

**Legislation Requiring Further Review, Staff “Watch List” and Legislation
Provided for Information
Board of Supervisors Legislative Committee
February 12, 2021**

Legislation Requiring Further Review

HB 2221 (Hayes) (Passed House; SACNR) requires the applicant for any (i) new or major modified stationary air pollution source, (ii) new landfill or transfer station, (iii) certification of site approval for a hazardous waste facility, (iv) new individual Virginia Pollutant Discharge Elimination System permit, (v) new individual Virginia Water Protection permit, (vi) new individual Virginia Stormwater Management Program permit, (vii) new individual Virginia Pollution Abatement permit, or (viii) individual ground water withdrawal permit for a new ground water withdrawal to complete certain public notice requirements, including (a) holding a public hearing; (b) publishing notices in English and Spanish in a newspaper, on social media, and on signage at the site location at least 60 days prior to such public meeting; (c) mailing notices to interested parties; (d) accepting written comments; (e) transcribing meeting information; and (f) responding to community concerns to the satisfaction of the Department of Environmental Quality. The bill removes an exemption for applicants for a permit to operate a new captive industrial landfill or a new construction-demolition-debris landfill from certain provisions relating to new landfills or transfer stations. The bill also removes an exemption from certain public notice requirements granted to local government or public authority applicants for a permit to operate a landfill or transfer station. (21104396D-H1)

“Watch List”/May Have State Revenue/Policy Implications

Courts/Public Safety

HB 1806 (Kilgore) (Passed House; SJUD) provides that if a motion to suspend or otherwise modify a person's sentence is filed with the court that heard the case at any time before the person is transferred to the Department of Corrections (the Department), the court may enter an order to retain jurisdiction over the matter for up to 60 days in order to consider and rule on such motion. If the court enters such order, the transfer of the person to the Department shall not affect the jurisdiction of the court under the terms of the order. Upon entry of an order to retain jurisdiction, the clerk of the court shall forthwith forward an attested copy of the order to the Department. (21101785D)

HB 1895 (Hudson) (Passed House; SJUD) provides that no interest shall accrue on any fine or costs imposed in a criminal case or in a case involving a traffic infraction (i) for a period of 180 days following the date of the final judgment imposing such fine or costs; (ii) during any period the defendant is incarcerated; and (iii) for a period of 180 days following the date of the defendant's release from incarceration if the sentence includes an active term of incarceration. Current law prohibits interest from accruing on such fines or costs for a period of 40 days from the date of the final judgement imposing such fine or costs or during any period the defendant is incarcerated. The bill also removes the requirement that a defendant be unable to make payment of a fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing in order to be eligible to enter into a deferred or installment payment agreement and allows any defendant to enter such payment agreements. The bill provides that no fee shall be assessed in connection with a defendant's participation in a deferred or installment payment agreement and removes the requirement that a defendant make a down payment upon entering a deferred, modified deferred, or installment payment agreement. (21102438D-E)

HB 2017 (Mullin) (Passed House; SJUD) authorizes any jurisdiction to establish a youth justice diversion program, defined in the bill as a diversionary program that (i) is monitored by a local youth justice diversion program advisory committee; (ii) uses juvenile volunteers as lawyers, jurors, and other court personnel; (iii) uses volunteer attorneys as judges; (iv) conducts peer trials, subject to the juvenile and domestic relations court's jurisdiction, of juveniles who are referred to the program by an intake officer; and (v) imposes various sentences emphasizing restitution, rehabilitation, accountability, competency building, and education, but not incarceration. The bill provides that a jurisdiction may establish a youth justice diversion program upon establishment of a local youth justice diversion program advisory committee and approval of the program by the chief judge of the juvenile and domestic relations court that serves such jurisdiction. The bill requires each local youth justice diversion program advisory committee to establish criteria for the eligibility and participation of juveniles alleged to have committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor if committed by an adult, with the consent of the juvenile's parent or legal guardian, and to establish policies and procedures for the operation of such program. The bill provides that whenever an intake officer takes informal action on a complaint alleging that a child committed a delinquent act other than an act that would be a felony or a Class 1 misdemeanor if committed by an adult, the intake officer may refer the juvenile to a youth justice diversion program. The bill also adds provisions that the Department of Juvenile

Justice shall develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of youth justice diversion programs and report these evaluations to the General Assembly by December 1 of each year. (21102998D-H1)

HB 2029 (Krizek) (Passed House; SGL) prohibits the burning by any person, local government, or agency of the Commonwealth of Class A fuel materials that contain oriented strand board, defined in the bill, during fire training activities. (21102658D-E)

HB 2031 (Aird) (Passed House; SGL) allows a locality or a public institution of higher education to authorize a local law-enforcement agency or campus police department to purchase or deploy facial recognition technology, which is defined in the bill. The bill prohibits a local law-enforcement agency or public institution of higher education currently using facial recognition technology from continuing to use such technology without such authorization after July 1, 2021. (21101718D-E)

HB 2073 (Convriss-Fowler) (Passed House; SJUD) provides that, in a civil action for the wrongful death of an injured person, such an action may be brought by a personal representative of a decedent within two years after the death of the person or, if applicable, within two years of the conclusion of a criminal investigation by law enforcement of such death, whichever is longer. Under current law, a wrongful death action must be brought within two years of the death of the decedent. The bill contains an emergency clause. (21103581D-H1)

HB 2099 (Coyner) (Passed House; SJUD) reduces from 20 years to 10 years from the date of a judgment the period of time within which an execution may be issued or action may be taken on such judgment. The bill provides that the limitation of the enforcement of a judgment may be extended by a recordation of a certificate prior to the expiration period in the clerk's office in which a judgment lien is recorded. The bill provides that such recordation shall extend the limitations period for 10 years from the date of such recordation. Under current law, such limitation period may be extended on motion of the judgment creditor or his assignee. The bill allows a settlement agent or title insurance company to release a judgment lien, in addition to a deed of trust as provided under current law, provided that the obligation secured by such judgment lien has been satisfied by payment made by the settlement agent and whether or not the settlement agent or title insurance company is named as a trustee under such lien or received authority to release such lien. The bill has a delayed effective date of January 1, 2022. (21103747D-H3)

