or secured detention prior to conviction and sentencing, in which the adult has not violated the written rules and regulations of the jail. This bill is a recommendation of the Virginia Criminal Justice Conference and is identical to [HB 61](#).

**[SB 325](#) Voir dire examination of persons called as jurors; criminal case.** Sentencing proceeding by the jury after conviction; recommendation of leniency Allows the court and counsel for either party in a criminal case to (i) ask potential jurors any relevant question to ascertain whether the juror can sit impartially in either the guilt or sentencing phase of the case and (ii) inform any potential juror as to the potential range of punishments to ascertain if the person or juror can sit impartially in the sentencing phase of the case. This bill is identical to [HB 100](#).

**[SB 439](#) Driving under the influence; first offenders; license conditions.** Provides that in the case of an adult offender's first conviction of driving under the influence when the offender's blood alcohol content was less than 0.15, upon motion of the offender, the sole restriction of the offender's restricted driver's license shall be the prohibition of the offender from operating any motor vehicle not equipped with a functioning, certified ignition interlock system for one year without any violation of the ignition interlock system requirements. The bill provides that if a person is ineligible to receive a restricted license, a court may instead authorize such person to use a remote alcohol monitoring device, refrain from alcohol consumption, and participate in an alcohol safety action program. The bill provides that tampering with a remote alcohol monitoring device is a class 1 misdemeanor. This bill incorporates [SB 154](#) and [SB 520](#).

**[SB 492](#) Sex offenses requiring registration.** Clarifies the registration and reregistration obligations imposed upon a person convicted of a foreign sex offense for the purposes of registration with the Sex Offender and Crimes Against Minors Registry. The bill also provides that a person who is required to register may not petition the circuit court for the removal of his name and all identifying information from the Registry if such person was convicted of two or more offenses for which registration is required and was at liberty between such convictions. Under current law, a person does not need to be at liberty between such convictions and would be prohibited from petitioning for removal from the Registry.

**[SB 491](#) Inquiry and report of immigration status; persons charged with or convicted of certain crimes.** Provides that the provisions requiring (i) jail officers to ascertain the citizenship of any inmate taken into custody at a jail, (ii) officers in charge of correctional

facilities to inquire as to the citizenship of any person committed to a correctional facility, and (iii) the mandatory duty of the clerk of a court committing a convicted alien to a correctional facility to furnish related court records to a United States immigration officer, are limited to felony offenses. The bill also provides that the clerk of court report to the Bureau of Immigration and Customs Enforcement of the U.S. Department of Homeland Security any juvenile adjudicated of delinquency or finding of guilt for a violent juvenile felony.

**[SB 511](#) Writ of actual innocence; petition by convicted person.** Provides that a person who was convicted of a felony or who was adjudicated delinquent by a circuit court of an offense that would be a felony if committed by an adult may petition for a writ of actual innocence based on biological evidence or nonbiological evidence regardless of the type of plea he entered at trial. The bill also (i) allows a writ of actual innocence based on nonbiological evidence to be granted if scientific testing of previously untested evidence, regardless of whether such evidence was available or known at the time of conviction, proves that no trier of fact would have found proof of guilt of the person petitioning for the writ, provided that the testing procedure was not available at the time of conviction, and (ii) eliminates the provision that limits a petitioner to only one writ of actual innocence based on nonbiological evidence for any conviction. The bill provides that the petitioner must prove the allegations supporting either type of writ of actual innocence by a preponderance of the evidence. This bill is identical to [HB 974](#).

**[SB 513](#) Driver's license; suspensions for certain non-driving related offenses.** Removes the existing provisions that allow a person's driver's license to be suspended (i) when he is convicted of or placed on deferred disposition for a drug offense; (ii) for non-payment of certain fees

owed to a local correctional facility or regional jail; and (iii) for shoplifting motor fuel. This bill is identical to [HB 909](#).

**[SB 514](#) Driver's license; suspension for nonpayment of fines or costs.** Removes the requirement that a court suspend the driver's license of a person convicted of any violation of the law who fails or refuses to provide for immediate payment of fines or costs. The bill provides that the fine for any moving violation while operating a motor vehicle in a designated highway safety corridor shall be no more than \$500 for any violation that is a traffic infraction and not less than \$200 for any violation that is a criminal offense. The bill also repeals the Nonresident Violator Compact of 1977. The bill contains an emergency clause. This bill was incorporated into [SB 1](#).

**[SB 546](#) Juveniles; trial as adult.** Increases from 14 years of age to 16 years of age the minimum age at which a juvenile must be tried as an adult in circuit court for murder or aggravated malicious wounding; however, if the juvenile is 14 years of age or older but younger than 16 years of age, the court, on motion of the attorney for the Commonwealth, shall hold a transfer hearing. The minimum age is also raised from 14 to 16 for certain charges requiring notice of intent to try such juvenile as an adult by the attorney for the Commonwealth. In order to be tried as an adult in circuit court for the charges that under current law require notice of intent to proceed with trial as an adult by the attorney for the Commonwealth, the bill requires that (i) a report concerning the juvenile be prepared by the court services unit or other qualified agency and (ii) the attorney for the Commonwealth provide written notice that he intends to proceed with a preliminary hearing for trial of such juvenile as an adult, including affirmation that he has read the report. [HB 477](#) is identical to this bill.



**[SB 640](#) Unlawful detainer; expungement.**

Creates a process by which unlawful detainer actions filed in a general district court that have been dismissed or nonsuited may be expunged upon request of the defendant to such action. The bill has a delayed effective date of January 1, 2022.

**[SB 670](#) Unrestorably incompetent defendant; competency report.**

Provides that in cases where a defendant is likely to remain incompetent for the foreseeable future due to an ongoing and irreversible medical condition and prior medical or educational records are available to support the diagnosis, 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. The bill also provides that such person who is found unrestorably incompetent to stand trial shall be prohibited from purchasing, possessing, or transporting a firearm.

**[SB 683](#) Competency to stand trial; outpatient treatment.** Clarifies that for the purposes of restorative treatment for a person incompetent but restorable to stand trial that outpatient treatment may occur in a local correctional facility or at a location determined by the appropriate community services board or behavioral health authority.

**[SB 711](#) Driving while license, permit, or privilege to drive suspended or revoked; mandatory minimum.** Eliminates the mandatory minimum term of confinement in jail of 10 days for a third or subsequent conviction of driving on a suspended license.

**[SB 724](#) Misdemeanor sexual offenses where the victim is a minor; statute of limitations.**

Increases the statute of limitations for prosecuting misdemeanor violations where the victim is a minor from one year after the victim reaches the age of majority to five years after the victim reaches the age of majority if the offender was an adult at the time of the offense and more than three years older than the victim for the following misdemeanor violations: carnal knowledge of detainee by employee of bail bond company, sexual battery, attempted sexual battery, infected sexual battery, sexual abuse of a child age 13 or 14 by an adult, and tongue penetration by adult of mouth of child under age 13 with lascivious intent.

**[SB 736](#) Fines and costs; community service work in lieu of payment.** Provides that a court may permit an inmate to earn credits against any fines and court costs imposed against him by performing community service. Under current law, credits may be earned only before or after imprisonment. This bill is identical to [HB 277](#).

**[SB 788](#) Grand larceny; increases threshold amount.** Increases from \$500 to \$1,000 the threshold amount of money taken or value of goods or chattel taken at which the crime rises from petit larceny to grand larceny. The bill increases the threshold by the same amount for the classification of certain property crimes. This bill is identical to [HB 995](#).

**[SB 798](#) Driving after forfeiture of license.** Specifies that a person is guilty of an offense of driving or operating a motor vehicle (i) after his driver's license has been revoked for certain offenses; (ii) in violation of the terms of a restricted license; (iii) without an ignition interlock system if one is required; or (iv) if the person's license had been restricted, suspended, or revoked for certain driving under the influence offenses, with a blood alcohol content of 0.02 percent or more, only if such

person was driving or operating the motor vehicle on a highway, as defined in Title 46.2, Motor Vehicles.

**[SB 801](#) Subpoena duces tecum; attorney-issued subpoena duces tecum; criminal cases.**

Provides that in any criminal case a subpoena duces tecum may be issued by an attorney who is an active member of the Virginia State Bar at the time of issuance, as an officer of the court. The bill provides that any such subpoena duces tecum shall be on a form approved by the Executive Secretary of the Supreme Court, signed by the attorney as if a pleading, shall include the attorney's address, and shall be mailed or delivered to the adverse party. The bill also provides that the law governing subpoenas duces tecum issued by a clerk shall apply mutatis mutandis and provides a process for objection to such attorney-issued subpoenas.

**[SB 818](#) Behavioral health dockets; established.** Establishes, by the Behavioral Health Docket Act (the Act), behavioral health courts as specialized court dockets within the existing structure of Virginia's court system, offering judicial monitoring of intensive treatment and supervision of offenders who have mental illness and co-occurring substance abuse issues. The bill establishes a state behavioral health docket advisory committee and requires localities intending to establish such dockets to establish local behavioral health docket advisory committees. The bill gives the Supreme Court of Virginia administrative oversight of the implementation of the Act. The Act is modeled on the Drug Treatment Court Act (§ 18.2-254.1).

**[SB 925](#) Fingerprints and photographs; authority of police.** Provides that all duly constituted police authorities having the power of arrest may take the fingerprints and photographs of any person found in contempt or in violation of the terms or conditions of a suspended sentence or probation for a felony

offense. This bill is a recommendation of the Virginia State Crime Commission. This bill is identical to [HB 1048](#)

**[SB 926](#) Fingerprints and photographs by police authorities; reports to the Central Criminal Records.** Provides that all duly constituted police authorities having the power of arrest may take the fingerprints and photographs of persons who plead guilty or are found guilty of driving while intoxicated when charged by summons. The bill also provides that such summons information may be entered into the Virginia Criminal Information Network. This bill is a recommendation of the Virginia State Crime Commission. This bill is identical to [HB 1047](#).

**[SB 1071](#) DNA; post-conviction testing.** Permits private laboratories that are accredited and follow the appropriate Quality Assurance Standards issued by the Federal Bureau of Investigation to complete post-conviction testing of DNA evidence.

## CRIMINAL LAW

### – CARRIED OVER –

**[HB 32](#) Police and court records; expungement of records for misdemeanor and nonviolent felony convictions.** Allows a person convicted of a misdemeanor or nonviolent felony to file a petition requesting expungement of the police and court records relating to the conviction if such person has (i) been free from any term of incarceration, probation, and postrelease supervision imposed as a result of such conviction for at least eight years, (ii) no prior or subsequent convictions other than traffic infractions, and (iii) no pending criminal proceeding.

**[HB 159](#) Protective orders; prohibited contact; remote control of appliance, etc., by electronic device.** Clarifies that a court entering a

protective order may, as a condition of such protective order, prohibit the respondent from using any electronic device to remotely control any appliance, utility, or device located on or within the petitioner's residence or the curtilage thereof.

**[HB 250](#) Juvenile offenders; eligibility for parole.** Provides that any person sentenced to a term of life imprisonment for a single felony offense or multiple felony offenses committed while that person was a juvenile and who has served at least 25 years of such sentence and any person who has active sentences that total more than 25 years for a single felony offense or multiple felony offenses committed while that person was a juvenile and who has served at least 25 years of such sentences shall be eligible for parole.

**[HB 251](#) Prostitution-related crimes; minors; penalties.** Makes it a Class 6 felony for an adult to visit a bawdy place with a minor when he knows that the bawdy place is used or to be used for lewdness, assignation, or prostitution. The bill also adds felony violations of such offense to (i) the list of offenses for which registration in the Sex Offender and Crimes Against Minors Registry is required, (ii) the definition of violent felony for the purposes of the sentencing guidelines, (iii) the list of predicate criminal acts that constitutes the definition of street gangs, (iv) the list of offenses that may constitute racketeering under the Virginia Racketeer Influenced and Corrupt Organization Act, and (v) the offenses that may be investigated by a multi-jurisdiction grand jury. The bill also makes applicable to all persons, regardless of the gender of the victim, the crimes of (a) assisting or aiding in the abduction of or threatening to abduct a female under 16 years of age for the purpose of concubinage or prostitution, which the bill also changes to include any person under 18 years

of age, and (b) placing or leaving one's wife in a bawdy place.

**[HB 252](#) Causing or encouraging acts rendering children sexually abused; penalty.** Provides that any person 18 years of age or older who (i) (a) has physical custody of a minor, (b) allows a minor to reside at his residence, (c) is in a position of trust or authority over a minor, or (d) is the temporary caretaker of a minor; (ii) is more than three years older than such minor; and (iii) willfully contributes to, encourages, or causes any act, omission, or condition that results in any sexual act upon the minor in violation of the law is guilty of a Class 4 felony.

**[HB 254](#) Underage alcoholic possession, etc.; expungement of certain offenses.** Allows a person to petition for expungement of a deferred disposition dismissal for underage alcohol possession or using a false ID to obtain alcohol when the offense occurred prior to the person's twenty-first birthday, all court costs and fines and orders of restitution have been satisfied, and the person seeking the expungement is at least 21 years of age and has no other alcohol-related convictions. The bill provides that any person seeking expungement of an alcohol-related charge shall be assessed a \$150 fee, which shall be paid into the state treasury and credited to the Department of State Police.

**[HB 258](#) Post-conviction relief; previously admitted scientific evidence.** Provides that a person who was convicted of certain offenses, upon a plea of not guilty or an Alford plea, or who was adjudicated delinquent, upon a plea of not guilty or an Alford plea, by a circuit court of an offense that would be a covered offense if committed by an adult may petition the Court of Appeals to have his conviction vacated.

**[HB 261](#) Suspension of driver's license for nonpayment of fines or costs.** Removes the requirement that a court suspend the driver's

license of a person convicted of any violation of the law who fails or refuses to provide for immediate payment of fines or costs.

**HB 281 Prisoners; medical care.** Eliminates the Department of Corrections prisoner co-payment program for nonemergency health care services.

**HB 288 Criminal sexual assault; definition of sexual abuse; complaining witness under age 13; penalty.** Includes in the definition of "sexual abuse" the intentional touching of any part of a complaining witness's body, on either the skin or the material covering the complaining witness's body, if the complaining witness is under the age of 13 and the act is committed with the intent to sexually molest, arouse, or gratify any person. The bill repeals the Class 1 misdemeanor prohibiting adult penetration of the mouth of a child under the age of 13 with lascivious intent.

**HB 295 Maximum term of probation.** Limits to five years the term of probation for a person convicted of an offense other than a violent felony, an act of violence, or an offense for which registration with the Sex Offender and Crimes Against Minors Registry is required.

**HB 323 Criminal sexual assault; definition of intimate parts.** Includes in the definition of "intimate parts," for the purposes of criminal sexual assault, the chest of a child under the age of 15.

**HB 384 Presumption of death; confessions or convictions of murder.** Provides that any person who is a resident of the Commonwealth shall be presumed dead if such person has disappeared, his body has not been found, he is not known to be alive, and an individual has confessed to such person's murder under oath or has been convicted of such murder. The bill further exempts such persons from the notice and hearing requirements otherwise required

for the court to enter an order determining that the presumed decedent is in fact dead.

**HB 412 Family or household member; adds to existing definition.** Adds to the existing definition of "family or household member" any individual who is in or who, within the previous 12 months, has been in a dating relationship with the person. The definition is used for purposes of statutes related to assault and battery against a family or household member, stalking a family or household member, protective orders, and the recruitment of persons for criminal street gangs.

**HB 430 Parole; application of statutes.** Repeals the abolition of parole. The bill also provides that the Virginia Parole Board shall establish procedures for consideration of parole for persons who were previously ineligible for parole, because parole was abolished, to allow for an extension of time for reasonable cause.

**HB 652 Admission to bail; presumption of release on recognizance.** Provides that a judicial officer shall release any person taken into custody by an arresting officer for any misdemeanor violation committed in such arresting officer's presence, except for violations of driving or operating a motor vehicle, watercraft, or motorboat while intoxicated offenses that give rise to a rebuttable presumption against bail; or as otherwise provided in Title 46.2.

**HB 673 Cruelty to children; penalty.** Increases the penalty from a Class 6 felony to a Class 4 felony for any person employing or having custody of a child to willfully cause or permit such child to be tortured physically or psychologically, tormented, mutilated, beaten, or cruelly treated. The bill includes such offense in the definition of "violent felony" for purposes of determining felony sentencing guidelines. The bill also includes willful and negligent acts of cruelty and injuries to children in offenses

prohibiting a person from operating or residing in a family day home and provides that a conviction is a barrier crime for persons providing care to certain children or the elderly or disabled.