HB 2168 (Scott) (Passed House; SJUD) provides that any person who conducts, finances, manages, supervises, directs, or owns a gambling device that is located in an unregulated location is subject to a civil penalty of \$25,000. The bill provides that the Attorney General, an attorney for the Commonwealth, or the attorney for any locality may cause an action in equity to be brought in the name of the Commonwealth or of the locality, as applicable, to enjoin the operation of a gambling device in violation of this section and may request attachment against all such devices and any moneys within such devices. The bill provides that any civil penalties brought in the name of the Commonwealth shall be paid into the Literary Fund and that any civil penalties brought in the name of a locality shall be paid into the general fund of the locality. (21101270D-E)

SB 1465 (Reeves) (Passed Senate; HCT) provides that any person who conducts, finances, manages, supervises, directs, or owns a gambling device that is located in an unregulated location is subject to a civil penalty of up to \$25,000. The bill provides that the Attorney General, an attorney for the Commonwealth, or the attorney for any locality may cause an action in equity to be brought in the name of the Commonwealth or of the locality, as applicable, to enjoin the operation of a gambling device in violation of this section and may request attachment against all such devices and any moneys within such devices. The bill provides that any civil penalties brought in the name of the Commonwealth shall be paid into the Literary Fund and that any civil penalties brought in the name of a locality shall be paid into the general fund of the locality. (21102212D-E)

HB 2236 (Bell) (Passed House; SJUD) provides that if an offender determined to be eligible to participate in a behavioral health docket resides in a locality other than that in which the behavioral health docket is located, or such offender desires to move to a locality other than that in which the behavioral health docket is located, and the court determines it is practicable and appropriate, the supervision of such offender may be transferred to a supervising agency in the new locality. The bill states that if the receiving agency accepts the transfer, it shall confirm in writing that it can and will comply with all of the conditions of supervision of the behavioral health docket, including the frequency of in-person and other contact with the offender and updates from the offender's treatment providers and that if the receiving agency cannot comply with the conditions of supervision, the agency shall deny the transfer in writing and the sending agency shall notify the court. The bill also provides that where supervision is transferred, the sending agency shall be responsible for providing to the court reports on an offender's conduct, treatment, and compliance with the conditions of supervision. Additionally, the bill provides that the standards prescribed by the Department of Criminal Justice Services for the development, implementation, operation, and evaluation of local community-based probation services and facilities shall include standards for the transfer of supervision between local community-based probation agencies. (21103541D-H1)

HB 2291 (Williams Graves) (Passed House; SJUD) adds a sheriff's office to those law-enforcement agencies that may be overseen by a law-enforcement civilian oversight body created by a locality and adds a nonprobationary deputy sheriff of a sheriff's office to those law-enforcement officers who are subject to such body if created by a locality. The bill provides that any disciplinary determinations made by the law-enforcement civilian oversight body on any nonprobationary deputy sheriff shall be advisory only and that if the sheriff's office declines to implement such disciplinary determination, the office shall create a public written record of its rationale for declining to implement the recommended disciplinary determination. (21101778D-E)

SB 1119 (Reeves) (Passed Senate; HPS) creates a special nonreverting fund to be known as the Body-Worn Camera System Fund to assist state or local law-enforcement agencies with the costs of purchasing, operating, and maintaining body-worn camera systems. (21100957D)

SB 1261 (Edwards) (Passed Senate; HCT) expands the jurisdiction of the Court of Appeals of Virginia by providing for an appeal of right in every civil case and provides that the granting of further appeal to the Supreme Court of Virginia shall be within the discretion of the Supreme Court. The bill provides for an appeal of right in criminal cases by a defendant, but leaves

unchanged the current requirement that in criminal cases the Commonwealth must petition the Court of Appeals for granting of an appeal. The bill increases from 11 to 17 the number of judges on the Court of Appeals. The bill also (i) provides jurisdiction to the Court of Appeals over interlocutory appeals and petitions for review of injunctions; (ii) allows for oral arguments to be dispensed with if the panel of judges makes a unanimous decision that the appeal is wholly without merit or that the dispositive issues on appeal have already been authoritatively decided and the appellant has not argued that the case law should be overturned, extended, or reversed; (iii) provides that the Attorney General shall represent the Commonwealth in criminal appeals unless, and with the consent of the Attorney General, the attorney for the Commonwealth who prosecuted the case files a notice of appearance; (iv) eliminates the requirement for an appeal bond in criminal appeals; (v) requires all criminal cases in a court of record to be recorded and requires the clerk of the circuit court to prepare a transcript of any trial for which an appeal is noticed to him; and (vi) requires an expedited review of appeals of permanent protective orders and of bond validation proceedings. The bill has a delayed effective date of October 1, 2021, which is applicable to all provisions of the bill except for those increasing the number of judges on the Court of Appeals. The provisions of the bill are contingent on funding in a general appropriation act. (21103599D-ES1)

Data and Technology

HJ 578 (Price) (Agreed to by House; SRUL) requests the Department of Behavioral Health and Developmental Services to establish a work group to study the feasibility of developing a secure, de-identified, renewable, and relational database of criminal justice, behavioral health, and other human services records to facilitate development of more effective interventions. (21102974D)

HB 2307 (Hayes) (Passed House; SGL) establishes a framework for controlling and processing personal data in the Commonwealth. The bill applies to all persons that conduct business in the Commonwealth and either (i) control or process personal data of at least 100,000 consumers or (ii) derive over 50 percent of gross revenue from the sale of personal data and control or process personal data of at least 25,000 consumers. The bill outlines responsibilities and privacy protection standards for data controllers and processors. The bill does not apply to state or local governmental entities and contains exceptions for certain types of data and information governed by federal law. The bill grants consumer rights to access, correct, delete, and obtain a copy of personal data and to opt out of the processing of personal data for the purposes of targeted advertising. The bill provides that the Attorney General has exclusive authority to enforce violations of the law, and the Consumer Privacy Fund is created to support this effort. The bill has a delayed effective date of January 1, 2023. (21103642D-H1)

SB 1392 (Marsden) (Passed Senate; HTECH) establishes a framework for controlling and processing personal data in the Commonwealth. The bill applies to all persons that conduct business in the Commonwealth and either (i) control or process personal data of at least 100,000 consumers or (ii) derive over 50 percent of gross revenue from the sale of personal data and control or process personal data of at least 25,000 consumers. The bill outlines responsibilities and privacy protection standards for data controllers and processors. The bill does not apply to state or local governmental entities and contains exceptions for certain types of data and information governed by federal law. The bill grants consumer rights to access, correct, delete, obtain a copy of personal

data, and to opt out of the processing of personal data for the purposes of targeted advertising. The bill provides that the Attorney General has exclusive authority to enforce violations of the law, and the Consumer Privacy Fund is created to support this effort. The bill has a delayed effective date of January 1, 2023. (21103367D-ES1)

SB 1225 (Boysko) (Passed Senate; HED) authorizes school boards to appropriate funds for the purposes of promoting, facilitating, and encouraging the expansion and operation of broadband services for educational purposes. The bill authorizes school boards to partner with private broadband service providers to promote, implement, and subsidize broadband for educational purposes to the households of students who would qualify for (i) a child nutrition program or (ii) any other program recognized or adopted by the local school board as a measuring standard to identify at-risk students. (21101489D)

Education/Schools

HB 2305 (Tyler) (Passed House; SEH) requires the Board of Education to issue guidance on the governance of academic year Governor's Schools, including communication and outreach practices, admissions policies, and guidelines on diversity, equity, and inclusion training. The bill requires such guidance to focus on the importance of increasing access to Governor's Schools for historically underserved students and to include best practices on (i) conducting information sessions about the school and the availability of gifted, advanced, and specialty education program opportunities for feeder public middle schools; (ii) strengthening the student pipeline in feeder public middle schools, prioritizing the most underserved and underrepresented students and public middle schools; and (iii) conducting programs related to and evaluations of diversity, equity, and inclusion. The bill requires the Board of Education, in developing such guidance, to collaborate with relevant stakeholders representing the geographical areas served by the Regional Governor's Schools, including local school boards representing the geographical areas served by the Regional Governor's Schools, Regional Governor's School boards, and Governor's School directors. (21103341D-E)

HJ 549 (Guy) (Agreed to by House; SRUL)/**SJ 308** (Lucas) (Agreed to by Senate; HRUL) directs the Joint Legislative Audit and Review Commission to study the impact of COVID-19 on Virginia's public schools, students, and school employees, including (i) examining and determining reasons for barriers to student success in virtual and hybrid models as well as the overall impact of COVID-19 face-to-face learning restrictions on previously existing student achievement gaps, student achievement, and student well-being, including any disproportionate impact on at-risk populations; (ii) determining the impact of the COVID-19 pandemic on staffing levels, including the impact of teacher and school employee retirements and resignations on delivery of instruction and the ability of local school boards to fully staff their needs, employment levels, and local budgets; (iii) determining the short-term and projected long-term changes in student enrollment in response to the COVID-19 pandemic and the impact of such changes on funding levels; (iv) determining the impact of implementing COVID-19 health and safety measures in public schools; (v) evaluating public schools' level of emergency preparedness to face another pandemic or statewide crisis and making recommendations to help guide planning for such events and (vi) examining programs that can address learning loss and identifying barriers to implementing those programs, including resource gaps. (21101153D-E, 21102905D-E)

SB 1303 (Dunnivant) (Passed Senate; HED) requires each local school division to make virtual and in-person learning available to all students by choice of the student's parent or guardian. (21102517D-E)

SJ 275 (Stanley) (Agreed to by Senate; HPE) requires the General Assembly to provide for a system of public schools in the Commonwealth with equitable educational opportunities for all children and to ensure that all school-age children are provided with equitable educational opportunities. (21100836D-E)

Elections

HB 2082 (Levine) (Passed House; SPE) requires meetings and hearings of the Virginia Redistricting Commission to be livestreamed, whether held virtually or in person, and to allow for public comment. Meetings and hearings that are held in person are required to be conducted in different regions of the Commonwealth, including the Northern Virginia region, the Central Virginia region, the Hampton Roads region, the Southside region, and the Southwest region. An additional public hearing is required to be held in the event that the initial plan for districts submitted by the Commission is rejected by the General Assembly. If adjustments are made to a proposed plan at any stage in response to public comment, the adjusted proposed plan is required to be published on the Commission's website. The bill requires all meetings and hearings of the Supreme Court of Virginia regarding the establishment of districts to be open to the public. (21104053D-H1)

HB 2125 (Lopez) (Passed House; SPE) permits a person who is otherwise qualified to register to vote and is 16 years of age or older, but who will not be 18 years of age on or before the day of the next general election, to preregister to vote. The preregistration does not entitle such person to vote in any election except as already permitted by law. The bill requires the Department of Elections to maintain a record of all preregistered voters in the Virginia voter registration system, which shall automatically register a person who is preregistered upon that person reaching 18 years of age or becoming eligible for advance registration as already permitted by law, whichever comes first. The bill requires the Department to provide to the general registrars voter confirmation documents for such voters. The bill has a delayed effective date of October 1, 2022. (21100907D-E)

SB 1111 (Spruill) (Passed Senate; HPE) removes the power of officers of election, in the event that no law-enforcement officer is in attendance, to appoint a person who is not a law-enforcement officer to have all the powers of a law-enforcement officer within the polling place and the prohibited area. (21101169D)

SB 1281 (Morrissey) (Passed Senate; HPE) removes the requirement that the general registrar of a locality be a resident of that locality or an adjacent locality. (21101704D-E)

SB 1331 (Reeves) (Passed Senate; HPE) requires the Department of Elections to make available to all localities a tool to allow voters with a visual impairment or print disability to electronically and accessibly receive and mark his absentee ballot using screen reader assistive technology. On receipt of an application for an absentee ballot from an applicant who indicates that he will require

assistance due to a visual impairment or print disability, the general registrar is required to offer to provide to the applicant the ballot marking tool with screen reader assistive technology. (21102849D)