**[HB 830](#) Expungement of certain charges and convictions.** Allows a person to petition for expungement of convictions and deferred disposition dismissals for possession of a controlled substance, marijuana possession, and underage alcohol possession when (i) the offense occurred as a result of such person being a victim of sexual assault or sexual battery and reporting such sexual assault or sexual battery to law enforcement; (ii) all court costs, fines, and restitution have been paid; and (iii) two years have passed since the date of completion of all terms of sentencing and probation.

**[HB 864](#) Infected sexual battery.** Provides that, in order for a person to be convicted of infected sexual battery, such person (i) knew that he was infected at the time of the offense with HIV, syphilis, or hepatitis B and (ii) knew that his infection was currently detectable and transmittable, and committed the offense without using a prophylactic barrier, including a condom or dental dam.

**[HB 869](#) Supplementing compensation of public defender.** Requires the governing body of any county or city that elects to supplement the compensation of the attorney for the Commonwealth, or any of their deputies or employees, above the salary of any such officer, deputy, or employee, to supplement the compensation of the public defender, or any of his deputies or employees, in the same amount as the supplement to the compensation of the attorney for the Commonwealth, or any of his deputies or employees.

**[HB 871](#) Robbery; penalty.** Defines "robbery" and creates degrees of punishment

corresponding to the severity of a robbery offense. Any person who commits a robbery by causing serious bodily injury is guilty of robbery in the first degree, which is punishable by confinement in a state correctional facility for a maximum term of life. Any person who commits robbery by displaying a firearm in a threatening manner is guilty of robbery in the second degree, which is punishable by confinement in a state correctional facility for a maximum term of 20 years.

**[HB 996](#) Parole; exception to limitation on the application of parole statutes.** Provides that an incarcerated person is eligible for parole if (i) such person was sentenced by a jury prior to the date of the Supreme Court of Virginia decision in *Fishback v. Commonwealth*, 260 Va. 104 (June 9, 2000), in which the Court held that a jury should be instructed on the fact that parole has been abolished, for a noncapital felony committed on or after the abolition of parole went into effect (on January 1, 1995) and (ii) the jury was not instructed on the abolition of parole in the Commonwealth.

**[HB 1033](#) Petition for vacatur and expungement of convictions and police and court records.** Allows any person who was a human trafficking victim at the time of an offense that led to a criminal charge or conviction of certain crimes to petition the court to vacate such conviction and expunge the police and court records related to such conviction or to expunge the police and court records related to such charge. The bill provides that there is a rebuttable presumption that a person's participation in an offense was a result of having been a victim of human trafficking if there is official government documentation, defined in the bill, of the petitioner's status as a victim of human trafficking at the time of the offense.

**[HB 1035](#) Attorneys for the Commonwealth; compensation and collection of fees.** Prohibits the Compensation Board, when determining

staffing and funding levels for offices of attorneys for the Commonwealth, from (i) considering the number of charges brought or the number of convictions obtained by such attorney for the Commonwealth; (ii) relying on standards devised or recommended by the attorney for the Commonwealth, law-enforcement agencies, or professional associations representing attorneys for the Commonwealth or law-enforcement officers; or (iii) using measures that increase if an attorney for the Commonwealth (a) elects to prosecute a more serious charge, (b) elects to prosecute additional charges from a single arrest or criminal incident, (c) obtains convictions rather than dismissing charges or offering reduced charges, or (d) proceeds with prosecution rather than diversion.

**HB 1111 Protective orders; issuance upon convictions for certain felonies; penalty.**

Authorizes a court to issue a protective order upon convicting a defendant for a felony offense of (i) violating a protective order, (ii) homicide, (iii) kidnapping, (iv) assaults and bodily woundings, (v) extortion, or (vi) criminal sexual assault.

**HB 1351 Temporary detention; evaluation; who may perform.** Expands the category of individuals who may evaluate a person who is the subject of an emergency custody order to determine whether the person meets the criteria for temporary detention to include any person described in the definition of "mental health professional" in § 54.1-2400.1 who (i) is skilled in the diagnosis and treatment of mental illness, (ii) has completed a certification program approved by the Department of Behavioral Health and Developmental Services, and (iii) complies with regulations of the Board of Behavioral Health and Developmental Services related to performance of such evaluations.

**HB 1433 Destruction of criminal history information for certain charges and convictions.**

Provides that a court shall enter an order of destruction for police and court records, in the absence of good cause shown to the contrary by the Commonwealth, for a deferred disposition dismissal of (i) underage alcohol possession when one year has passed since the date of dismissal and all court costs and fines and all orders of restitution have been satisfied or (ii) possession of marijuana when three years have passed since the date of dismissal and all court costs and fines and all orders of restitution have been satisfied. The bill also provides that any person who has received such deferred disposition dismissals may file a petition with the court that disposed of such charge for an order of destruction at any time provided that all court costs and fines and all orders of restitution have been satisfied. This bill is a recommendation of the Virginia Criminal Justice Conference.

**HB 1507 Possession of marijuana.**

**HB 1517 Expungement of police and court records; misdemeanor and nonviolent felony convictions.** Allows a person convicted of a misdemeanor or nonviolent felony to file a petition requesting expungement of the police and court records relating to the conviction if such person (i) has been free from any term of incarceration, probation, and postrelease supervision imposed as a result of such conviction for at least ten years; (ii) has no prior or subsequent convictions other than traffic infractions; and (iii) has no pending criminal proceeding.

**SB 148 Driving under the influence; provisions regarding driving or operating a motor vehicle, etc.** Provides that the provisions regarding driving or operating a motor vehicle, engine, or train while intoxicated and the provisions regarding operating a motor vehicle by a person under the age of 21 after illegally consuming



alcohol shall not apply to any person driving or operating a motor vehicle on his own residential property or the curtilage thereof.

**[SB 223](#) Juvenile records; expungement.**

Provides for the expungement of juvenile records for offenses that would be felony larceny if committed by an adult.

**[SB 306](#) Criminal history information; destruction of information for certain charges and convictions.**

Provides that a court shall enter an order of destruction for police and court records, in the absence of good cause shown to the contrary by the Commonwealth, for a deferred disposition dismissal of (i) underage alcohol possession when one year has passed since the date of dismissal and all court costs and fines and all orders of restitution have been satisfied or (ii) possession of marijuana when three years have passed since the date of dismissal and all court costs and fines and all orders of restitution have been satisfied. The bill also provides that any person who has received such deferred disposition dismissals may file a petition with the court that disposed of such charge for an order of destruction at any time provided that all court costs and fines and all orders of restitution have been satisfied. As introduced, this bill was a recommendation of the Virginia Criminal Justice Conference. The provisions of the bill are contingent on funding in a general appropriation act. This bill incorporates [SB 287](#).

**[SB 449](#) Death penalty; abolishes penalty, including those persons currently under a death sentence.** Abolishes the death penalty, including for those persons currently under a death sentence.

**[SB 537](#) Limitation on mandatory minimum punishment.** Provides that mandatory minimum punishments shall not apply to any sentence imposed for an offense committed on or after July 1, 2020.

**[SB 550](#) Dating relationship abuse; penalty.**

Expands the crime of assault and battery against a family or household member to include persons in a dating relationship, as defined in the bill. The bill also expands the class of persons who are eligible to obtain a protective order in cases of family abuse to include persons who are in a dating relationship and who have been subjected to dating relationship abuse, also defined in the bill.

**[SB 608](#) Expungement of police and court records; pardons.** Allows a person to petition for the expungement of the police and court records relating to such person's conviction for misdemeanors and certain felonies if he has been granted a simple pardon for the crime. The bill also allows a person to petition for an expungement of the police and court records relating to convictions of marijuana possession, underage alcohol or tobacco possession, and using a false ID to obtain alcohol, and for deferred disposition dismissals for possession of controlled substances or marijuana, underage alcohol or tobacco possession, and using a false ID to obtain alcohol, when all court costs, fines, and restitution have been paid, and five years have elapsed since the date of completion of all terms of sentencing and probation. Under current law, police and court records relating to convictions are only expunged if a person received an absolute pardon for a crime he did not commit. This bill incorporates [SB 118](#) and [SB 517](#).

**[SB 624](#) Geriatric prisoners; conditional release.**

Allows any person serving a sentence imposed upon a conviction for a felony offense, other than a Class 1 felony, who (i) is 55 years of age or older and has served at least 15 years of the sentence imposed or (ii) is 50 years of age or older and has served at least 20 years of the sentence imposed, to petition the Parole Board for conditional release.

**SB 681 Compensation of experts in criminal cases.** Increases from \$750 to \$1,200 the maximum fee that the court may pay for professional services rendered by each psychiatrist, clinical psychologist, or other expert appointed by the court to render professional service in a criminal case other than capital murder. The provisions of the bill are contingent on funding in a general appropriation act.

**SB 721 Orders of restitution; enforcement.** Provides that an order of restitution shall be docketed in the name of the Commonwealth on behalf of a victim and that the clerk of such court, prior to satisfaction of the judgment and upon written request of the victim, shall enter a judgment in the victim's favor for the amount of unpaid restitution, remove from its automated financial system the amount of unpaid restitution, and record a release of any judgment for restitution previously entered in favor of the Commonwealth on behalf of the victim.

**SB 723 Bail; data collection and reporting standards, report.** Requires the Department of Criminal Justice Services to (i) collect data relating to bail determinations for any person who is held in custody pending trial or hearing for an offense, civil or criminal contempt or otherwise, in every locality; (ii) create a uniform reporting mechanism for criminal justice agencies to submit such data; and (iii) submit an annual report on the data collected to the Governor and the General Assembly, as well as publish the annual report on the Department's website.

**SB 802 Death penalty executions; moratorium.** Imposes a moratorium on executions. The bill does not affect any other matter of law related to the death penalty, including bringing and trying capital charges, sentencing proceedings, imposition of the death penalty, appeals of the death penalty, and habeas review. The

moratorium will remain in effect until adjournment of the first regular session of the General Assembly after a joint subcommittee established pursuant to a joint resolution passed by the 2020 General Assembly conducts a study of the death penalty in the Commonwealth and issues a report of its conclusions and recommendations.

**SB 803 Attorneys for the Commonwealth; compensation and collection of fees.** Prohibits the Compensation Board, when determining staffing and funding levels for offices of attorneys for the Commonwealth, from (i) considering the number of charges brought or the number of convictions obtained by such attorney for the Commonwealth; (ii) relying on standards devised or recommended by the attorney for the Commonwealth, law-enforcement agencies, or professional associations representing attorneys for the Commonwealth or law-enforcement officers; or (iii) using measures that increase if an attorney for the Commonwealth (a) elects to prosecute a more serious charge, (b) elects to prosecute additional charges from a single arrest or criminal incident, (c) obtains convictions rather than dismissing charges or offering reduced charges, or (d) proceeds with prosecution rather than diversion. The bill also requires attorneys for the Commonwealth to pay all fees collected by them in consideration of the performance of official duties or functions into the state treasury, instead of only half of such fees.

**SB 805 Robbery; definition, penalty.** Defines "robbery" and creates degrees of punishment corresponding to the severity of a robbery offense. Any person who commits a robbery by causing serious bodily injury is guilty of robbery in the first degree, which is punishable by confinement in a state correctional facility for a maximum term of life. Any person who commits robbery by displaying a firearm in a threatening



manner is guilty of robbery in the second degree, which is punishable by confinement in a state correctional facility for a maximum term of 20 years. Any person who commits robbery by using physical force not resulting in serious bodily injury, or by displaying a deadly weapon other than a firearm in a threatening manner, is guilty of robbery in the third degree, which is punishable as a Class 5 felony.

**[SB 808](#) Expungement of police and court records; misdemeanor and felony convictions.**

Allows a person convicted of a criminal offense to file a petition requesting expungement of the police and court records relating to the conviction if such person (i) has been free from any term of incarceration, probation, and postrelease supervision imposed as a result of such conviction for (a) at least eight years for a misdemeanor offense or (b) at least 12 years for a felony offense, (ii) has no subsequent convictions other than traffic infractions, and (iii) has no pending criminal proceeding. CO

**[SB 810](#) Discretionary sentencing guidelines worksheets; use by juries.** Requires that the jury be given the applicable discretionary sentencing guidelines worksheets during a sentencing proceeding and that the court instruct the jury that the sentencing guidelines worksheets are discretionary and not binding on the jury. The bill requires sentencing guidelines worksheets to be kept confidential by the jurors and filed under seal by the court.

**[SB 811](#) Sentencing in a criminal case; bifurcated jury trial.** Provides that in a criminal case the court shall ascertain the extent of the punishment, unless the accused has requested that the jury ascertain punishment or was found guilty of capital murder.

## CRIMINAL LAW

### – FAILED –

**[HB 118](#) Trespass with an unmanned aircraft system; local or state correctional facilities, penalty.** Provides that any person who knowingly and intentionally causes an unmanned aircraft system to come within 400 feet of the lateral boundaries of any local or state correctional facility, for any reason, is guilty of a Class 1 misdemeanor.

**[HB 163](#) Contempt of court; penalty.** Increases from 10 days to 30 days the maximum term of imprisonment for a charge of contempt of court but limits the term of imprisonment to 30 days, including in cases where the court empanels a jury to ascertain the punishment.

**[HB 247](#) Infliction of injury on pedestrians and wheelchair users; penalties.** Increases from a traffic infraction to a Class 2 misdemeanor the penalty for failure to obey traffic lights or stop for pedestrians when such failure results in the death or serious bodily injury of a pedestrian or wheelchair user.

**[HB 266](#) Interest on fines and costs in criminal cases and traffic infractions.** Eliminates the accrual of interest on any fine or costs imposed in a criminal case or in a case involving a traffic infraction. The bill provides that any such fine or costs that have accrued interest prior to July 1, 2020, shall cease to accrue interest on July 1, 2020, and such accrued interest may be waived by any court.

**[HB 274](#) Juveniles; trial as adult.** Increases from 14 years of age to 16 years of age the minimum age at which a juvenile can be tried as an adult in circuit court for a felony.

**[HB 279](#) Sentencing proceeding by the jury after conviction; recommendation of leniency.** Provides that a jury may, in ascertaining the punishment for a person convicted of a felony

or Class 1 misdemeanor, recommend that the sentence imposed be suspended in whole or in part, or that sentences imposed for multiple offenses be served concurrently, except where such suspension of sentence or concurrent service is prohibited by law.

[HB 401](#) **Court-appointed counsel; additional compensation.** Allows court-appointed counsel for parents in child welfare cases to submit a waiver application for additional compensation of \$120 in district court and \$158 for cases appealed to the circuit court. FAILED

[HB 470](#) **Protective orders on behalf of incapacitated persons.** Allows an employee of a local department of social services (local department) to petition a court on behalf of an incapacitated person for a preliminary protective order in cases of family abuse or non-family abuse.

[HB 580](#) **Child abuse and neglect; gender identity or sexual orientation.** Expands the definition of "abused or neglected child" to include any child whose parents, or other person responsible for his care, create or inflict, threaten to create or inflict, or allow to be created or inflicted upon such child a physical or mental injury on the basis of the child's gender identity or sexual orientation.

[HB 625](#) **Protective orders in cases of family abuse; definition of family abuse;** identity theft. Includes acts of identity theft committed against a person's family or household member in the definition of "family abuse" for purposes of the issuance of protective orders in cases of family abuse.

[HB 675](#) **License restrictions for minors; use of handheld personal communications devices.** Clarifies that the prohibition on the use of a wireless communications device by the holder of a provisional driver's license applies whether or not the device is being used for communication purposes. The bill exempts the

use of applications for solely navigation purposes and global positioning systems provided that the driver does not enter information into or manually manipulate the device or system while operating the vehicle.

[HB 667](#) **Habitual offenders; driving while intoxicated.** Decreases the penalty for driving while intoxicated while a habitual offender revocation is in effect, provided that such driving does not endanger the life, limb, or property of another, from a felony with a mandatory minimum of one year confinement to a Class 1 misdemeanor with a mandatory minimum of 10 days confinement.

[HB 820](#) **Court appearance of a person not free on bail.** Makes various changes to provisions regarding bail hearings, including (i) the appointment of counsel for the accused, (ii) the information provided to accused's counsel, (iii) a requirement that counsel for the accused be provided with adequate time to confer with the accused prior to any bail hearing, and (iv) the compensation of counsel for the accused.