Absentee Voting

HB 1968 (Bagby) (Passed House; SPE) permits the electoral board or general registrar of a county or city to provide absentee voting in person in the office of the general registrar or voter satellite office on Sundays. (21102134D)

SB 1097 (Favola) (Passed Senate; HPE) repeals the requirement that an absentee ballot be opened in the presence of a witness and signed by such witness. (21100137D)

SB 1239 (Bell) (Passed Senate; HPE) permits a general registrar to contract with a third party for the printing, assembly, and mailing of absentee ballots. The bill directs the State Board of Elections to adopt emergency regulations to implement the provisions of the bill and for those regulations to include processes to ensure secure and timely delivery of voter information to contractors and reports of mailed absentee ballots from contractors. (21100930D)

SB 1246 (Deeds) (Passed Senate; HPE) requires certain actions to be taken to process absentee ballots that are returned by mail before election day. The general registrar is required to (i) examine the ballot envelopes to verify completion of the required voter affirmation; (ii) mark the pollbook, or the absentee voter applicant list if the pollbook is not available, that the voter has voted; and (iii) direct the officers of election at a central absentee precinct to open the sealed ballot envelopes and insert the ballots in optical scan counting equipment or other secure ballot container without initiating any ballot count totals. Under current law, the general registrar is required to conduct preprocessing of absentee ballots before election day only as needed. To facilitate preprocessing as provided in the bill, the bill requires a central absentee voter precinct to be established and maintained in each locality. Additional central absentee voter precincts may be established at the discretion of the governing body. (21103760D-S1)

Employment Issues

HB 1862 (Helmer) (Passed House; SCL) prohibits an employer from discharging, disciplining, or discriminating against an employee for such employee's lawful use of cannabis oil pursuant to a valid written certification issued by a practitioner for the treatment or to eliminate the symptoms of the employee's diagnosed condition or disease. The bill provides that such prohibition does not (i) restrict an employer's ability to take any adverse employment action for any work impairment caused by the use of cannabis oil or to prohibit possession during work hours or (ii) require an employer to commit any act that would cause the employer to be in violation of federal law or that would result in the loss of a federal contract or federal funding. (21101426D-E)

HB 2040 (Hudson) (Passed House; SCL) provides that an employer shall be deemed to have established a pattern of failing to respond timely or adequately to written requests for information relating to claims if the Virginia Employment Commission determines that the employer has failed to respond timely or adequately to a written request for information relating to a claim on two or

more occasions within a 48-month window and requires such employer to pay a penalty upon his second such failure to respond timely or adequately. Under current law, such pattern is established after four failures, and the penalty is assessed after the third failure. The bill provides that if an employer fails to respond timely or adequately to a written request by the Commission for information relating to a claim, the employer forfeits any appeal rights to that claim. The bill provides that when a claimant has had a determination of initial eligibility for benefits, as determined by the issuance of compensation or waiting-week credit, payments shall continue, subject to a presumption of continued eligibility, until a determination is made that provides the claimant notice and an opportunity to be heard. The bill provides that the Commission shall waive the obligation to repay any overpayment if (i) the overpayment was made without fault on the part of the individual and (ii) requiring repayment would be contrary to equity and good conscience. The Commission shall have authority to negotiate the terms of repayment for any overpayment where repayment is not forgiven. Overpayments shall not be considered "without fault" if the overpayment was the result of (i) a reversal in the appeals process, unless the employer failed to respond or timely respond or (ii) a programming, technological, or automated system error that results in erroneous payments to a group of individuals. The bill also provides that the Commission shall notify each person with an unpaid overpayment of benefits that they may be entitled to a waiver of repayment and provide 30 days to request such a waiver. The bill applies to overpayments established for the week commencing March 15, 2020 through the week commencing June 26, 2021 and only to those overpayments that have not been fully or partially repaid. Finally, the bill allows the Commission to suspend or forego referring any overpayment to the collections process until June 30, 2022. (21104300D-H2)

HB 2063 (Mullin) (Passed House; SCL) requires an employer to compensate its employees who are entitled to overtime compensation under the federal Fair Labor Standards Act at a rate not less than one and one-half times the employee's regular rate of pay, defined in the bill, for any hours worked in excess of 40 hours in any one workweek. The bill includes provisions for calculating overtime premiums due to fire protection and law-enforcement employees by certain public sector employers. The penalties provided by the bill for an employer's failure to pay such overtime wages, including civil and criminal penalties, are the same as currently provided for failing to pay wages generally. The statute of limitations for bringing a claim for a violation of the bill is three years. (21103929D-H1)

HB 2134 (Batten) (Passed House; SCL) prohibits the consideration, in any determination regarding whether an individual is an employee or independent contractor, for the purposes of a civil action for employment misclassification, unemployment compensation, and workers' compensation, of the provision of personal protective equipment by a hiring party to the individual in response to a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared. (21101448D)

Paid Family and Medical Leave

HB 2137 (Guzman) (Passed House; SCL) requires employers to provide certain employees paid sick leave. An employee is eligible for paid sick leave under the bill if the employee is an essential worker and works on average at least 20 hours per week or 90 hours per month. The bill 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 leave in a year, unless the employer selects a higher limit. The bill provides that earned paid sick leave may be used for (i) 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 or (ii) care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or care of a family member who needs preventive medical care. The bill prohibits employers from taking certain retaliatory actions against employees related to leave. The bill provides for a hardship waiver for employers that demonstrate that providing paid sick leave threatens the financial viability of the employer, jeopardizes the ability of the employer to sustain operations, significantly degrades the quality of the employer's business operations, or creates a significant negative financial impact on the employer. The bill requires the Commissioner of Labor and Industry to promulgate regulations that (a) identify workers as essential based on the categories listed in the bill; (b) include reasonable requirements for recordkeeping, confidentiality, and notifying employees of their rights under provisions of the bill; (c) establish complaint, investigation, and enforcement procedures that include fines, not to exceed \$500, for violations of provisions of the bill; (d) establish requirements for compensation and accrual of paid sick leave for employees employed and compensated on a fee-for-service basis; and (e) include procedures and requirements for an employer to qualify for a hardship waiver. The provisions of the bill do not apply to a retail business with fewer than 25 employees. (21101625D-E)

Workers' Compensation

HB 1985 (Hurst) (Passed House; SCL) establishes a presumption that COVID-19 causing the death or disability of health care providers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that the COVID-19 virus is established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment. The bill provides that such presumption applies to any death or disability occurring on or after March 12, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after March 12, 2020, and prior to December 31, 2021, the claimant received a positive diagnosis of COVID-19 from a licensed physician, after either a presumptive positive test or a laboratory-confirmed test for COVID-19, and presented with signs and symptoms of COVID-19 that required medical treatment. The bill provides that such presumptions do not apply to any person offered by his employer a vaccine for the prevention of COVID-19 unless the person's physician determines in writing that immunization would pose a significant risk to the person's health. (21103301D-EH1)

HB 2207 (Jones) (Passed House; SCL) establishes a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, and correctional officers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that the COVID-19 virus is established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment. The bill provides that such presumption applies to any death or disability occurring on or after March 12, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after March

12, 2020, and prior to December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs and symptoms of COVID-19 that required medical treatment. (21100861D)

SB 1375 (Saslaw) (Passed Senate; HLC) establishes a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, and correctional officers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that the COVID-19 virus is established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment and only applies to a person who was diagnosed a person who was diagnosed with the COVID-19 virus on or after July 1, 2021, and whose death or disability caused by infection from the COVID-19 virus occurred on or after July 1, 2021. This bill incorporates SB 1342. (21104340D-S1)

Environment/Energy

HB 2001 (Helmer) (Passed House; SGL) requires that any executive branch agency or institution or locality entering the design phase for the construction of a new building greater than 5,000 gross square feet in size or the renovation of a building where the cost of the renovation exceeds 50 percent of the value of the building ensure that such building has sufficient electric vehicle charging infrastructure, defined in the bill, and has features that permit the agency or institution to track the building's energy efficiency and carbon emissions. The bill authorizes the Director of the Department of General Services to grant exemptions to such standards, in writing and with certain terms. The bill requires agencies to annually report to the Governor the energy efficiency and carbon emissions metrics for each such building built or renovated. The bill requires localities to design such building projects according to the same or similar standards, or more stringent standards if adopted by ordinance. The bill also requires that localities incorporate appropriate resilience and distributed energy features. The bill requires that any exemption from the standards granted by resolution of the governing body of a locality be made in writing and explain the basis for granting the exemption. (21103607D-H2)

FOIA

HB 2004 (Hurst) (Passed House; SGL) adds criminal investigative files, defined in the bill, relating to a criminal investigation or proceeding that is not ongoing, also defined in the bill, to the types of law-enforcement and criminal records required to be released in accordance with the provisions of the Virginia Freedom of Information Act. Under current law, the release of criminal investigative files is discretionary. The bill also provides that the mandatory release of criminal incident information relating to felony offenses and criminal investigative files shall be enjoined if a court finds by a preponderance of the evidence that the release of such information would likely effect certain results, outlined in the bill. The bill contains technical amendments. This bill is a recommendation of the Virginia Freedom of Information Advisory Council. (21101252D)

HB 2025 (Gooditis) (Passed House; SGL) provides that personal contact information provided to a public body or any of its members for the purpose of receiving electronic communications from

the public body or any of its members is excluded from the mandatory disclosure provisions of FOIA, unless the recipient of such electronic communications indicates his approval for the public body to disclose such information. Currently, the law provides protections for personal contact information provided to a public body, not to its members; only applies to electronic mail; and requires the electronic mail recipient to request the public body not to disclose his personal contact information in order for the information to be exempt from mandatory disclosure. This bill is a recommendation of the Virginia Freedom of Information Advisory Council. (21101440D)

Health and Human Services

HB 1963 (Bagby) (Passed House; SEH) provides that funding for local health departments shall consist of such state funds as may be allocated for the operation of the local health department together with local matching funds and estimated self-generated local service revenues, the total amount of which shall constitute the cooperative local health budget available to a local department of health, and that the amount of local matching funds for which a county or city is responsible shall be based on the county's or city's revenue generation capacity factor, as defined in the bill; in no case, however, shall the amount of local matching funds required be greater than 45 percent or less than 18 percent of the total amount of the cooperative local health budget for the local health department that serves the county or city, after deducting estimated self-generated local service revenues. The bill directs the Department of Health to biennially review the local matching fund amount for each county and city, determine whether such amount should be revised as a result of changes to the county's or city's revenue generation capacity, and report the results of such review and any recommendations for changes to a county's or city's local matching fund amount to the Governor and the General Assembly. (21102417D)

HB 2061 (Willett) (Passed House; SEH) requires any health care provider in the Commonwealth that administers immunizations to participate in the Virginia Immunization Information System (VIIS) and report patient immunization history and information to VIIS. Under current law, participation in VIIS is optional for authorized health care entities. The bill has a delayed effective date of January 1, 2022. (21102411D)

HB 2212 (Plum) (Passed House; SRSS) requires the director of the Office of Children's Services to provide for the effective implementation of the Children's Services Act (§ 2.2-5200 et seq.) in all localities by (i) regularly monitoring local performance measures and child and family outcomes; (ii) using audit, performance, and outcomes data to identify local programs that need technical assistance; and (iii) working with local programs that are consistently underperforming to develop a corrective action plan for submission to the Office and the State Executive Council for Children's Services. (21101765D)