[HB 919](#) **Preliminary protective orders; hearing dates.** Allows the full hearing resulting from the issuance of a preliminary protective order to be heard on the same hearing or trial date as a related criminal offense if such hearing or trial date has already been set for a date later than 15 days after the issuance of the preliminary protective order.

[HB 1077](#) **Protective orders; minors; filing of petition.** Provides that a minor may petition for a protective order on his own behalf without the consent of a parent or guardian and without doing so by next friend.

[HB 1180](#) **Misdemeanor; maximum term of confinement.** Reduces the maximum term of confinement in jail for a Class 1 misdemeanor and certain unclassified misdemeanors from 12 months to 364 days.

**[HB 1182](#) Protective order; family abuse; restitution; temporary spousal support.** Allows the court to order the respondent in a protective order issued in a case of family abuse to order financial or other relief for the protection or well-being of the petitioner. The bill further allows a court to issue a temporary spousal support order for support of the petitioner in conjunction with the issuance of such a protective order.

**[HB 1386](#) Death penalty; severe mental illness.** Provides that a defendant in a capital case who had a severe mental illness, as defined in the bill, at the time of the offense is not eligible for the death penalty. The bill establishes procedures for determining whether a defendant had a severe mental illness at the time of the offense and provides for the appointment of expert evaluators.

**[HB 1423](#) Orders of restitution; enforcement.** Provides that an order of restitution shall be docketed in the name of the Commonwealth 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.

**[HB 1461](#) Appeal from bail, bond, or recognizance order.** Provides that a court may stay the execution of a bail order, in all bail decisions, for as long as reasonably practicable, but in no event more than three days, for a party to obtain an expedited appeal before the next higher court. Under current law, there is no maximum time for the stay unless the bail decision was governed by the bail presumption provisions.

**[SB 145](#) Protective orders; violations, penalty.** Provides that any person who commits any assault, assault and battery, or bodily wounding

upon any party protected by a protective order is guilty of a Class 6 felony. Currently, the Class 6 felony is only applicable if the person commits an assault and battery that results in serious bodily injury to the protected party.

**[SB 331](#) Capital murder of a person in a school setting; penalty mandatory minimum term.**

Provides that the willful, deliberate, and premeditated killing of any person by another when such person is upon the property of any child day center, any public, private, or religious preschool, elementary school, middle school, or high school, or any institution of higher education is punishable as capital murder, a Class 1 felony.

**[SB 440](#) Electronic transmission of sexually explicit visual material by minors; penalties.**

Provides that a minor who (i) knowingly transmits, distributes, publishes, or disseminates to another minor an electronically transmitted communication containing sexually explicit visual material of his own person or (ii) knowingly possesses at least one but not more than 10 electronically transmitted communications containing sexually explicit visual material of another minor is guilty of a Class 2 misdemeanor.

**[SB 489](#) Authority to defer and dismiss a criminal case.** Provides that a trial court presiding in a criminal case may, after any plea or trial, with or without a determination, finding, or pronouncement of guilt, and notwithstanding the entry of a conviction order, upon consideration of the facts and circumstances of the case, upon its own motion with the consent of the defendant, or with the agreement of the defendant and the Commonwealth, defer proceedings, defer entry of a conviction order, if none, or defer entry of a final order, and continue the case for final disposition, on such reasonable terms and conditions as may be agreed upon by the parties and placed on the record, or if there is

no agreement, as may be imposed by the court. The bill provides that final disposition may include (a) conviction of the original charge, (b) conviction of an alternative charge, or (c) dismissal of the proceedings.

**[SB 493](#) Geriatric, terminally ill, etc., prisoners; conditional release.** Provides that any person serving a sentence imposed upon a conviction for a felony offense, other than a Class 1 felony, who is terminally ill or permanently physically disabled is eligible for consideration by the Parole Board for conditional release. The bill also provides that any person serving such sentence (i) who is 65 years of age or older and has served at least five years of the sentence imposed or (ii) who is 60 years of age or older and has served at least 10 years of the sentence imposed is eligible for consideration by the Parole Board for conditional release without the need to petition the Parole Board.

**[SB 625](#) Failure to advise of consequences of guilty plea; vacation of conviction.** Creates a mechanism for a person who is not a citizen of the United States to vacate a criminal conviction or adjudication of delinquency, other than for a violent felony or an offense that requires sex offender registration, if such person was not advised of the possible adverse consequences of such conviction or adjudication on his immigration status (i) for any conviction of such offense entered on or before July 1, 2019, or (ii) if the petitioner received actual notice that he is subject to deportation or removal from the United States, exclusion from admission to the United States, or denial of naturalization under federal law as a result of entering a plea of guilty or nolo contendere to such offense and such petition is filed within one year after receiving such notice. The bill provides that such person may file a petition with the appropriate circuit court, which may hold a hearing on the petition and either dismiss the petition or vacate the

person's conviction or adjudication and order a retrial. The bill also provides that only one such petition may be filed.

**[SB 642](#) Functions of a multi-jurisdiction grand jury; failure to pay wages.** Adds the offense of willfully failing to pay wages to the list of offenses that a multi-jurisdiction grand jury is authorized to investigate.

**[SB 730](#) Custodial interrogations; recording.** Provides that any law-enforcement officer shall, if practicable, make an audiovisual recording of the entirety any custodial interrogation of a person conducted in a place of detention. The bill provides that if an audiovisual recording is unable to be made, the law-enforcement officer shall make an audio recording of the custodial interrogation. The bill provides that the failure of a law-enforcement officer to make such a recording shall not affect the admissibility of the statements made during the custodial interrogation, but the court or jury may consider such failure in determining the weight given to such evidence. As introduced this bill was a recommendation of the Virginia Criminal Justice Conference. This bill incorporates [SB 305](#).

**[SB 806](#) Ex parte requests for investigative services or expert assistance in noncapital cases.** Allows a defendant or his attorney, when such defendant is charged with a felony offense or Class 1 misdemeanor and is financially unable to pay foreexpert assistance, to move the circuit court to designate another judge in the same circuit to hear an ex parte request for appointment of a qualified expert to assist in the preparation of the defendant's defense. Upon receiving the defendant's or his attorney's declaration of need for confidentiality, the designated ex parte judge shall conduct an ex parte hearing on the request for authorization to obtain expert assistance. After a hearing upon the motion and upon a showing that the provision of the requested expert services

would materially assist the defendant in preparing his defense and the denial of such services would result in a fundamentally unfair trial, the court shall order the appointment of a qualified expert. The provisions of the bill are contingent on funding in a general appropriation act.

**SB 823 Writs of actual innocence.** Provides that a person who was convicted of a felony or who was adjudicated delinquent by a circuit court of an offense that would be a felony if committed by an adult may petition for a writ of actual innocence based on biological evidence or nonbiological evidence regardless of the type of plea he entered at trial. Under current law, such person may petition for either writ if he entered a plea of not guilty, and any person, regardless of the type of plea he entered at trial, may petition for such writ based on biological evidence if he is sentenced to death or convicted or adjudicated delinquent of murder or a felony for which the maximum punishment is imprisonment for life. The bill also eliminates the provision that limits a petitioner to only one writ of actual innocence based on nonbiological evidence for any conviction.

**SB 840 Persons acquitted by reason of insanity.** Makes various changes to the provisions regarding confinement hearings and conditional release procedures for persons who have been acquitted of a violent felony by reason of insanity. Under current law, such provisions do not distinguish between persons acquitted of a violent felony or any other felony offense.

**SB 878 Court-appointed counsel; additional compensation.** Allows court-appointed counsel for parents in child welfare cases to submit a waiver application for additional compensation of \$120 in district court and \$158 for cases appealed to the circuit court. The provisions of the bill are contingent on funding in a general appropriation act.

## INSURANCE LAW

### – PASSED –

#### [HB 951](#) **Mutual assessment property and casualty insurers; notice by electronic delivery.**

Authorizes a mutual assessment property and casualty insurer to provide notice of assessment by electronic delivery. Under current law, such notice may only be provided personally or by mail.

#### [HB 1251](#) **Balance billing; emergency services.**

Provides that when a covered person receives covered emergency services from an out-of-network health care provider or receives out-of-network services at an in-network facility, the covered person is not required to pay the out-of-network provider any amount other than the applicable cost-sharing requirement. The measure also establishes a standard for calculating the health carrier's required payment to the out-of-network provider of the services. If such provider determines that the amount to be paid by the health carrier does not comply with the applicable requirements, the measure requires the provider and the health carrier to make a good faith effort to reach a resolution on the appropriate amount of the reimbursement and, if a resolution is not reached, authorizes either party to request the State Corporation Commission to review the disputed reimbursement amount and determine if the amount complies with applicable requirements. The measure provides that such provisions do not apply to an entity that provides or administers self-insured or self-funded plans; however, such entities may elect to be subject such provisions. The measure requires health carriers to make reports to the Bureau of Insurance and directs the Bureau to provide reports to certain committees of the General Assembly. The measure requires the nonprofit data services organization contracting with the Department of Health to operate the

All Payer Claims Database to convene an advisory work group to make recommendations for a methodology to be used for identifying codes for comparable emergency services and statistical adjustments to account for outlier payment amounts for each health planning region to be used for the market-based value calculation and submit its recommendations to the Commissioner of Insurance no later than December 31, 2020.

[HB 1334](#) **Insurance data security; required programs and notifications.** Establishes standards for insurance data security and for the investigation of a cybersecurity event and the notification to the Commissioner of Insurance and affected consumers of a cybersecurity event. The bill requires insurers to develop, implement, and maintain a comprehensive written information security program based on an assessment of its risk and that contains administrative, technical, and physical safeguards for the protection of nonpublic information and its information system. The bill requires investigation of potential cybersecurity events and prescribes standards for such investigations. The bill requires that the notification of the occurrence of a cybersecurity event provided by an insurer or other entity to the Commissioner and affected consumers to include certain information prescribed by the bill. The bill requires the Commissioner to adopt rules and regulations regarding data security and authorizes the Commissioner to investigate potential violations.

#### [SB 172](#) **Health insurance; payment to out-of-network providers, emergency services.**

Provides that when a covered person receives covered emergency services from an out-of-network health care provider or receives out-of-network services at an in-network facility, the covered person is not required to pay the out-of-network provider any amount other than the



applicable cost-sharing requirement. The measure also provides that the health carrier's required payment to the out-of-network provider of the services is the usual and customary commercial payment. If such provider determines that the amount to be paid by the health carrier is not appropriate, the measure requires the provider and the health carrier to make a good faith effort to reach a resolution on the appropriate amount of the reimbursement and, if a resolution is not reached, authorizes either party to request to enter arbitration. The measure requires the State Corporation Commission to establish rules for an expedited arbitration process to settle disputes between providers and health carriers arising out of such disputes. Under the measure, the Commission is required to establish a portal on its website for the submission of arbitration claims, (ii) contract with independent arbitrators to settle such disputes, (iii) ensure the arbitrators do not have a conflict of interest with the parties and have experience in health care billing, and (iv) maintain a list of such arbitrators on its website. The measure provides certain factors that an arbitrator is required to consider when settling such a disputed claim. The measure provides that provisions of the bill do not apply to an entity that provides or administers self-insured or self-funded plans; however, such entities may elect to be subject such provisions. The measure requires health carriers to make reports to the Bureau of Insurance and directs the Bureau to provide reports to certain committees of the General Assembly.

**SB 208 Mechanics' liens; right to withhold payment.** Specifies that the use of funds paid to a general contractor or subcontractor and used by such contractor or subcontractor before paying all amounts due for labor performed or material furnished gives rise to a civil cause of action for a party who is owed such funds. The bill further specifies that such cause of action

does not affect a contractor's or subcontractor's right to withhold payment for failure to properly perform labor or furnish materials and that any contractual provision that allows a party to withhold funds due on one contract for alleged claims or damages due on another contract is void as against public policy.

**SB 735 Peer-to-peer vehicle sharing platforms.** Establishes insurance, taxation, recordkeeping, disclosure, and safety recall requirements for peer-to-peer vehicle sharing platforms, defined in the bill.

**SB 766 Health care services; explanation of benefits.** Authorizes the State Corporation Commission to adopt regulations that establish alternative methods of delivery of the explanation of benefits, provided that such alternative method is in compliance with the provisions of federal regulations regarding the right to request privacy protection for protected health information. This bill is identical to [HB 807](#).

## INSURANCE LAW

### – CARRIED OVER –

**HB 59 Health carriers; licensed athletic trainers.** Requires health insurers and health service plan providers whose policies or contracts cover services that may be legally performed by a licensed athletic trainer to provide equal coverage for such services when rendered by a licensed athletic trainer.

**HB 188 Health care services; payment estimates.** Requires hospitals and practitioners licensed by the Board of Medicine to provide a patient or the representative of a patient scheduled to receive a nonemergency procedure, test, or service to be performed by the hospital or practitioner with an estimate of the payment amount for which the patient will



be responsible no later than one week after the scheduling of such procedure, test, or service. Currently, only hospitals are required to provide such estimate, and such estimate is required only (i) for elective procedures, tests, or services; (ii) within three days of the procedure, test, or service; and (iii) upon request of the patient or his representative.

**[SB 27](#) Uninsured and underinsured motorist insurance policies; bad faith.** Provides that if an insurance company denies, refuses, or fails to pay its insured, or refuses a reasonable settlement demand within the policy's coverage limits, for a claim for uninsured or underinsured motorist benefits within a reasonable time after being presented with a demand for such benefits and it is subsequently found that such denial, refusal, or failure was not in good faith, then the insurance company shall be liable to the insured for the full amount of the judgment and reasonable attorney fees, expenses, and interest from the date the initial settlement demand was presented to the insurance company.

## INSURANCE LAW

### — FAILED —

**[HB 1172](#) Electronic health records; digital format.** Requires electronic health record systems to transfer data in a common file format that is suitable for electronic access and use by the receiving entity and provides that if an individual requests his health record in an electronic format from a health care entity, the health care entity shall provide such health record in a common electronic file format that is suitable for electronic access and use by the receiving entity.

**[HB 1212](#) Compliance with terms and conditions of personal motor vehicle insurance policy.**

Provides that any party, regardless of the age of such party, seeking liability coverage under a personal motor vehicle insurance policy shall comply with the terms and conditions of an insurance policy, including the duty to cooperate in any investigation of a claim in which liability coverage is sought.

**[HB 1539](#) Peer-to-peer vehicle sharing platforms.** Establishes insurance, taxation, recordkeeping, disclosure, and safety recall requirements for peer-to-peer vehicle sharing platforms, defined in the bill.

**[SB 192](#) Health insurance; physical therapist office visit; cost-sharing requirements.** Prohibits health insurers, corporations providing health care coverage subscription contracts, and health maintenance organizations whose policies, contracts, or plans include coverage for physical therapy from imposing any cost-sharing requirements such as a copayment, coinsurance, or deductible for a physical therapist office visit that exceeds the cost-sharing requirements for a physician or osteopath office visit.

**[SB 664](#) Motor vehicle liability insurance coverage limits.** Increases the minimum motor vehicle liability insurance coverage amounts from \$25,000 to \$35,000 in cases of bodily injury to or death of one person, from \$50,000 to \$70,000 in cases of bodily injury to or death of more than one person in any one accident, and from \$20,000 to \$40,000 for property damage coverage.

**[SB 767](#) Health insurance; payment to out-of-network providers.** Provides that when a covered person receives covered emergency services from an out-of-network health care provider or receives out-of-network services at an in-network facility, the covered person is not required to pay the out-of-network provider any amount other than the applicable cost-sharing requirement. The measure also

establishes a standard for calculating the health carrier's required payment to the out-of-network provider of the services, which standard is the lower of the market-based value for the service or 125 percent of the amount that would be paid under Medicare for the service.

[HJ 49](#) Congress; amend ERISA to support state actions to expand access to health care.

## WORKERS' COMPENSATION

– PASSED –

### [HB 55](#) **Worker cooperatives; established as a category of cooperative associations.**

Establishes worker cooperatives as a category of cooperative associations. A worker cooperative is a stock corporation that has elected to be governed by provisions established by this measure, which include (i) conducting its business primarily for the mutual benefit of its members, (ii) allowing only current and retired employees to be members, (iii) limiting voting rights to current employees, (iv) providing that each employee is entitled to one vote, (v) prohibiting any person from owning more than one membership share, (vi) requiring at least two-thirds of employees to own membership shares, and (vii) requiring that net earnings be paid or credited to members in accordance with the ratio that each member's amount of work performed during a period bears to the total amount of work performed by all members during that period.

### [HB 169](#) **Workers' compensation; occupational disease presumption, correctional officers.**

Adds correctional officers and full-time sworn members of the enforcement division of the Department of Motor Vehicles to the list of public safety employees who are entitled to a presumption that certain infectious diseases are compensable occupational diseases.

[HB 438](#) **Workers' compensation; post-traumatic stress disorder, law-enforcement officers and firefighters.** Provides that post-traumatic stress disorder incurred by a law-enforcement officer or firefighter is compensable under the Virginia Workers' Compensation Act if a mental health professional examines a law-enforcement officer or firefighter and diagnoses the individual as suffering from post-traumatic

stress disorder as a result of the individual's undergoing of a qualifying event, defined as an incident or exposure occurring in the line of duty on or after July 1, 2020, (i) resulting in serious bodily injury or death to any person or persons; (ii) involving a minor who has been injured, killed, abused, or exploited; (iii) involving an immediate threat to life of the claimant or another individual; (iv) involving mass casualties; or (v) responding to crime scenes for investigation. Other conditions for compensability include (a) if the post-traumatic stress disorder resulted from the law-enforcement officer or firefighter acting in the line of duty and, in the case of a firefighter, such firefighter complied with certain federal Occupational Safety and Health Act standards; (b) if the law-enforcement officer's or firefighter's undergoing of a qualifying event was a substantial factor in causing his post-traumatic stress disorder; (c) if such qualifying event, and not another event or source of stress, was the primary cause of the post-traumatic stress disorder; and (d) if the post-traumatic stress disorder did not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action of the officer or firefighter. The measure also establishes requirements for resilience and self-care technique training. This bill is identical to [SB 561](#).

[HB 617](#) **Workers' compensation; repetitive motion injuries.** Directs the Virginia Workers' Compensation Commission to engage an independent and reputable national research organization to examine the implications of covering workers' injuries caused by repetitive motion through the Virginia workers' compensation system.

[HB 783](#) **Workers' compensation; presumption of compensability for certain diseases.** Adds cancers of the colon, brain, or testes to the list

of cancers that are presumed to be an occupational disease covered by the Virginia Workers' Compensation Act when firefighters or certain employees develop the cancer. The presumption shall not apply for any individual who was diagnosed with one of the conditions before July 1, 2020. The measure removes the compensability requirement that the employee who develops cancer had contact with a toxic substance encountered in the line of duty. The bill also reduces the number of years of service needed to qualify for the presumption from 12 to five for various types of cancer. For hypertension or heart disease, the bill adds a requirement that an individual complete five years of service in their position in order to qualify. This bill is identical is identical to [SB 9](#).

[HB 1558](#) **Workers' compensation; Ombudsman program.** Authorizes the Virginia Workers' Compensation Commission to create an Ombudsman program and appoint an ombudsman to administer such program. The program's purpose is to provide neutral educational information and assistance to persons who are not represented by an attorney, including those persons who have claims pending or docketed before the Commission.

[SB 9](#) **Workers' compensation; presumption of compensability for certain diseases.** Adds cancers of the colon, brain, or testes to the list of cancers that are presumed to be an occupational disease covered by the Virginia Workers' Compensation Act when firefighters or certain employees develop the cancer. The presumption shall not apply for any individual who was diagnosed with one of the conditions before July 1, 2020. The measure removes the compensability requirement that the employee who develops cancer had contact with a toxic substance encountered in the line of duty. The bill also reduces the number of years of service needed to qualify for the presumption from 12

to five for various types of cancer. For hypertension or heart disease, the bill adds a requirement that an individual complete five years of service in his position in order to qualify. This bill incorporates [SB 58](#), [SB 381](#), and [SB 531](#) and is identical to [HB 783](#).

[SB 40](#) **Line of Duty Act; eligible dependents.**

Provides that children born or adopted after the death or disability of an employee covered by the Line of Duty Act are eligible for health insurance coverage if the pregnancy or adoption occurred before July 1, 2017. Under current law, such children are not eligible.

[SB 345](#) **Workers' compensation; occupational disease presumptions.** Adds correctional officers and full-time sworn members of the enforcement division of the Department of Motor Vehicles to the list of public safety employees who are entitled to a presumption that certain infectious diseases are compensable occupational diseases.

[SB 561](#) **Workers' compensation; post-traumatic stress disorder, law-enforcement officers and firefighters.** Provides that post-traumatic stress disorder incurred by a law-enforcement officer or firefighter is compensable under the Virginia Workers' Compensation Act if a mental health professional examines a law-enforcement officer or firefighter and diagnoses the individual as suffering from post-traumatic stress disorder as a result of the individual's undergoing a qualifying event, defined as an incident or exposure occurring in the line of duty on or after July 1, 2020, (i) resulting in serious bodily injury or death to any person or persons; (ii) involving a minor who has been injured, killed, abused, or exploited; (iii) involving an immediate threat to life of the claimant or another individual; (iv) involving mass casualties; or (v) responding to crime scenes for investigation. Other conditions for compensability include (a) if the post-traumatic stress disorder resulted from the law-

enforcement officer or firefighter acting in the line of duty and, in the case of a firefighter, such firefighter complied with certain federal Occupational Safety and Health Act standards; (b) if the law-enforcement officer's or firefighter's undergoing of a qualifying event was a substantial factor in causing his post-traumatic stress disorder; (c) if such qualifying event, and not another event or source of stress, was the primary cause of the post-traumatic stress disorder; and (d) if the post-traumatic stress disorder did not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action of the officer or firefighter. The measure also establishes requirements for resilience and self-care technique training. The bill incorporates [SB 741](#) and [SB 924](#) and is identical to [HB 438](#).

## WORKERS' COMPENSATION

### – CARRIED OVER –

[HB 1542](#) **Workers' compensation; occupational disease presumption; Department of Motor Vehicles officers.** Establishes a presumption that hypertension or heart disease causing the death or disability of a full-time sworn member of the enforcement division of the Department of Motor Vehicles is an occupational disease compensable under the Workers' Compensation Act.

## WORKERS' COMPENSATION

### – FAILED –

[HB 45](#) **Workers' compensation; retaliatory discharge of employee.** Prohibits an employer or other person from discharging an employee if the discharge is motivated to any extent by knowledge or belief that the employee has filed a claim or taken or intends to take certain other actions under the Virginia Workers' Compensation Act. Currently, retaliatory discharges are prohibited only if the employer or other person discharged an employee solely because the employee has taken or intends to take such an action.

[HB 46](#) **Workers' compensation; employer to notify employee of intent.** Requires an employer whose employee has filed a claim under the Virginia Workers' Compensation Act to advise the employee whether the employer intends to accept or deny the claim or is unable to make such a determination because it lacks sufficient information from the employee or a third party. If the employer is unable to make such a determination because it lacks sufficient information from the employee or a third party, the employer shall so state and identify the needed additional information. If the employer intends to deny the claim, it shall provide the reasons.

[HB 47](#) **Workers' compensation; foreign injuries.** Provides that an injured employee is eligible for benefits under the Virginia Workers' Compensation Act when a compensable accident happens while the employee is employed outside Virginia if (i) the employment contract was not expressly for services exclusively to be performed outside Virginia and (ii) either the employer's place of business is in Virginia or the employee regularly performs work on the employer's behalf in Virginia and resides in Virginia.

**[HB 649](#) Workers' compensation; occupational disease presumption; police dispatchers.**

Establishes a presumption that hypertension or heart disease causing the death or disability of full-time salaried police dispatchers is an occupational disease compensable under the Workers' Compensation Act.

**[SB 227](#) Virginia Workers' Compensation Commission; fee schedules.**

## CONSUMER LAW

### – PASSED –

[HB 135](#) **Virginia Consumer Protection Act; assignment of right to receive veteran's benefits.** Provides that if any person advertises, arranges, offers, or enters into any assignment of right to receive veterans' pension or retirement benefits, such action constitutes a prohibited practice under the Virginia Consumer Protection Act if such assignment is prohibited or void under specified federal anti-assignment acts.

[HB 334](#) **Manufactured Home Lot Rental Act; sale of manufactured home park to developer.** Provides that if the termination of a manufactured home park rental agreement is due to the sale of the manufactured home park to a buyer that is going to redevelop the park and change its use, the landlord shall provide certain relocation expenses to each manufactured home owner in the park within the 180-day notice period for the purpose of removing the manufactured home from the park.

[HB 393](#) **Landlord and tenant; tenant rights and responsibilities, Tenant Bill of Rights.** Requires that the Director of Housing and Community Development develop a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Residential Landlord and Tenant Act and maintain such statement on the Department's website. The bill requires the Director to develop and maintain on the Department's website a printable form to be signed by the parties to a written rental agreement acknowledging that the tenant has received from the landlord the statement of tenant rights and responsibilities and requires a landlord to furnish to a prospective tenant, at the time of furnishing an unsigned copy of the

proposed written rental agreement, the statement of tenant rights and responsibilities for signature by the parties to the rental agreement. The landlord may not file or maintain an action against the tenant in a court of law for any alleged lease violation until he has provided the tenant with such statement.

[HB 518](#) **Virginia Residential Property Disclosure Act; disclosures for a buyer to beware; energy analyst.** Adds obtaining a residential building energy analysis to the disclosure statement furnished to the buyer by the owner of residential real property that the buyer beware and exercise necessary due diligence with respect to determining the condition of real property or any improvements thereon. This bill is a recommendation of the Virginia Housing Commission. The bill incorporates [HB 574](#) and is identical to [SB 628](#).

[HB 519](#) **Virginia Residential Landlord and Tenant Act; certain notices of termination to contain legal aid.** Provides that no notice of termination of tenancy served upon a tenant receiving tenant-based rental assistance through (i) the Housing Choice Voucher Program, 42 U.S.C. § 1437f(o), or (ii) any other federal, state, or local program by a private landlord is effective unless it contains on its first page, in type no smaller or less legible than that otherwise used in the body of the notice, the statewide legal aid telephone number and website address. This bill is identical to [SB 115](#).

[HB 594](#) **Virginia Residential Landlord and Tenant Act; security deposits; timing of application.** Requires the landlord to return the tenant's security deposit, minus any deductions or charges, within 45 days of the termination of the tenancy or the date the tenant vacates the dwelling unit, whichever occurs last. Under current law, the 45-day period to return the security deposit begins on the date of the termination of the tenancy. This bill is identical to [SB 388](#).



[HB 789](#) **Consumer lending.** Replaces references to payday loans with the term "short-term loans." The measure caps the interest and fees that may be charged under a short-term loan at an annual rate of 36 percent, plus a maintenance fee; increases the maximum amount of such loans from \$500 to \$2,500; and sets the duration of such loans at a minimum of four months, subject to exceptions, and a maximum of 24 months. Short-term loan licensees are required to make a reasonable attempt to verify a borrower's income and may not collect fees and charges that exceed 50 percent of the original loan amount if such amount is equal to or less than \$1,500 and 60 percent of the original loan amount if such amount is greater than \$1,500. The measure amends the requirements for motor vehicle title loans, including setting the duration of such loans at a minimum of six months, subject to exceptions, and a maximum of 24 months and prohibiting motor vehicle loans for amounts greater than \$2,500. The measure sets a 36-percent annual interest rate cap on open-end credit plans and allows a \$50 annual participation fee. A violation of these provisions is made a prohibited practice under the Virginia Consumer Protection Act. The measure amends provisions of the Consumer Finance Act to, among other things, allow licensed lenders to use the services of access partners and establish requirements that loans be between \$300 and \$35,000; be repayable in substantially equal installment payments; have a term of no fewer than six and no more than 120 months; charge not more than 36 percent annual interest and a loan processing fee; and require licensees to post a bond. The measure prohibits credit service businesses from advertising, offering, or performing other services in connection with an extension of credit that has an annual interest rate exceeding 36 percent, is for less than \$5,000, has a term of less than one year, or is provided under an open-end credit plan. The

measure has a delayed effective date of January 1, 2021.

[HB 1161](#) **Virginia Residential Property Disclosure Act and Virginia Residential Landlord and Tenant Act.** Adds to the disclosure statement required to be furnished by the owner of residential real property to a buyer that the buyer beware and exercise necessary due diligence with respect to whether the property contains any pipe, pipe or plumbing fitting, fixture, solder, or flux that does not meet the federal Safe Drinking Water Act definition of "lead free." The bill also requires any licensee who is engaged by a landlord and who has actual knowledge of the existence of any pipe, pipe or plumbing fitting, fixture, solder, or flux that does not meet the federal Safe Drinking Water Act definition of "lead free" to disclose such information to a prospective tenant.

[HB 1249](#) **Manufactured Home Lot Rental Act; manufactured home park; termination due to sale of park; notice.** Provides that where the sale of a manufactured home park is due to a change in the use of all or any part of a manufactured home park by the landlord, including conversion to hotel, motel, or other commercial use, planned unit development, rehabilitation, or demolition, a 180-day written notice is required to terminate the rental agreement. The bill also requires a manufactured home park owner who offers or lists the park for sale to a third party to provide written notice to (i) the Department of Housing and Community Development, which shall make the information available on its website within five days of receipt, and (ii) each tenant of the manufactured home park at least 90 days prior to accepting an offer. The bill provides that tenants who have been evicted from a manufactured home park have 90 days after a judgment has been entered in which to rent the manufactured home to a subtenant, contingent

on the subtenant's making a rental application to the manufactured home park owner within such 90-day period and approval by the home park owner of such rental application from the subtenant. This bill incorporates [HB 1163](#) and [HB 1229](#).

[HB 1341](#) **Manufactured Housing Construction and Safety Standards Law; provisions not set out; applicability.** Sets out a section from Chapter 37 of the Acts of Assembly of 1986 establishing the applicability of the Manufactured Housing Construction and Safety Standards Law (§ 36-85.2 et seq.). The bill also removes an obsolete provision relating to the purpose of the chapter and makes technical changes. The bill is a recommendation of the Code Commission.

[HB 1342](#) **Virginia Residential Property Disclosure Act and Virginia Residential Landlord and Tenant Act.** Adds to the disclosure statement required to be furnished to the buyer by the owner of residential real property that the buyer beware and exercise necessary due diligence (i) with respect to whether the property contains any pipe, pipe or plumbing fitting, fixture, solder, or flux that does not meet the federal Safe Drinking Water Act definition of "lead free" and (ii) with respect to the existence of defective drywall on the property.

[HB 1401](#) **Landlord and tenant; remedy for unlawful ouster; ex parte issuance of order to recover possession.** Provides that, upon receipt of a petition for an order to recover possession or restore essential services alleging a tenant's unlawful ouster from the rental premises and a finding that the petitioner has attempted to provide the landlord with actual notice of the hearing on the petition, the judge of the general district court may issue such order ex parte upon a finding of good cause to do so. The bill further provides that an ex parte order shall be a preliminary order that specifies a date for a

full hearing on the merits of the petition, to be held within five days of the issuance of the ex parte order.

[HB 1553](#) **Debt settlement services providers; penalties.** Provides for the licensure and regulation of debt settlement services providers by the State Corporation Commission. The measure defines "debt settlement services" as any action or negotiation initiated or taken by or on behalf of any consumer with any creditor of the consumer for the purpose of obtaining debt forgiveness of a portion of the credit extended by the creditor to the consumer or reduction of payments, charges, or fees payable by the consumer. The measure prohibits licensees from accepting a fee from consumers prior to providing the consumers' requested debt settlement services. The requirements imposed by this measure on licensed providers of debt settlement services are similar to those applicable to agencies providing debt management plans. The measure provides for civil penalties against licensees that violate these requirements, grants consumers a private right of action against licensees, and makes a violation a prohibited practice under the Virginia Consumer Protection Act. The licensing and regulation of debt settlement services providers has a delayed effective date of July 1, 2021. The measure directs the State Corporation Commission to establish a procedure to be in effect by March 1, 2021, for any person to apply prior to July 1, 2021, for a license that will become effective when the licensing requirements of this measure become effective on July 1, 2021.

[SB 33](#) **Consumer finance companies; loans, licensing.** Requires the State Corporation Commission, as a condition of licensing a consumer finance company, to find that the applicant will not make consumer finance loans at the same location at which the applicant makes payday loans or motor vehicle title loans.

The measure also (i) sets the minimum and maximum amounts of a consumer finance loan at \$500 and \$35,000, respectively; (ii) requires that such loans be installment loans with a term that is not less than six months nor more than 120 months; (iii) sets the maximum annual interest rate on such loans at 36 percent; (iv) authorizes late payment fees of \$20, provided that they are set forth in a contract; (v) authorizes loan processing fees of the greater of \$75 or five percent of the principal amount of the loan but not to exceed \$150; and (vi) increases from \$15 to \$25 the amount of a bad check fee.