HB 2333 (Bagby) (Passed Both Houses)/**SB 1445** (Dunnivant) (Passed Both Houses) facilitates the administration of the COVID-19 vaccine. The bill requires the Department of Health (the Department) to establish a program to enable eligible health care providers to volunteer to administer the COVID-19 vaccine to residents of the Commonwealth during a state of emergency related to the COVID-19 pandemic declared by the Governor. The bill defines "eligible health care provider" and provides that the program shall include (i) a process by which an eligible health care provider may register to participate in the program and (ii) the training requirements for

participating eligible health care providers related to the administration of the COVID-19 vaccine, including training on the intramuscular injection of the COVID-19 vaccine and contraindications and side effects of the COVID-19 vaccine. The bill specifies requirements that the Department shall ensure that each site at which COVID-19 vaccinations are administered by eligible health care providers satisfies. The bill also requires the Department to establish a process by which entities, including medical care facilities, hospitals, hospital systems, corporations, businesses, pharmacies, public and private institutions of higher education, localities, and any other professional or community entity operating in the Commonwealth, may volunteer their facilities as sites at which the COVID-19 vaccine may be administered to residents of the Commonwealth. The bill permits a public institution of higher education or a private institution of higher education in the Commonwealth to volunteer to provide assistance to the Department and local health departments for data processing, analytics, and program development related to the COVID-19 vaccine through the use of its employees, students, technology, and facilities. The bill also permits localities with fire departments, emergency medical services departments, and volunteer rescue squads to establish and staff vaccine administration clinics. The bill provides civil and criminal immunity to individuals and professional entities acting pursuant to the bill and contains an emergency clause. (HB2333ER, SB1445ER)

SB 1125 (Obenshain) (Passed Senate; HCT) requires the Parole Board, within seven days of making any decision regarding the parole of a prisoner, to provide written or electronic notice of such decision to the victim of the crime for which the prisoner was incarcerated, unless the victim has submitted a written request to forgo such notice. (21101811D-E)

SB 1176 (Ruff) (Passed Senate; HHWI) amends the current barrier crimes requirements for the Department of Behavioral Health and Developmental Services (the Department) to provide that the Department, community services boards, children's residential facilities, and licensed providers shall not hire for compensated employment at a state facility, permit to be hired as a private provider, approve as a sponsored residential service provider, approve to be a volunteer, approve to provide contractual services, or permit to enter into a shared living arrangement with a person receiving medical assistance services any person who has been convicted of any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 (i) within the 10 years prior to the application date for employment, and may hire a person who has been convicted of such offenses more than 10 years prior only if he has not been convicted of any other crime within the 10 years prior to the application date, or (ii) if such person continues on probation or parole or has failed to pay required court costs for such offenses set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02. Under current law, with some exceptions, the Department, community services boards, and licensed providers shall not hire for compensated employment persons who have been convicted of any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02. (21103913D-S1)

SB 1237 (Petersen) (Passed Senate; HHWI) provides that any person who is affected by an order of quarantine may file an appeal in the circuit court for the city or county in which he resides or is located or the circuit court for the jurisdiction or jurisdictions for any affected area; currently, only a person who is subject to an order of quarantine may appeal the order. The bill also provides that in any case in which the Governor has issued an emergency order that includes any measure that closes schools or businesses or restricts the movement of healthy persons within the area to which

the order applies, all of the rights, protections, and procedures applicable in the case of an order of quarantine issued by the Commissioner of Health shall apply. (21102644D)

SB 1273 (Deeds) (Passed Senate; HRUL) creates the Behavioral Health Commission in the legislative branch of state government for the purpose of (i) studying and making recommendations for the improvement of behavioral health services and the behavioral health service system in the Commonwealth to encourage the adoption of policies to increase the quality and availability of and ensure access to the full continuum of high-quality, effective, and efficient behavioral health services for all persons in the Commonwealth and (ii) providing ongoing oversight of behavioral health services and the behavioral health service system in the Commonwealth, including monitoring and evaluation of established programs, services, and delivery and payment structures and implementation of new services and initiatives in the Commonwealth and development of recommendations for improving such programs, services, structures, and implementation. (21101274D-E)

SB 1302 (McPike) (Passed Senate; HHWI) provides that the crisis call center, which under current law is administered by the Department of Behavioral Health and Developmental Services (the Department), shall be designated as the 9-8-8 Crisis Hotline Center for purposes of participating in the National Suicide Prevention Lifeline. The bill directs the Department, in its development of the crisis call center, community care teams, and mobile crisis teams, to comply with any applicable requirements of the National Suicide Hotline Designation Act of 2020 and to provide for consistency with federal guidelines promulgated under such law. The bill contains immunity provisions for any originating service provider and its employees and agents acting pursuant to the act. The bill increases from \$0.75 to \$0.94 the wireless E-911 surcharge and increases from \$0.50 to \$0.63 the prepaid wireless E-911 charge. The bill provides that part of the revenue attributable to the increase would be distributed to the Crisis Call Center Fund, established by the bill, to fund the Department's costs in establishing and administering the call center, and that the remainder of the revenue would be distributed to public safety answering points (PSAPs). (21103475D-S1)

Land Use

HB 1775 (Kilgore) (Passed House; SCL) adds the State Corporation Commission to the list of agencies that are exempt from paying fees for remote access to local land records. (21100750D)

HB 2046 (Bourne) (Passed House; SGL) prohibits any locality, its employees, or its appointed commissions from discriminating (i) in the application of local land use ordinances or guidelines, or in the permitting of housing developments, on the basis of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability; (ii) in the permitting of housing developments because the housing development contains or is expected to contain affordable housing units occupied or intended for occupancy by families or individuals with incomes at or below 80 percent of the median income of the area where the housing development is located or is proposed to be located; or (iii) by prohibiting or imposing conditions upon the rental or sale of dwelling units, provided that the provisions of this subsection shall not be construed to prohibit ordinances related to short-term rentals. The bill provides that it shall not be a violation of the Virginia Fair Housing Law if land use decisions or decisions relating to the permitting of housing developments are based upon

considerations of limiting high concentrations of affordable housing. The bill also requires the Fair Housing Board, after determining the existence of an unlawful discriminatory housing practice and after consultation with the Attorney General, to immediately refer the matter to the Attorney General for civil action. (21103489D-H1)

SB 1270 (Cosgrove) (Passed Senate; HCT) provides that the notice required to be sent to a landowner prior to an authorized condemnor recording a certificate of take or certificate of deposit shall state that (i) the certificate of take or certificate of deposit will be recorded between 30 and 45 days from the date of the notice and (ii) that the property will transfer to the condemnor upon recordation and that the owner has the right to petition the court for distribution of the funds represented in the certificate. (21101493D)