**[SB 114](#) Comprehensive animal care; enforceable under Virginia Consumer Protection Act.** Subjects certain animal care statutes to enforcement under the Virginia Consumer Protection Act (§ 59.1-196 et seq.). These statutes relate to the posting of information about dogs and to written notice of consumer remedies required to be provided by pet shops, pet dealers, and animal boarding establishments.

**[SB 115](#) Va. Residential Landlord & Tenant Act; notice of termination to contain legal services information.** Provides that no notice of termination of tenancy served upon a tenant receiving tenant-based rental assistance through (i) the Housing Choice Voucher Program, 42 U.S.C. § 1437f(o), or (ii) any other federal, state, or local program by a private landlord is effective unless it contains on its first page, in type no smaller or less legible than that otherwise used in the body of the notice, the statewide legal aid telephone number and website address. This bill is identical to [HB 519](#).

**[SB 343](#) Virginia Residential Property Disclosure Act; required disclosures for buyer to beware; impounding.** Directs the Real Estate Board to include in the residential property disclosure statement provided on its website a disclosure relating to the condition or regulatory status of

any impounding structure or dam on the owner's property or under the ownership of a common interest community that the owner of the property is required to join. This bill is identical to [HB 1569](#) and as introduced was a recommendation of the Virginia Housing Commission.

**[SB 388](#) Virginia Residential Landlord and Tenant Act; return of security deposit.** Requires the landlord to return the tenant's security deposit, minus any deductions or charges, within 45 days of the termination of the tenancy or the date the tenant vacates the dwelling unit, whichever occurs last. Under current law, the 45-day period to return the security deposit begins on the date of the termination of the tenancy. This bill is identical to [HB 594](#).

**[SB 421](#) Consumer lending; replaces references to payday loans with term "short-term loans."** Replaces references to payday loans with the term "short-term loans." The measure caps the interest and fees that may be charged under a short-term loan at an annual rate of 36 percent, plus a maintenance fee; increases the maximum amount of such loans from \$500 to \$2,500; and sets the duration of such loans at a minimum of four months, subject to exceptions, and a maximum of 24 months. Short-term loan licensees are required to make a reasonable attempt to verify a borrower's income and may not collect fees and charges that exceed 50 percent of the original loan amount if such amount is equal to or less than \$1,500 and 60 percent of the original loan amount if such amount is greater than \$1,500. The measure amends the requirements for motor vehicle title loans, including requiring licensed lenders to use a database to determine a prospective borrower's eligibility for a loan and prohibiting loans to a borrower who has an outstanding short-term loan. The measure sets a 36-percent annual interest rate cap on open-end credit

plans and allows a \$50 annual participation fee. A violation of these provisions is made a prohibited practice under the Virginia Consumer Protection Act. The measure amends provisions of the Consumer Finance Act to, among other things, allow licensed lenders to use the services of access partners and establish requirements that loans be between \$300 and \$35,000; be repayable in substantially equal installment payments; have a term of no fewer than six and no more than 120 months; charge not more than 36 percent annual interest and a loan processing fee; and require licensees to post a bond. The measure prohibits credit service businesses from advertising, offering, or performing other services in connection with an extension of credit that has an annual interest rate exceeding 36 percent, is for less than \$5,000, has a term of less than one year, or is provided under an open-end credit plan. The bill has a delayed effective date of July 1, 2021, and requires any person who would be required to be licensed under the provisions of the act to apply for a license by April 1, 2021.

**[SB 672](#) Property Owners' Association Act and Virginia Condominium Act; contract disclosure statement.** Provides for a limited extension of the right of cancellation where such extension is provided for in a ratified real estate contract, defined in the bill. This bill is identical to [HB 176](#).

**[SB 707](#) Landlord and tenant; tenant rights and responsibilities; explanation and remedy.** Requires the Director of the Department of Housing and Community Development to develop a statement of tenant rights and responsibilities explaining in plain language the rights and responsibilities of tenants under the Virginia Residential Landlord and Tenant Act (§ 55.1-1200 et seq.) and maintain such statement on the Department's website along with a form to be signed by the parties to a rental agreement. The bill requires that the statement

be provided to any prospective tenant and that the form developed by the Department be signed by the parties to the rental agreement. The bill prohibits a landlord from filing or maintaining an action against a tenant in a court of law for any alleged lease violation unless he has provided the tenant with the statement of tenant rights and responsibilities. The provisions of the bill are contingent on funding in a general appropriation act.

**[SB 905](#) Property; landlord and tenant; tenant's remedy by repair.** Permits a tenant, under certain circumstances, to have a condition that constitutes a material noncompliance by the landlord with the rental agreement or with provisions of law, or that if not promptly corrected will constitute a fire hazard or serious threat to the life, health, or safety of occupants of the premises, remedied by a third-party licensed contractor. The bill provides that, unless the tenant has been reimbursed by the landlord, the tenant may deduct from rent the actual costs incurred, not to exceed the amount of one month's periodic rent, after submitting to the landlord an itemized statement accompanied by receipts for purchased items and third-party contractor services.

## CONSUMER LAW

### – CARRIED OVER –

**[HB 473](#) Personal data; Virginia Privacy Act.** Gives consumers the right to access their data and determine if it has been sold to a data broker. The measure requires a controller, defined in the bill as a person that, alone or jointly with others, determines the purposes and means of the processing of personal data, to facilitate requests to exercise consumer rights regarding access, correction, deletion, restriction of processing, data portability, objection, and profiling.

[HB 1516](#) **Landlord and tenant; certain owners of residential rental property; agent and registration require.** Creates the Virginia Residential Rental Property Registry, to be developed and maintained by the Department of Housing and Community Development. Every owner of residential property on which three or more dwelling units are offered for rent is required to submit certain information to be placed on the Registry. Failure to properly register or maintain updated registry information is subject to a civil penalty of \$50 per unit for the first day and \$50 for each additional day of noncompliance, to be levied by the Department. The bill also requires such property owners to appoint and continuously maintain an agent who (i) is available to be contacted 24 hours a day and (ii) works or resides not more than 25 miles from any such property. The contact phone number of such agent is required to be posted in any residential building on any such property in a conspicuous manner for use by the tenants.

## CONSUMER LAW

### – FAILED –

[SB 755](#) **Disclosure of vehicle damage; vehicle title.** Requires the Department of Motor Vehicles to attach a disclosure to the title of any vehicle that is reported to the National Motor Vehicle Title Information System (NMVTIS) noting that such vehicle has been reported to NMVTIS and how to obtain more information about the history of the vehicle.

[SB 906](#) **Property; landlord and tenant; noncompliance as defense to action for possession for nonpayment.** Removes provisions limiting the discretion of the court in actions for possession based upon nonpayment of rent and actions for rent by a landlord when the tenant is in possession. The bill simplifies

the law; stating only that, in such cases, a tenant may assert as a defense the landlord's violation of his duty to maintain a fit and habitable premises.

[HB 858](#) **Virginia Residential Property Disclosure Act and Virginia Residential Landlord and Tenant Act.** Requires the owner of residential real property who has actual knowledge that the property is located in one or more special flood hazard areas to provide a disclosure that states such information to a potential purchaser. The owner of any residential real property upon which a stormwater management facility is located is required to provide to a prospective purchaser a written disclosure that includes specifications, requirements, and a schedule of audits of such facility.

[HB 1019](#) **Motor vehicle sales and use tax; definition of sale price; trade-in vehicles.** Provides that for the purposes of calculating the motor vehicle sales and use tax for new vehicle purchases only, the sale price shall be reduced by the value of any trade-in vehicle. Under current law, no allowance or deduction is given for the value of a trade-in vehicle.

[HB 1020](#) **Records of financial institutions; reimbursement of costs for production.** Provides that a financial institution that is asked to provide records related to a customer of the financial institution pursuant to a court proceeding shall be reimbursed by the requesting party for the reasonably necessary and directly incurred costs for the production of such records. **FAILED**

[HB 1195](#) **Virginia Residential Landlord and Tenant Act; notice of termination to contain legal services.** Provides that no notice of termination of tenancy served upon any residential tenant is effective unless it contains on its first page, in type no smaller or less legible than that otherwise used in the body of

the notice, the name, address, and telephone number of the legal services program, if any, serving the jurisdiction in which the premises is located. The same requirement is currently only applicable to a public housing authority organized under the Housing Authorities Law.



## JUDICIAL ADMINISTRATION

– PASSED –

[HB 60](#) **Judges, substitute; powers and duties, entry of a final order.** Gives a substitute judge the power to enter a final order in any case heard by such substitute judge for a period of 14 days after the date of a hearing of such case.

[HB 63](#) **Court of Appeals; use of moot courtroom of accredited law schools.** Provides that upon proper agreement with the applicable authorities the Court of Appeals may use the moot courtroom of any accredited law school located in the Commonwealth for the holding of court and for its ancillary functions. Current law specifies that the Court may use state and federal facilities but not private law schools in the Commonwealth. This bill is identical to [SB 1002](#).

[HB 275](#) **Maximum number of judges in each judicial district.** Increases from 11 to 12 the maximum number of authorized general district court judgeships in the nineteenth judicial district. The Committee on District Courts recommended the additional judgeship in 2018. This bill is identical to [SB 209](#).

[HB 305](#) **Circuit court clerk's fee; lodging of wills.** Increases from \$2 to \$5 the fee that the circuit court clerk is required to charge for lodging, indexing, and preserving a will. This bill is identical to [SB 940](#).

[HB 306](#) **Fees collected by circuit court clerks for recording and indexing; use of fee in preserving.** Increases by \$2 the fees for the recording and indexing of certain documents. The bill further increases from \$1.50 to \$3.50 the portion of the recording and indexing fee collected by circuit court clerks that is designated for use in preserving the permanent records of the circuit courts. This bill is identical to [SB 938](#).

[HB 500](#) **Lists of registered voters; provided at no charge to courts of the Commonwealth.**

Directs the Department of Elections to provide, at no charge, the courts of the Commonwealth and the United States with the lists of registered voters in their districts for jury selection purposes no more than two times in a 12-month period. At any other time in the same 12-month period, the lists shall be provided for a reasonable price. This bill is identical to [SB 466](#).

[HB 1324](#) **Juvenile and domestic relations district court; intake.** Makes various changes to the intake procedures for the domestic relations district court, including (i) providing that, if a juvenile is alleged to be a truant, the intake officer may defer filing a petition in order to develop and allow the juvenile to complete a truancy plan or program; (ii) changing the notice requirement for circumstances under which informal action has been taken on a complaint alleging that a juvenile is in need of services, in need of supervision, or delinquent so that the intake officer advises the juvenile and his parents that any subsequent complaint may result in the filing of a petition with the court; and (iii) adding possession of alcohol to the existing offense of possession of marijuana for which, if charged by summons, a juvenile is entitled to have the charge referred to intake for consideration of informal proceedings.

[HB 1725](#) **Judicial assistants; serves under supervision of presiding judge of circuit court.** Provides that an employee hired and paid by a county or city to assist with the administration of a circuit court judge's office shall serve at the sole discretion and under the sole supervision of such judge.

[SB 149](#) **Courthouse and courtroom security; assessment.** Increases from \$10 to \$20 the maximum amount a local governing body may assess against a convicted defendant as part of the costs in a criminal or traffic case in district



or circuit court to fund courthouse and courtroom security.

**[SB 209](#) Judges; increases maximum number in judicial district.** Increases from 11 to 12 the maximum number of authorized general district court judgeships in the nineteenth judicial district. The Committee on District Courts recommended the additional judgeship in 2018. This bill is identical to [HB 275](#).

**[SB 466](#) Lists of registered voters; provided at no charge to courts of the Commonwealth.** Directs the Department of Elections to provide, at no charge, the courts of the Commonwealth and the United States with the lists of registered voters in their districts for jury selection purposes no more than two times in a 12-month period. At any other time in the same 12-month period, the lists shall be provided for a reasonable price. This bill is identical to [HB 500](#).

**[SB 499](#) Specialty dockets; veterans docket.** Provides that any veterans docket authorized and established as a local specialty docket in accordance with the Rules of Supreme Court of Virginia shall be deemed a "Veterans Treatment Court Program," as that term is used under federal law or by any other entity, for the purposes of applying for, qualifying for, or receiving any federal grants, other federal money, or money from any other entity designated to assist or fund such state programs. The bill contains an emergency clause.

**[SJ 47](#) Study; jurisdiction and organization of Court of Appeals of Virginia; report.** Requests the Judicial Council of Virginia to study the jurisdiction and organization of the Court of Appeals of Virginia and make recommendations on providing an appeal of right from the circuit courts to the Court of Appeals and organizing the Court of Appeals into four geographic circuits.

## JUDICIAL ADMINISTRATION

### – FAILED –

**[HB 1165](#) Statewide electronic filing system; circuit courts, general district courts.** Directs the Supreme Court of Virginia to establish and operate a system for electronic filing for civil and criminal proceedings for all circuit courts, general district courts, and juvenile and domestic relations district courts on or before July 1, 2026. The bill further directs the Supreme Court to promulgate rules to govern such filing system.

**[SB 438](#) Judicial performance evaluation program; risk assessment tool; use of alternative sanction.** Requires the Virginia Criminal Sentencing Commission to use sentencing guidelines to determine the cost of incarceration for an offender who receives the minimum recommended sentence and to include the cost on the sentencing guideline form. The bill also requires the Commission to determine the number of offenders during a judge's term who qualify for the use of the offender risk assessment tool and, on the basis of such assessment, are recommended to receive an alternative sanction and do not receive an alternative sanction.

**[HB 556](#) Judicial Retirement System; amount of retirement allowance.** Provides that the annual retirement allowance of a person who retires under the Judicial Retirement System shall not exceed 78 percent of the person's average final compensation, unless such person prior to becoming a judge performs five or more years of creditable service under another retirement plan administered by VRS. However, in no case shall such person's annual retirement allowance exceed 100 percent of his average final compensation.

**[HB 671](#) Va Freedom of Information Act; applicability to certain records of the Office of**

**Executive Sec.** Provides that for the purposes of the provisions of the Virginia Freedom of Information Act that are applicable to access to public records, the Office of Executive Secretary to the Supreme Court shall be considered a public body and, except as otherwise expressly provided by law, shall have the same obligations to disclose public records as other custodians of public records. The bill clarifies that the public records provisions of the Freedom of Information Act do not apply to judicial officers or information created or maintained on behalf of judicial officers, but do apply to any administrative records of judicial officers that are maintained by the Office of Executive Secretary and unrelated to a record created, collected, received, or maintained in connection with a particular case. The bill also adds to the duties of the Executive Secretary a role as custodian of records of administrative functions performed by persons employed by him or acting under his direction and of aggregated data regarding Virginia courts that may be obtained from systems maintained by his office. Finally, the bill directs the Supreme Court of Virginia to revise the rules of practice and procedure as necessary to comply with the provisions provided for in the bill.

**[HB 777](#) Duties of the Executive Secretary to the Supreme Court.** Adds to the duties of the Executive Secretary that he shall be custodian of records of administrative functions performed by persons employed by him or acting under his direction and of aggregated data regarding Virginia courts that may be obtained from systems maintained by his office.

**[HJ 22](#) Substitute and retired district court judges subject to recall; report on current training, etc.** Requests the Office of the Executive Secretary of the Supreme Court of Virginia to study the current training and legal education requirements and performance standards for substitute judges and retired

district court judges subject to recall and to provide recommendations for additional oversight and evaluation of such judges.

**[HB 95](#) Court of Appeals; jurisdiction, contempt of court.** Provides that the Court of Appeals of Virginia has appellate jurisdiction over a judgment of the circuit court that holds or fails to hold a person in contempt of court. Under current law, the Court of Appeals has jurisdiction only over a judgment that holds a person in contempt of court.

**[HB 164](#) Jurors; allowances, unclaimed funds, retention by the court for jury operations or expenses.** Exempts funds held by the court for payment to a juror from the provisions of the Virginia Disposition of Unclaimed Property Act and provides that such funds may be used by the court for jury operations or other jury-related expenses if such funds are unclaimed for more than one year after becoming payable.

**[SB 169](#) Warrants; issuance for law-enforcement officers by a magistrate.** Provides that a magistrate may not issue an arrest warrant for a misdemeanor offense where the accused is a law-enforcement officer and the alleged offense arises out of the performance of his public duties upon the basis of a complaint by a person other than a law-enforcement officer or an animal control officer without prior authorization by the attorney for the Commonwealth or by a law-enforcement agency. The bill provides for the appointment of an attorney for the Commonwealth from outside the jurisdiction if a conflict of interest exists for the attorney for the Commonwealth having jurisdiction.

## DOMESTIC RELATIONS/FAMILY LAW

– PASSED –

[HB 94](#) **Adoption; proper proceeding to legal custodian.** Provides that a legal custodian of a child being placed for adoption, and any other named parties in pending cases in which the custody or visitation of such child is at issue, shall be entitled to proper notice of any adoption proceeding and an opportunity to be heard.

[HB 137](#) **Guardians ad litem for children; certification of compliance with certain standards.** Requires guardians ad litem appointed to represent a child in a matter to conduct an investigation in compliance with certain standards. The bill requires a guardian ad litem to file with the court, along with any attorney representing a party or party proceeding pro se, a certification of the guardian ad litem's compliance with such standards, specifically addressing such standards requiring face-to-face contact with the child. The bill further requires the guardian ad litem to document the hours spent satisfying such face-to-face contact requirements and specifies that compensation for such contact shall be at the same rate as that for in-court service.

[HB 637](#) **Child support; reasonable cost of health care coverage.** Modifies the definition of "reasonable cost" for purposes of health care coverage in child support arrangements by capping the maximum amount to five percent of the gross income of the parent responsible for providing health care coverage. Under current law, such costs are capped at five percent of the parents' combined gross income.

[HB 721](#) **Post-adoption contact and communication agreements; involuntary termination of parental rights.** Provides that a child's birth parent or parents for whom

parental rights were involuntarily terminated may enter into a post-adoption contact and communication agreement with the child's pre-adoptive parent or parents.

[HB 861](#) **Best interests of the child; act of violence, force, or threat against an intimate partner.** Provides that any history of child abuse and acts of violence, force, or threat that occurred no earlier than 10 years prior to the filing of a petition for custody or visitation of a child shall be considered by a court in determining the best interests of a child. This bill is identical to [SB 105](#).

[HB 933](#) **Kinship Guardianship Assistance program; expands eligibility, fictive kin.** Expands eligibility for the Kinship Guardianship Assistance program by allowing payments to be made to fictive kin who receive custody of a child of whom they had been the foster parent. This bill incorporates [HB 917](#) and is identical to [SB 178](#).

[HB 1490](#) **Same-sex marriages; civil unions.** Repeals the statutory prohibitions on same-sex marriages and civil unions or other arrangements between persons of the same sex purporting to bestow the privileges and obligations of marriage. These prohibitions are no longer valid due to the United States Supreme Court decision in *Obergefell v. Hodges*, 576 U.S. \_\_\_\_ (June 26, 2015). This bill is identical to [SB 17](#).

[HB 1500](#) **Pendente lite spousal support; guidelines.** Makes current juvenile and domestic relations district court guidelines for the presumptive amount of temporary spousal support applicable in cases filed in circuit court. The bill also adjusts the guidelines to account for changes to the federal tax code that became effective on January 1, 2019.

[HB 1501](#) **Modification of spousal support.** Removes requirement that a stipulation or contract that is executed on or after July 1,

2018, contain specific language, as set out in the Code, stating that the amount or duration of spousal support is not modifiable in order for a request for modification of spousal support to be denied solely on the basis of the terms of such stipulation or contract. The bill instead provides that such stipulation or contract need only expressly state that the amount or duration of spousal support is non-modifiable.

**[SB 17](#) Same-sex marriages; civil unions.** Repeals the statutory prohibitions on same-sex marriages and civil unions or other arrangements between persons of the same sex purporting to bestow the privileges and obligations of marriage. These prohibitions are no longer valid due to the United States Supreme Court decision in *Obergefell v. Hodges*, 576 U.S. \_\_\_\_ (June 26, 2015). This bill incorporates [SB 39](#) and is identical to [HB 1490](#).

**[SB 62](#) Marriage records; divorce and annulment reports, eliminates requirement for identification of race.** Eliminates the requirement that the race of married parties be included in marriage records, divorce reports, and annulment reports filed with the State Registrar. The bill also removes the requirement that the State Registrar include race data in the compilation and posting of marriage, divorce, and annulment data. This bill incorporates [SB 19](#) and is identical to [HB 180](#) and [SB 1066](#). **[SB 105](#) Best interests of the child; act of violence, force, or threat against an intimate partner, etc.** Provides that any history of child abuse and acts of violence, force, or threat that occurred no earlier than 10 years prior to the filing of a petition for custody or visitation of a child shall be considered by a court in determining the best interests of a child. This bill is identical to [HB 861](#).

**[SB 178](#) Kinship Guardianship Assistance program; expands eligibility, fictive kin.** Expands eligibility for the Kinship Guardianship Assistance program by allowing payments to be

made to fictive kin who receive custody of a child of whom they had been the foster parent. This bill is identical to [HB 933](#). PASSED

**[SB 247](#) No-fault divorce; gender-neutral terminology.** Replaces the terms "husband" and "wife" with gender-neutral terms in the no-fault divorce statute.

**[SB 428](#) Initial child support order; unreimbursed medical expenses for pregnancy and birth.** Provides that for any initial child support proceeding that is commenced within six months of the birth of a child, the order shall provide that the parents pay in proportion to their gross incomes any reasonable and necessary unpaid expenses of the mother's pregnancy and the delivery of such child.

**[SB 429](#) Child support; withholding from income of an independent contractor.** Clarifies that income earned by an independent contractor may be withheld by court order for payment of child support obligations.

**[SB 430](#) Access to minor's child-care records by parent.** Provides that, absent a court order, a minor's records from a child day center or family day home shall not be withheld from a parent of such minor, regardless of whether the parent has custody of such child

**[SB 432](#) Spousal support; reservation of right to seek; material change of circumstances.** Provides that, unless otherwise provided by stipulation or contract, or unless otherwise ordered by the court, a party seeking to exercise his reserved right to spousal support shall be required to prove that a material change of circumstances has occurred as a prerequisite for the court to consider exercise of such reservation.

**[SB 433](#) Adultery; civil penalty.** Allows the trier of fact in a civil domestic relations proceeding to draw an adverse inference if a party or witness in such a proceeding refuses to answer

a question regarding adultery on the grounds that such testimony might be self-incriminating.

**SB 434 Child support; assignment of tax**

**credits.** Provides that the court may assign a party in a child support proceeding the right to claim any credits resulting from the income tax dependency exemption for any child or children of the parties for federal and state income tax purposes.

**SB 451 Juvenile and domestic relations district court; award of attorney fees.**

Permits a juvenile and domestic relations district court judge to take all relevant factors, in addition to the relative financial ability of the parties, into consideration when awarding attorney fees and costs.

**SB 472 Foster care; termination of parental rights; independent living needs assessments.**

Requires local boards of social services and child-placing agencies, if the child has been in the custody of a local board or child-placing agency for 15 of the most recent 22 months and no petition for termination of parental rights has been filed with the court, to include in the petition for a permanency planning hearing the reasons why a petition to terminate parental rights has not been filed and the reasonable efforts made regarding reunification or transfer of custody to a relative. The bill requires that local boards and child-placing agencies provide information to birth parents regarding the parent's option to voluntarily terminate parental rights, and that the Commissioner of Social Services develop clear guidance documents regarding the manner in which such information should be relayed. The bill requires the Board of Social Services to promulgate regulations related to termination of parental rights, independent living needs assessments and plans, and reporting requirements for local boards and child-placing agencies.

**SB 585 Guardianship; supported decision**

**making.** Provides that if the respondent to a guardianship or conservatorship petition is between 17 and a half and 21 years of age and has an Individualized Education Plan (IEP), the guardian ad litem appointed to represent the respondent shall review the IEP and include the results of his review in the report required to be submitted to the court and requires the Superintendent of Public Instruction to make available transitional materials prepared by the Department of Education that include information about powers of attorney and guardianship to be provided to students and parents during the student's annual IEP meeting. The bill also requires the guardian ad litem to consider whether a less restrictive alternative, including the use of an advance directive or durable power of attorney, is available to provide assistance to the respondent. The bill requires the court, upon appointment of a guardian or conservator, to inform such person of his duties and that the respondent should be encouraged to participate in decisions, act on his own behalf, and develop or maintain the capacity to manage his personal affairs if he retains any decision-making rights. The bill sets out specific language to be included in all orders of appointment of a guardian. Finally, the bill requires the Department of Behavioral Health and Developmental Services to convene a group of stakeholders to study the use of supported decision-making agreements.



## DOMESTIC RELATIONS/FAMILY LAW

### – CARRIED OVER –

[HB 291](#) **Uniform Collaborative Law Act.** Creates the Uniform Collaborative Law Act, which provides a framework for the practice of collaborative law, a process entered into voluntarily by clients for the express purpose of reaching a settlement in a family or domestic relations law matter, including (i) marriage, divorce, dissolution, annulment, and property distribution; (ii) child custody, visitation, and parenting time; (iii) alimony, spousal support, maintenance, and child support; (iv) adoption; (v) parentage; and (vi) negotiation or enforcement of premarital, marital, and separation agreements. The Act governs disclosure of information, privilege against disclosure of communications, and scope of representation by the attorneys in the proceeding.

[SB 352](#) **Guardianship and conservatorship; supported decision-making alternative.**

Requires a guardian ad litem in a proceeding for the appointment of a guardian or conservator to include in his report to the court information as to whether a supported decision-making agreement, as defined in the bill, is a viable option in lieu of guardianship or conservatorship.

[SB 502](#) **Department of Social Services; child support enforcement; distribution of support payments.** Requires the Department of Social Services, in cases in which the Department receives child support payments, to enter into an agreement with the obligee that shall include information regarding the Department's duty to disburse support payments to the obligee and establish a date by which such disbursements shall be made each month. The bill requires the Department, if it does not receive a support payment at least two days

before the date scheduled for disbursement, to issue to the obligee a payment in the amount that would have been distributed had the obligor's support payment been timely received.

## DOMESTIC RELATIONS/FAMILY LAW

### – FAILED –

[SB 920](#) **Surrogacy contracts; provisions requiring abortion or selective reduction unenforceable.** Provides that any provision of a surrogacy contract requiring or prohibiting an abortion or selective reduction is against the public policy of the Commonwealth and is void and unenforceable.

[HB 1530](#) **No-fault divorce; corroboration requirement.** Removes the corroborating witness requirement for no-fault divorces.

[HB 862](#) **Guardianship; communication between close relatives and friends of incapacitated persons.** Provides that a guardian may restrict an incapacitated person's ability to communicate with, visit, or interact with close relatives, as defined in the bill, and friends, as defined in the bill, only when necessary to prevent a reasonable expectation of serious physical or psychological harm or serious financial exploitation occurring to the incapacitated person. The bill further sets up a procedure by which a person whose visits, communication with, or interaction with an incapacitated person have been restricted may challenge such restriction in court and a procedure by which a guardian may petition the court to restrict an incapacitated person's communication, visitation, and interaction rights with a close relative or friend.

[HB 1206](#) **Guardian ad litem; compensation; order of the court.** Provides that, in any civil action in which a guardian ad litem is appointed

and for which the compensation and payment of expenses of such guardian ad litem are not otherwise provided for, a court may order that such compensation and expenses be paid by the Commonwealth for good cause shown.

**[SB 501](#) Adoption and foster care; persons authorized to conduct home studies.** Allows home studies for purposes of adoption or foster care placements to be conducted by any person who has completed the home study training program established by regulations of the Board of Social Services. Under current law, such home studies must be conducted by a local board of social services or licensed child-placing agency.

**[SB 570](#) State-Funded Kinship Guardianship Assistance program; created.** Requires the Department of Social Services, in cases in which the Department receives child support payments, to enter into an agreement with the obligee that shall include information regarding the Department's duty to disburse support payments to the obligee and establish a date by which such disbursements shall be made each month. The bill requires the Department, if it does not receive a support payment at least two days before the date scheduled for disbursement, to issue to the obligee a payment in the amount that would have been distributed had the obligor's support payment been timely received.

**[SB 571](#) Visitation; petition of grandparent of deceased parent.** Requires the court, in petitions for visitation filed by the grandparent of a child where either (i) the parent is the grandparent's child and is deceased, incarcerated, or incapacitated, or has had is parental rights terminated or (ii) the grandparent has an established relationship with the child and has provided a significant level of care for the child, to consider the following factors: (i) the historical relationship between the grandparent and child; (ii) the

motivation of the grandparent in seeking visitation; (iii) the motivation of the living parent in denying visitation to the grandparent; (iv) the quantity of time requested and the effect it will have on the child's daily activities; and (v) the benefits of maintaining a relationship with the extended family of the deceased parent.

**[HB 485](#) Best interests of a child; frequent and continuing contact with each parent.** Provides that, while considering the best interests of a child for the purposes of determining custody or visitation arrangements, the court shall, when appropriate, assure frequent and continuing contact with each parent.

**[HB 684](#) Online case information system; juvenile and domestic relations district court.** Requires the Executive Secretary of the Supreme Court to make certain nonconfidential information for adult criminal cases in the juvenile and domestic relations district courts publicly viewable in the online case information system. Under current law, only criminal cases in circuit courts participating in the Executive Secretary's case management system and in the general district courts are required to be made publicly available in such system.

**[HB 82](#) Child and spousal support; net income, imputation of income.** Changes the child support guidelines to establish net income, defined in the bill, as the basis for establishing a child support obligation and provides that a periodic award of spousal support shall not be more than the payor's net income. The bill removes consideration of earning capacity of a party in determining spousal support and removes the earning capacity and imputation of income of a party as a means to rebut the child support presumption.

**[HB 212](#) Custody and visitation arrangements; use of cannabidiol oil or THC-A oil by foster parent, etc.** Provides that the use of cannabidiol



oil or THC-A oil by a parent in a custody or visitation case shall not serve as the sole basis for the denial or restriction of custody or visitation, if such parent has a written certification by a practitioner attesting to the benefit of such use. The bill further provides that such use by a foster parent shall not be the sole reason a child is removed from a foster parent and that such use by a prospective foster parent shall not be the sole reason to deny such prospective foster parent eligibility to become a foster parent. The bill also provides that such use by a petitioner for adoption shall not be the sole reason for the denial of a final order of adoption by a circuit court.

**HB 350 Best interests of the child; frequent and continuing contact with each parent.**

Requires that the court consider, when appropriate, frequent and continuing contact with each parent when determining the best interests of the child for purposes of determining custody or visitation arrangements.

**HB 371 Adoption by stepparent; background check.** Repeals the July 1, 2020, sunset on provisions that require a circuit court, when determining whether an investigation by the director of the local department of social services should be required before a final order is entered to approve as an adoptive parent the spouse of a child's birth or adoptive parent, to consider the results of a national criminal history background check conducted on the prospective adoptive parent.

**SB 61 Custody and visitation arrangements; use of cannabidiol oil or THC-A oil by foster parent, etc.** Provides that the use of cannabidiol oil or THC-A oil by a parent in a custody or visitation case shall not serve as the sole basis for the denial or restriction of custody or visitation, if such parent has a written certification by a practitioner attesting to the benefit of such use. The bill further provides that such use by a foster parent shall not be the

sole reason a child is removed from a foster parent and that such use by a prospective foster parent shall not be the sole reason to deny such prospective foster parent eligibility to become a foster parent. The bill also provides that such use by a petitioner for adoption shall not be the sole reason for the denial of a final order of adoption by a circuit court.

## GENERAL PRACTICE

### – PASSED –

[HB 788](#) **Restrictive covenants; deeds of reformation.** Prohibits a deed containing a restrictive covenant from being recorded on or after July 1, 2020, and provides the form for a Certificate of Release of Certain Prohibited Covenants to be recorded to remove any such restrictive covenant.

[HB 1346](#) **Claim for attorney fees.** Aligns the provision for a claim for attorney fees to be paid out of money or property under control of the court with Rule 3:25 of the Rules of Supreme Court of Virginia by providing that the claim for such attorney fees shall be made in a complaint, petition, or other proceeding. The bill removes the provision that provides that such attorney fees may also be paid where the parties are notified in writing that application will be made to the court. This bill is a recommendation of the Boyd-Graves Conference.

[HB 1380](#) **Uniform Directed Trust Act.** Codifies the Uniform Directed Trust Act, which expressly validates terms of a trust that provide for a trust director, a term that is defined in the Act, and prescribes a set of rules for directed trusts, including allocation of fiduciary duties.