SJ 289 (Mason) (Agreed to by Senate; HPE) allows easements on public property to be granted in perpetuity to a public body, political subdivision, or authority of the Commonwealth or to the United States of America or any of its departments or agencies. The requirement to advertise and publicly receive bids does not apply to easements conveyed to any such governmental entity. (21102069D)

Taxation

SB 1326 (Hanger) (Passed Senate; HFIN) states that it is the policy of the Commonwealth, where practical, to encourage local cigarette stamping and tax collection to be accomplished through regional cigarette tax boards, defined in the bill. The bill directs the Department of Taxation to establish a task force to develop methods for modernizing the local cigarette tax collection system and provide assistance as appropriate to localities seeking to form new regional cigarette tax boards. (21104442D-ES1)

Transportation

HB 2163 (Tran) (Passed House; STRAN) limits the release of Department of Motor Vehicles (DMV) privileged information to government entities and law-enforcement agencies for the purpose of civil immigration enforcement unless (i) the subject of the information provides consent or (ii) the requesting agency presents a lawful judicial order, judicial subpoena, or judicial warrant. The bill requires the DMV to notify the subject of the request that such a request was made and the identity of the entity that made the request. The bill requires any entity receiving privileged information from the DMV to enter into a written agreement with the DMV prior to such release of such information and prohibits any entity from rereleasing any such DMV information to any third party unless explicitly permitted to do so in the entity's agreement with the DMV. The bill contains requirements for any such written agreement between the DMV and the Department of State Police. (21103639D-H1)

SB 1260 (Bell) (Passed Senate; HTRAN) requires that for any project wherein the power of eminent domain may be exercised, any locality or the Commissioner of Highways to provide a landowner with a request to enter and inspect property at least 30 days in advance. The request must be on official letterhead, and shall notify the landowner that even if permission is withheld,

the locality or the Commissioner of Highways will be permitted to enter the property on the proposed date. (21103931D-S1)

Legislation Provided for Information

SB 1298 (Bell) (Passed Senate; HCCT) authorizes any locality to create a local tourism improvement district plan, consisting of fees charged to businesses and used to fund tourism promotion activities and capital improvements. Under the bill, the locality is authorized to contract with a nonprofit entity to administer the activities and improvements. (21102381D)

Animals

SB 1135 (Marsden) (Passed Senate; HAG) restructures the procedure for adjudication of a dog as a dangerous dog to provide for (i) written notice by an animal control officer to the owner of the dog that he has applied for a summons, and a prohibition on disposal of the dog by the owner for 30 days; (ii) the issuance of a summons with an option rather than a requirement that the officer confine the dog, a prohibition on the disposal of the dog other than by euthanasia, and an authorization for the court to compel the implanting of electronic identification; (iii) the holding of a hearing within 30 days unless good cause is shown; (iv) the authority of the court if deferring further proceedings without adjudicating to compel the implanting of electronic identification; and (v) a limit of 30 days for any appeal of a dangerous dog adjudication. The bill authorizes an officer to obtain a summons for a hearing to determine whether a dog that has been surrendered is a dangerous dog and provides that any dangerous dog not reclaimed from the animal control officer within 10 days of notice shall be considered abandoned. The bill imposes new requirements for the transfer of dangerous dogs, requiring a releasing agency that is transferring or releasing for adoption a dangerous dog in the Commonwealth to notify the receiving party of the legal requirements for keeping a dangerous dog. If the agency is transferring the dog outside the Commonwealth, it is required to notify the appropriate animal control officer of the dog's adjudication as dangerous. An owner who is bringing a dog found to be dangerous in another state to reside in the Commonwealth shall notify the local animal control officer. Any owner who disposes of a dangerous dog by gift, sale, transfer, trade, or surrender shall notify the receiver in writing of the dog's adjudication as dangerous, with a violation penalized as a Class 3 misdemeanor. Finally, the bill provides that if a dangerous dog adjudication occurred within 60 days of the end of the calendar year, the first renewal of the dangerous dog registration shall be included in the initial registration at no additional charge. The bill contains technical amendments. (21104008D-S2)

SB 1390 (Lewis) (Passed Senate; HAG) authorizes any public or private animal shelter, releasing agency, or hospital or clinic that is operated under the immediate supervision of a duly licensed veterinarian to operate a trap, neuter, and return program, as defined in the bill. The bill exempts volunteers of such program from provisions related to abandonment and licensing of animals and exempts the operator from general requirements of shelters related to holding periods, release of animals, and recordkeeping. A person who violates certain required provisions for such a program is subject to a civil penalty not to exceed \$150 brought by any animal control officer, humane investigator, releasing agency, or the State Veterinarian or State Veterinarian's representative. (21102789D-E)

Constitutional Amendments

Marriage

HJ 582 (Sickles) (Agreed to by House; SPE) repeals the constitutional provision defining marriage as only a union between one man and one woman as well as the related provisions that are no longer valid as a result of the United States Supreme Court decision in *Obergefell v. Hodges*, 576 U.S. 644 (2015). The amendment provides that the right to marry is a fundamental right inherent in the liberty of persons and requires the Commonwealth and its political subdivisions and agents to issue marriage licenses, recognize marriages, and treat all marriages equally under the law, regardless of the sex or gender of the parties to the marriage. Religious organizations and clergy acting in their religious capacity have the right to refuse to perform any marriage. This resolution incorporates HJ 539 and HJ 557. (21104282D-H1)

SJ 270 (Ebbin) (Agreed to by Senate; HPE) repeals the constitutional provision defining marriage as only a union between one man and one woman, as well as the related provisions that are no longer valid as a result of the United States Supreme Court decision in *Obergefell v. Hodges*, 576 U.S. 644 (2015). The amendment provides that the Commonwealth and its political subdivisions and its agents are required to issue marriage licenses, recognize marriages, and treat all marriages equally under the law, regardless of the gender of the two parties to the marriage. The amendment further provides that religious organizations and clergy acting in their religious capacity have the right to refuse to perform any marriage. (21100733D-S1)