[HB 1561](#) **Fort Monroe Authority; civil actions in general district court.** Authorizes the Fort Monroe Authority to prepare, execute, file, and have served certain documents in a civil proceeding in general district court without the intervention of an attorney. This bill is identical to [SB 956](#).

[SB 700](#) **Indexing of wills.** Provides that a will shall be indexed in the name of the executor as listed in such instrument.

[SB 1032](#) **Civil actions; determination of indigency.** Sets out the factors to be considered by the court in its determination of a person's

indigency for the purpose of determining inability to pay fees or costs in a civil action. The bill also provides that a person is presumed unable to pay if he is a current recipient of a state or federally funded public assistance program or he is represented by a legal aid society. The bill provides that the presumption is rebuttable except in the case of a no-fault divorce.

## GENERAL PRACTICE

### – CARRIED OVER –

[HB 76](#) **Statute of limitations on written contract; missing persons declared dead, executor of estate.** Provides that, for any action that would be barred by the five-year statute of limitations on a written contract, wherein a person who would be party to such action was a missing person presumed dead and subsequently declared dead by court order, the executor of such person's estate has one year from the entry of such order to bring such an action, provided that a cause of action accrued on or after the date upon which such person went missing.CO

[HB 96](#) **Power of attorney; witness or notary public.** Requires that a power of attorney signed on or after July 1, 2020, be signed before at least one witness or a notary public.CO

[HB 1381](#) **Special education; due process hearings; nonattorney representatives.** Permits a school division and the parents of a child with a disability in the school division to be accompanied and advised by any nonattorney with special knowledge or training with respect to the needs of children with disabilities in any due process hearing before a hearing officer. The bill declares that it constitutes the practice of law without being authorized or licensed to do so as prohibited by law when any such nonattorney drafts or submits pleadings, motions, or briefs; presents evidence; makes

any argument, including any argument relating to any law or regulation; or questions witnesses on behalf of any parent or student. CO

**[SB 359](#) Gifts of real estate; title search required for recordation.** Provides that no deed of gift conveying real estate shall be recorded unless accompanied by a document certifying that a title search has been completed for the real estate subject to the deed and stating any matters affecting the title of property that were found by the title search. CO

**[SB 699](#) Juries; fine for failure to respond to questionnaire.** Permits a court to fine a person no more than \$200 for failure to respond to a request from a jury commissioner or clerk of court containing questions to ascertain such person's eligibility to serve on a jury. The bill provides that prior to assessing such fine, the court may issue a rule to show cause regarding why the person failed to respond to the request.

**[SB 1042](#) Wills; presumption of undue influence.** Codifies the common law test for establishing undue influence upon a testator in the execution of a will. The bill further provides that if evidence is presented to establish the elements required for such a presumption, a jury sitting as trier of fact shall be instructed that it may presume that the will was executed under undue influence.

covenants regarding the affordability of the property and that a trustee under a deed of trust is a fiduciary for both the debtor and the creditor. This bill is in response to *Crosby v. ALG Trustee, LLC*, 296 Va. 561 (2018).

**[HB 1463](#) Virginia Board for Court Reporters.** Creates the Virginia Board for Court Reporters as an independent board to regulate court reporting services in the state. Beginning July 1, 2021, no person may engage in or offer to engage in work as a court reporter unless he has been licensed by the Board. The bill establishes standards of conduct for court reporters and creates the Board for Court Reporters Fund to receive licensing and registration fees to fund the regulatory program.

**[HB 1472](#) Virginia Board for Court Reporters.** Creates the Virginia Board for Court Reporters as an independent board to establish the qualification of applicants for licensure or registration of court reporters in the state. Beginning July 1, 2021, no person may engage in or offer to engage in work as a court reporter unless he has been licensed by the Board. The bill establishes principles of conduct for court reporters and creates the Board for Court Reporters Fund to receive licensing and registration fees to fund the licensure and registration program.

## GENERAL PRACTICE

### — FAILED —

**[HB 1391](#) Deeds of trust; fiduciary duties.** Specifies that a trustee under a deed of trust has only the duties, rights, and obligations imposed and conferred on it by the deed of trust or by statute. The bill further requires that a trustee shall comply with all restrictive

## LONG TERM CARE

### – PASSED –

**[HB 597](#) Group homes; licensure; certain information required.** Requires every applicant for licensure or renewal of a license to establish, conduct, maintain, or operate or continue to operate a group home at which services for individuals with mental health or substance use disorder are offered to submit to the Department of Behavioral Health and Developmental Services, together with such application, financial information; information about services and staffing; and a statement of (i) the legal name of the applicant and, if the applicant is an association, partnership, limited liability company, or corporation, the names and addresses of its officers, agents, sponsors, partners, shareholders, or members and (ii) the legal name under which the applicant, any entity that operates group homes that is affiliated with or under common ownership or control with the applicant, and any entity that operates group homes and that is affiliated with or under common ownership or control with any officer, agent, sponsor, partner, shareholder, or member of the applicant to which a license to operate a group home has been issued in any other state, together with a list of the states in which such licenses have been issued and the dates for which such licenses were issued. The bill also provides that in the case of an application for licensure as a children's residential facility, such application shall contain information regarding any complaints, enforcement actions, or sanctions against a license to operate a children's residential facility held by the applicant in another state and that the investigation into such application conducted by the Department of Social Services shall include consideration of any complaints, enforcement actions, or sanctions against a license to operate a

children's residential facility held by the applicant in another state.

**[HB 902](#) Long-term care services and supports; preadmission screenings.** Provides that every individual who applies for or requests community or institutional long-term services and supports, as defined in the state plan for medical assistance services, may choose to receive services in a community or institutional setting and may choose the setting and provider of long-term care services and supports from a list of approved providers. The bill also clarifies requirements related to the performance of such long-term care services and supports screenings. The bill removes the definition of and references to Pre-PACE. The bill directs the Department of Medical Assistance Services to consider alternative assessment tools for long-term services and supports screenings completed on or after July 1, 2021, and to report its findings and conclusions to the Governor and the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by December 1, 2020. The provisions of the bill shall not become effective if they conflict with any provision of federal law or regulations or guidance issued by the Centers for Medicare and Medicaid Services. This bill is identical to [SB 902](#).

**[HB 1222](#) Notaries; satisfactory evidence of identity; persons in nursing homes or assisted living facilities.** Allows expired state issued driver's licenses or state issued identification cards and expired passports to be used as a means of identification for notarial purposes for individuals residing in nursing homes or assisted living facilities, provided such expired documents expired within five years of the date of use for such identification purposes. PASSED

**[SB 355](#) Assisted living facilities; audio-visual recording of residents.** Directs the Board of Social Services (the Board) to convene a work

group to make recommendations regarding adoption of regulations for audio-visual recording of residents in assisted living facilities. The workgroup shall report its recommendations to the Board and the General Assembly by December 1, 2020.

**[SB 391](#) Adult abuse; financial exploitation; required report by financial institution.**

Requires financial institutions to report to the local department of social services or the adult protective services hotline within five business days any refusal to execute a transaction, delay of a transaction, or refusal to disburse funds based on a good faith belief that such transaction or disbursement may involve financial exploitation of an adult.

**[SB 397](#) Nursing home standards of care and staff requirements; regulations.** Directs the Department of Health to convene a work group to review and make recommendations on increasing the availability of the clinical workforce for nursing homes in the Commonwealth. The work group shall include stakeholder groups as appropriate. The bill directs the Department to collaborate with the Department of Health Professions, the Governor's Chief Workforce Development Advisor, and other state agencies as appropriate. The bill directs the Department to report all recommendations to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions on or before November 15, 2020.

**[SB 686](#) Assisted living facilities; individualized service plans.** Requires the Board of Social Services to amend its regulations governing assisted living facility individualized service plans to require (i) that individualized service plans be reviewed and updated (a) at least once every 12 months or (b) sooner if modifications to the plan are needed due to a significant change in the resident's condition and (ii) that

any deviation from the individualized service plan be documented in writing or electronically, include a description of the circumstances warranting deviation and the date such deviation will occur, certify that notice of such deviation was provided to the resident or his legal representative, be included in the resident's file, and in the case of deviations that are made due to a significant change in the resident's condition, be signed by an authorized representative of the assisted living facility and the resident or his legal representative.

## LONG TERM CARE

### – CARRIED OVER –

**[HB 1321](#) Guardianship; supported decision making.** Guardianship; supported decision making. Creates the Supported Decision-Making Act, which allows an adult with an intellectual or developmental disability to enter into an agreement with another person, called a "supporter," for the purposes of having the supporter assist the adult in making decisions to manage his affairs, giving adults who need assistance a less restrictive means of receiving such assistance than being appointed a guardian or conservator by a court.

## LONG TERM CARE

### – FAILED –

**[HB 737](#) Nursing home standards of care.** Requires regulations establishing the staffing and care standards in nursing homes to require a minimum number of hours of direct care services to each resident per 24-hour period, which minimum increases in specified phases from 3.5 hours to 4.1 hours.

[HB 1075](#) **Home care organizations; public disclosure of complaints.** Requires the Department of Health to make available on its website information regarding all complaints received regarding home care organizations or employees thereof, including whether an investigation was conducted in response to the complaint and the Department's ultimate findings on such complaint.

[SB 425](#) **Assisted living facilities; audio-visual recording of residents.** Directs the Board of Social Services (the Board) to promulgate regulations by July 1, 2021, governing audio-visual recording of residents in assisted living facilities and requires the Department of Social Services to convene a workgroup of stakeholders to make recommendations on such regulations. The workgroup shall report its recommendations to the Board and the General Assembly by December 1, 2020. Directs the Board of Social Services (the Board) to promulgate regulations by July 1, 2021, governing audio-visual recording of residents in assisted living facilities and requires the Department of Social Services to convene a workgroup of stakeholders to make recommendations on such regulations. The workgroup shall report its recommendations to the Board and the General Assembly by December 1, 2020.

## EMPLOYMENT LAW

– PASSED –

**[HB 123](#) Nonpayment of wage; private action, liability for payment of wages due under construction contracts.** Provides that an employee has a private cause of action against an employer who fails to pay wages to recover the amount of wages due plus interest at eight percent annually from the date the wages were due. If the court finds that the employer knowingly failed to pay wages to an employee, the court shall award the employee (i) reasonable attorney fees and other costs and (ii) an amount equal to triple the amount of wages due.

**[HB 143](#) Unemployment compensation; leaving employment to follow military spouse.** Repeals the sunset provision on the current statutory provision that provides that good cause for leaving employment exists if an employee voluntarily leaves a job to accompany the employee's spouse, who is on active duty in the military or naval services of the United States, to a new military-related assignment established pursuant to a permanent change of duty order from which the employee's place of employment is not reasonably accessible.

**[HB 196](#) Employment discrimination; prohibits against electoral board member, etc., for election day service.** Prohibits discrimination in employment against electoral board members and assistant general registrars on the basis of service on election day or at a meeting of the electoral board following the election to ascertain the results of the election.

**[HB 330](#) Employment; covenants not to compete; low-wage employees; civil penalty.** Prohibits an employer from entering into a covenant not to compete with any of its low-wage employees. Any employer that violates this prohibition is subject to a civil penalty of

\$10,000 for each violation. The measure authorizes a low-wage employee to bring a civil action against an employer that attempts to enforce a prohibited covenant not to compete.

**[HB 336](#) Nonpayment of wages; investigations.** Authorizes the Commissioner of Labor and Industry, if he acquires information during an investigation of a complaint of an employer's failure or refusal to pay wages and that information creates a reasonable belief that other employees of the same employer may not have been paid wages, to investigate whether the employer has failed or refused to make a required payment of wages to other employees. The measure also provides that if the Commissioner finds in the course of such investigation that the employer has committed a violation, the Commissioner may institute proceedings on behalf of any employee against his employer. In such proceedings, the Commissioner is not required to have obtained a written complaint of the violation or the written and signed consent of any employee. This bill is identical to [SB 49](#).

**[HB 337](#) Nonpayment of wages; discriminatory actions prohibited.** Prohibits an employer from discharging or otherwise discriminating against an employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding related to the failure to pay wages, or has testified or is about to testify in any such proceeding. The measure authorizes the Commissioner of Labor and Industry to institute proceedings against an employer who has taken such prohibited discriminatory action. Available remedies include reinstatement of the employee, recovery of lost wages, and liquidated damages. This bill is identical to [SB 48](#).

**[HB 340](#) Emergency laws; civil relief; citizens of the Commonwealth furloughed.** Provides a 60-day stay of an unlawful detainer for nonpayment of rent for tenants and a 30-day



stay of foreclosure proceedings for homeowners of, and owners who rent to a tenant, a one-family to four-family residential dwelling unit who request a stay and provide written proof, defined in the bill, that they are (i) an employee of the United States government, (ii) an independent contractor for the United States government, or (iii) an employee of a company under contract with the United States government who was furloughed or was or is otherwise not receiving wages or payments as a result of a closure of the United States government, defined in the bill. The bill requires homeowners and owners who rent to a tenant a one-family to four-family residential dwelling unit to request such stay of foreclosure proceedings within 90 days of a closure of the United States government or 90 days following the end of such closure, whichever is later.

**[HB 570](#) Teachers, public school; unsatisfactory performance evaluations, grounds for dismissal.** Removes the definition of "incompetency" for the purpose of establishing grounds for the dismissal of public school teachers. This bill is identical to [SB 167](#).

**[HB 622](#) Limiting employees' sharing of wage information prohibited; civil penalty.** Prohibits an employer from discharging or taking other retaliatory action against an employee because the employee inquired about or discussed with, or disclosed to, another employee any information about either the employee's own wages or other compensation or about any other employee's wages or other compensation. Violations are subject to a civil penalty of \$100.

**[HB 689](#) Wage payment statements.** Limits the scope of the requirement enacted in 2019 that requires periodic wage payment statements to show the number of hours worked during the pay period. The measure requires the statement (i) to show the number of hours worked if the employee is either (a) paid on the

basis of the number of hours worked or (b) paid on the basis of a salary that is less than the standard salary level adopted by the U.S. Department of Labor establishing an exemption from the overtime premium pay requirements of the federal Fair Labor Standards Act and (ii) to include sufficient information to enable the employee to determine how the gross and net pay were calculated. The measure contains an emergency clause.

**[HB 757](#) Public employment; limitations on inquiries by state agencies and localities regarding arrests.** Prohibits state agencies and localities from including on any employment application a question inquiring whether the prospective employee has ever been arrested for, charged with, or convicted of any crime. The bill prohibits asking a prospective employee if he has ever been arrested or charged with or convicted of any crime unless the inquiry takes place during or after a staff interview of the prospective employee. The prohibition does not apply to applications for employment with law-enforcement agencies or positions related to law-enforcement agencies. The prohibition also does not apply to applications for state agency positions designated as sensitive or to state agencies that are expressly permitted to inquire into an individual's criminal arrests or charges for employment purposes pursuant to any provision of federal or state law. For localities, the prohibition also does not apply to positions for employment by the local school board. This bill incorporates [HB 140](#).

**[HB 798](#) Employment; prohibited retaliatory action.** Prohibits an employer from discharging, disciplining, threatening, discriminating against, penalizing, or taking other retaliatory action against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee (i) reports a violation of any federal or state law or regulation to a supervisor or to

any governmental body or law-enforcement official; (ii) is requested by a governmental body or law-enforcement official to participate in an investigation, hearing, or inquiry; (iii) refuses to engage in a criminal act that would subject the employee to criminal liability; (iv) refuses an employer's order to perform an action that violates any federal or state law or regulation and the employee informs the employer that the order is being refused for that reason; or (v) provides information to or testifies before any governmental body or law-enforcement official conducting an investigation, hearing, or inquiry into any alleged violation by the employer of federal or state law or regulation. A person who alleges a violation of this chapter may bring a civil action seeking injunctive relief, reinstatement, and compensation for lost wages, benefits, and other remuneration.

**[HB 827](#) Virginia Human Rights Act; discrimination on the basis of pregnancy, childbirth, or related medical.** Requires employers, defined in the bill, to make reasonable accommodation for the known limitations of a person related to pregnancy, childbirth, or related medical conditions, if such accommodation is 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.

**[HB 984](#) Misclassification of workers; cause of action.** Authorizes an individual who has not been properly classified as an employee to bring a civil action for damages against his employer for failing to properly classify the employee if the employer had knowledge of the individual's misclassification. The court may award damages in the amount of any wages, salary, employment benefits, including expenses incurred by the employee that would otherwise have been covered by insurance, or other compensation lost to the individual, a

reasonable attorney fee, and the costs incurred by the employee in bringing the action. PASSED

**[HB 1049](#) Prohibited discrimination; sexual orientation and gender identity.** Prohibits discrimination in employment, public accommodation, public contracting, apprenticeship programs, housing, banking, and insurance on the basis of sexual orientation or gender identity. The bill also adds discrimination based on sexual orientation or gender identity to the list of unlawful discriminatory housing practices.

**[HB 1199](#) Employee misclassification; retaliatory actions prohibited; civil penalty.** Prohibits an employer from discharging, disciplining, threatening, discriminating against, or penalizing an employee or independent contractor because the employee or independent contractor reported or plans to report that an employer or any officer or agent has failed to properly classify an individual as an employee and failed to pay required benefits or other contributions. The measure also prohibits such actions against an employee or independent contractor who is requested or subpoenaed by an appropriate authority to participate in an investigation, hearing, or inquiry by an appropriate authority or in a court action. These prohibitions apply only if an employee or independent contractor acts in good faith and upon a reasonable belief that the information is accurate. The measure authorizes the Commissioner of Labor and Industry to institute proceedings against an employer who has taken such prohibited retaliatory action. Available remedies include reinstatement of the employee and recovery of lost wages. An employer that violates these provisions is subject to a civil penalty equal to the employee's lost wages. This bill is identical to [SB 662](#).

**[HB 1228](#) Fair Employment Contracting Act; sexual harassment policy.** Requires contractors

and subcontractors under any public contract with a locality for public works to pay wages, salaries, benefits, and other remuneration to any mechanic, laborer, or worker employed, retained, or otherwise hired to perform services in connection with the public contract at the prevailing wage rate.

**[HB 1514](#) Virginia Human Rights Act; racial discrimination, hair.** Provides that the terms "because of race" and "on the basis of race," and terms of similar import, when used in reference to discrimination in the Code of Virginia and acts of the General Assembly, include traits historically associated with race, including hair texture, hair type, and protective hairstyles such as braids, locks, and twists. This bill is identical to [SB 50](#).

**[SB 48](#) Nonpayment of wages; discriminatory actions prohibited.** Prohibits an employer from discharging or otherwise discriminating against an employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding related to the failure to pay wages, or has testified or is about to testify in any such proceeding. The measure authorizes the Commissioner of Labor and Industry to institute proceedings against an employer who has taken such prohibited discriminatory action. Available remedies include reinstatement of the employee, recovery of lost wages, and liquidated damages. This bill is identical to [HB 337](#).

**[SB 49](#) Nonpayment of wages; investigations.** Authorizes the Commissioner of Labor and Industry, if he acquires information during an investigation of a complaint of an employer's failure or refusal to pay wages and that information creates a reasonable belief that other employees of the same employer may not have been paid wages, to investigate whether the employer has failed or refused to make a required payment of wages to other employees. The measure also provides that if the

Commissioner finds in the course of such investigation that the employer has committed a violation, the Commissioner may institute proceedings on behalf of any employee against his employer. In such proceedings, the Commissioner is not required to have obtained a written complaint of the violation or the written and signed consent of any employee. This bill is identical to [HB 336](#).

**[SB 480](#) Covenants not to compete; low-wage employees; civil penalty.** Prohibits an employer from entering into, enforcing, or threatening to enforce a covenant not to compete between the employer and a low-wage employee. The employer is subject to a civil penalty of \$10,000 per violation. The bill defines "low-wage employee" as either (i) an employee, intern, student, apprentice, or trainee whose average weekly earnings are less than the average weekly wage of the Commonwealth or who is employed without pay or (ii) an independent contractor who is compensated for his services at an hourly rate that is less than the median hourly wage for the Commonwealth for all occupations as reported by the Bureau of Labor Statistics of the U.S. Department of Labor. The bill defines "covenant not to compete" as an agreement that restrains, prohibits, or otherwise restricts an individual's ability to compete with his former employer. The bill allows any low-wage employee subject to such a covenant not to compete to bring a civil action against an employer and seek appropriate relief, including enjoining the conduct of any person or employer, ordering payment of liquidated damages, and awarding lost compensation, damages, and reasonable attorney fees and costs. The bill provides that if the court finds a violation of the bill's provisions, the plaintiff is entitled to recover reasonable costs, including costs and reasonable fees for expert witnesses, and attorney fees from the former employer or

other person who attempts to enforce a covenant not to compete against such plaintiff.

**[SB 548](#) Unemployment compensation.** Amends various provisions regarding unemployment compensation and the Virginia Employment Commission. The bill provides that (i) the Commission shall base its determination on whether an individual is an employee on the standard used by the Internal Revenue Service for such determinations; (ii) for the purposes of unemployment compensation, "wages" does not include any payment made to, or on behalf of, an employee or his beneficiary under a cafeteria plan, as defined in § 125 of the Internal Revenue Code, if such payment would not be treated as wages under the Internal Revenue Code; and (iii) in an unemployment compensation claims adjudication matter, each day a person fails to obey a subpoena issued by a court, a court order, or a subpoena issued by the Commission shall be deemed to be a separate offense. Additionally, the bill requires (a) any employing unit to establish an account with the Commission by the end of the calendar quarter in which it becomes subject to the requirements for unemployment compensation, (b) an employer that has become subject to liability under the unemployment compensation provisions to submit the required reports by the due date of the calendar quarter in which the employer has initially become subject to such liability, and (c) all employers to file their quarterly payroll and tax reports on an electronic medium using a format prescribed by the Commission. Under current law, only employers with 100 or more employees are required to file electronically.

**[SB 662](#) Employee misclassification; retaliatory actions prohibited, civil penalty.** Prohibits an employer from discharging, disciplining, threatening, discriminating against, or penalizing an employee or independent contractor because the employee or

independent contractor reported or plans to report that an employer or any officer or agent has failed to properly classify an individual as an employee and failed to pay required benefits or other contributions. The measure also prohibits such actions against an employee or independent contractor who is requested or subpoenaed by an appropriate authority to participate in an investigation, hearing, or inquiry by an appropriate authority or in a court action.

**[SB 712](#) Virginia Human Rights Act; discrimination on the basis of pregnancy, childbirth.** Requires employers, defined in the bill, to make reasonable accommodation for the known limitations of a person related to pregnancy, childbirth, or related medical conditions, if such accommodation is 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 and 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. The bill creates a cause of action against any employer who denies any of the rights afforded by the bill and permits the court or jury to award compensatory damages, back pay, and other equitable relief. The bill makes technical amendments and is identical to [HB 827](#).

**[SB 804](#) Employment; domestic service; Human Rights Act.** Eliminates the exclusion in the Virginia Minimum Wage Act for persons employed in domestic service. The bill requires the Secretary of Commerce and Trade to convene a work group consisting of representatives from the Department of Labor

and Industry, the Virginia Employment Commission, and the Workers' Compensation Commission to make recommendations, including any necessary statutory and regulatory changes, with regard to protecting domestic service employees from workplace harassment and discrimination, providing remedies for such employees for the nonpayment of wages, ensuring the safety and health of such employees in the workplace, and protecting such employees from loss of income as a result of unemployment or employment-related injury by including coverage of such employees in the Virginia Unemployment Compensation Act and the Virginia Workers' Compensation Act.

**[SB 838](#) Nonpayment of wages; private action; liability for payment of wages due.** Provides that an employee has a private cause of action against an employer who fails to pay wages to recover the amount of wages due plus interest at eight percent annually from the date the wages were due. If the court finds that the employer knowingly failed to pay wages to an employee, the court shall award the employee (i) reasonable attorney fees and other costs and (ii) an amount equal to triple the amount of wages due.

**[SB 894](#) Misclassification of workers; cause of action.** Authorizes an individual who has not been properly classified as an employee to bring a civil action for damages against his employer for failing to properly classify the employee if the employer had knowledge of the individual's misclassification. The court may award damages in the amount of any wages, salary, employment benefits, including expenses incurred by the employee that would otherwise have been covered by insurance, or other compensation lost to the individual, a reasonable attorney fee, and the costs incurred by the employee in bringing the action. The measure provides that an individual who

performs services for a person for remuneration shall be presumed to be an employee unless it is shown that the individual is an independent contractor as determined under the Internal Revenue Service guidelines. This bill is identical to [HB 984](#).

**[SB 939](#) Labor and employment; collective bargaining; employees of counties, cities, and towns.** Permits counties, cities, and towns to adopt local ordinances authorizing them to (i) recognize any labor union or other employee association as a bargaining agent of any public officers or employees, except for Constitutional officers and their employees, and including public school employees and (ii) collectively bargain or enter into any collective bargaining contract with any such union or association or its agents with respect to any matter relating to them or their employment. The bill provides that prohibition against striking for public employees applies irrespective of any such local ordinance.

## EMPLOYMENT LAW

### – CARRIED OVER –

**[HB 11](#) Human Rights, Division of; duties.** Clarifies that the duties of the Division of Human Rights shall include receiving and investigating all complaints alleging unlawful discriminatory practices that are filed within the applicable statute of limitations period and allege a wrongdoing covered under applicable federal or state law.

**[HB 403](#) Safe days for employees; private employers required to allow days.** Requires private employers to allow an employee safe days, with pay, if the employee is a victim of domestic violence, sexual assault, or stalking or is a family member of a victim of domestic violence, sexual assault, or stalking.



**[HB 584](#) Virginia Personnel Act; hiring preference in state government for persons with disabilities.** Establishes a hiring preference in state government for persons with disabilities, provided that such person meets all of the knowledge, skill, and ability requirements for the available position. The bill defines the term "preference" as requiring that a person with a disability be hired over a person without a disability when the two individuals are substantially equal in qualifications for an eligible position.

**[HB 800](#) Employment; disclosure of terms.** Requires every employer of employees who are 18 years of age or older who work for daily wages or are employed to work on a project for a total of 10 days or less, with some exceptions specified in the measure, to furnish to such employees, at the time of the employee's hiring, a written disclosure of information regarding the terms of employment, including the name and address of the employer, the rate of pay and basis thereof, and the regular payday. The measure also requires employers to notify its employees in writing of any changes to this information.

**[HB 1112](#) Employment; covenants not to compete.** Declares that any contract, including a provision of an employment agreement, entered into on or after July 1, 2020, by which an employee is restrained from engaging in a lawful profession, trade, or business for a specified period of time, in a specified geographical area, or for another employer is contrary to public policy and void.

**[SB 295](#) Employment; disclosure of terms.** Requires every employer to furnish to its employees, at the time of the employee's hiring, (i) a written disclosure of information regarding the terms of employment, including the name and address of the employer, the rate of pay and basis thereof, and the regular payday; and (ii) a physical or digital copy of the

driver's license or government-issued identification card of the employer, if the employer is a natural person, or the employee's immediate supervisor, if the employer is not an individual.

**[SB 427](#) Employee protection; discharge for protective order prohibited.** Prohibits an employer from discharging, taking other retaliatory personnel action, or otherwise discriminating against an employee solely on the basis that such employee has filed for or has been issued an emergency protective order or a preliminary protective order against the employer or another employee of such employer. The bill establishes an administrative process for an employee that believes he has been discharged or discriminated against in violation against such prohibition.

**[SB 660](#) Virginia Equal Pay Act; civil penalties.** Prohibits public and private employers from discriminating between employees on the basis of membership in a protected class in the payment of wages or other compensation, including benefits, by paying wages or other compensation to employees who are members of a protected class at a rate less than the rate at which it pays wages or other compensation to employees who are not members of the protected class for substantially similar work. The measure also prohibits an employer from (i) discriminating between employees by providing less favorable employment opportunities on the basis of membership in a protected class, (ii) limiting an employee's right to discuss wages, (iii) relying on the wage history of a prospective employee in considering the prospective employee for employment or determining the wages that the prospective employee is to be paid by the employer upon hire, or (iv) taking certain retaliatory actions against an employee. The measure also establishes criteria for when wage differentials between employees are permitted.

[SB 719](#) **Virginia Minimum Wage Act; exclusions.** Eliminates the exclusion in the Virginia Minimum Wage Act for persons whose employment is covered by the federal Fair Labor Standards Act of 1938 (FLSA) and for persons whose earning capacity is impaired by physical deficiency, mental illness, or intellectual disability.

## EMPLOYMENT LAW

### – FAILED –

[HB 1663](#) **Discrimination; prohibited in public accommodations, etc., causes of action.** Creates explicit causes of action for unlawful discrimination in public accommodations and employment in the Virginia Human Rights Act. Currently, under the Act there is no cause of action for discrimination in public accommodations, and the only causes of action for discrimination in employment are for (i) unlawful discharge on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, including lactation, by employers employing more than five but fewer than 15 persons and (ii) unlawful discharge on the basis of age by employers employing more than five but fewer than 20 persons. The bill allows the causes of action to be pursued privately by the aggrieved person or, in certain circumstances, by the Attorney General.

[SB 866](#) **Virginia Human Rights Act; discrimination on the basis of pregnancy, childbirth.** Creates a cause of action against any employer employing more than five but fewer than 15 persons who engages in an unlawful discriminatory act against any employee on the basis of pregnancy, childbirth, or related medical conditions.

[HB 801](#) **Worker classification; penalties.** Prohibits a contractor from classifying an individual who performs delivery services or construction labor services for the contractor as the contractor's independent contractor if he is an employee of the contractor.

[HB 898](#) **Earned paid sick time.** Requires public and private employers with six or more employees to provide those employees with earned paid sick time. The measure provides for an employee to earn at least one hour of paid sick leave benefit for every 30 hours worked. An employee shall not use more than 40 hours of earned paid sick time in a year, unless the employer selects a higher limit. Employees shall not be entitled to use accrued earned paid sick time until the ninetieth calendar day following commencement of their employment, unless otherwise permitted by the employer.

[HB 1203](#) **Prevailing wage; public works contracts with localities; penalty.** Requires contractors and subcontractors under any public contract with a locality for public works to pay wages, salaries, benefits, and other remuneration to any mechanic, laborer, or worker employed, retained, or otherwise hired to perform services in connection with the public contract at the prevailing wage rate.

[HB 1418](#) **Virginia Human Rights Act; discrimination on the basis of sex; sexual harassment.** Creates a cause of action against any employer employing more than five employees who discharges or engages in an unlawful discriminatory act against any employee on the basis of race; color; religion; national origin; sex; sexual orientation; gender identity; pregnancy; childbirth or related medical conditions, including lactation; marital status; status as a veteran; or age, if the employee is 40 years of age or older. The bill permits a court, in cases where the employee prevails, to award compensatory or punitive damages and reasonable attorney fees and



costs. The bill provides rules for determining whether conduct constitutes workplace harassment, defined in the bill, and lays out a number of factors to consider in determining whether conduct constitutes workplace harassment.

**[SB 481](#) Employees; earned sick leave, civil penalties.** Requires public and private employers with 15 or more employees to provide those employees with earned paid sick time; however, the provisions of the bill would not apply to an employer that has entered into a bona fide collective bargaining agreement. The measure provides for an employee to earn at least one hour of paid sick leave benefit for every 30 hours worked. An employee shall not use more than 40 hours of earned paid sick time in a year, unless the employer selects a higher limit. Employees shall not be entitled to use accrued earned paid sick time until the ninetieth calendar day following commencement of their employment, unless otherwise permitted by the employer. The bill provides that earned paid sick time may be used (i) for an employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care; (ii) to provide care to a family member under similar circumstances; (iii) when there is a closure of the employee's place of business or the employee's child's school or place of care due to a public health emergency; or (iv) when an employee's or employee's family member's presence in the community may jeopardize the health of others because of their exposure to a communicable disease.

**[HB 662](#) Local grievance procedure.** Incorporates into the local grievance procedure certain provisions in the state grievance procedure related to appeal of final decisions to the circuit court.

**[HB 204](#) Nonpayment of wages; private cause of action by an employee.** Provides that an employee has a private cause of action against an employer who fails to pay wages to recover the amount of wages due plus interest at eight percent annually from the date the wages were due. If the court finds that the employer knowingly failed to pay wages, the court shall award the employee reasonable attorney fees and other costs. If the court finds that the employer's failure to pay wages was willful and with intent to defraud the employee, the court shall also award the employee three times the amount of wages due.

## PRODUCT LIABILITY

### – FAILED –

**[HB 1129](#) Product safety; flame retardants; regulations; fund; civil penalty.** Prohibits the manufacture or sale in the Commonwealth, beginning July 1, 2021, of upholstered furniture intended for residential use or any product that is intended to come into close contact with a person younger than 12 years of age if such upholstered furniture or product contains any flame-retardant chemical listed in the bill.