Voting

HJ 555 (Herring) (Agreed to by House; SPE) provides that no person who has been convicted of a felony shall be qualified to vote until the completion of his sentence of imprisonment, at which time, without further action required of him, his political rights, including the right to vote, shall be restored. A person convicted of a felony may also have his civil rights restored by the Governor or other appropriate authority. This resolution incorporates HJ 546. (21104281D-H1)

SJ 272 (Locke) (Agreed to by Senate; HPE) establishes that the sole qualifications to vote in the Commonwealth are being a United States citizen, at least 18 years of age, a resident of the Commonwealth, and registered to vote in accordance with the requirements set out in the Constitution of Virginia. The amendment further provides that any person who meets those qualifications has the right to vote and that such right cannot be abridged by law. The bill lifts restrictions on qualifications to vote for those who have been convicted of a felony or adjudicated to be mentally incompetent. (21104430D-S1)

Courts

HB 1878 (Jenkins) (Passed House; SJUD) limits the ability to appeal a decision by an intake officer not to authorize a petition relating to an offense that, if committed by an adult, would be punishable as a Class 1 misdemeanor or felony, when the decision is based solely upon a finding of no probable cause. The bill requires the application for a warrant to the magistrate to be filed within 10 days of the issuance of the written notification from the intake officer to the complainant of the

refusal to authorize a petition. The bill also provides that such written notification shall indicate that the intake officer made a finding that no probable cause exists and provide notice that the complainant has 10 days to apply for a warrant to the magistrate. The bill requires the complainant to provide the magistrate with a copy of the written notification upon application to the magistrate. The bill also specifies that if an intake officer finds (i) probable cause and (ii) that the matter is appropriate for diversion, this decision is final, and the complainant shall not have the right to appeal the decision to a magistrate. (21101948D-E)

SB 1180 (Surovell) (Passed Senate; HCT) 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. The bill requires the Supreme Court to promulgate rules no later than November 1, 2021, governing such actions. The bill has a delayed effective date of July 1, 2022. (21103326D-ES1)

SB 1181 (Surovell) (Passed Senate; HCT) permits the Juvenile and Domestic Relations District Court to retain jurisdiction in cases where a child has petitioned the court to make findings of fact that would allow the child to apply for or receive a state or federal benefit until such child reaches 21 years of age for the purpose of entering findings of fact or amending past orders, to include findings of fact necessary for the person to petition the federal government for status as a special immigrant juvenile. (21102430D)

Education/Schools

HB 1776 (Ward) (Passed House; SEH) requires the Board of Education to grant a two-year extension of the license of any individual licensed by the Board whose license expires on June 30, 2021, in order to provide the individual with sufficient additional time to complete the requirements for licensure. (21101678D-E)

HB 1790 (McNamara) (Passed House; SEH) provides that when severe weather conditions or other emergency situations have resulted in the closing of any school in a school division for in-person instruction, the school division may declare an unscheduled remote learning day whereby the school provides instruction and student services, consistent with guidelines established by the Department of Education to ensure the equitable provision of such services, without a reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. The bill prohibits any school division from claiming more than 10 unscheduled remote learning days in a school year unless the Superintendent of Public Instruction grants an extension. (21101395D-E)

HB 1865 (Delaney) (Passed House; SEH) requires reading intervention services for students in kindergarten through grade three who demonstrate deficiencies based on their individual performance on the Standards of Learning reading test or any reading diagnostic test that meets criteria established by the Department of Education to be evidence-based, including services that are grounded in the science of reading, and include explicit, systematic, sequential, and cumulative instruction, to include phonemic awareness, systematic phonics, fluency, vocabulary development, and text comprehension as appropriate based on the student's demonstrated reading deficiencies.

The bill requires the parent of each student who receives such reading intervention services to be notified before the services begin and the progress of each such student to be monitored throughout the provision of services. (21101101D-E)

HB 1904 (Jenkins) (Passed House; SEH)/**SB 1196** (Locke) (Passed Senate; HED) requires teacher, principal, and division superintendent evaluations to include an evaluation of cultural competency. The bill requires every person seeking initial licensure or renewal of a license from the Board of Education (i) to complete instruction or training in cultural competency and (ii) with an endorsement in history and social sciences to complete instruction in African American history, as prescribed by the Board. The bill also requires each school board to adopt and implement policies that require each teacher and any other school board employee holding a license issued by the Board to complete cultural competency training, in accordance with guidance issued by the Board, at least every two years. (21101996D, 21101992D)

HB 1918 (Mugler) (Passed House; SEH) requires (i) driver education programs to include instruction on the dangers of distracted driving and speeding and (ii) a student to submit a standard application form developed by the Department of Education by which the student provides evidence that he possesses of a valid driver's license or driver privilege card before being issued a pass to park a vehicle on high school property. (21103086D-H1)

SB 1109 (Stanley) (Passed Senate; HPE) provides for a statewide referendum on the question of whether the General Assembly shall issue state general obligation bonds in the amount of \$3 billion for the purpose of K-12 school building construction, repair, or other capital projects related to the modernization of school facilities. The results would be advisory only and are intended only to demonstrate the preference of the citizens of the Commonwealth on the issuance of such bonds. The bill provides that the referendum be held at the November 2022 general election. (21100844D-E)

SB 1204 (Barker) (Passed Senate; HED) provides a management agreement between the Commonwealth and George Mason University pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.). (21101124D-E)

Elections

SB 1157 (Spruill) (Passed Senate; HPE) shifts all municipal elections for city and town council and school board from May to November, beginning with elections held after January 1, 2022. (21100131D)

Emergency Operations and Services

HB 2085 (Askew) (Passed House; SGL) requires local and interjurisdictional agencies to include provisions in their emergency operations plans to ensure that such plans are applied equitably and that the needs of minority and vulnerable communities are met during emergencies. (21102351D)

Environment and Energy

HB 1760 (Webert) (Passed House; SACNR) provides that an easement held pursuant to the Virginia Conservation Easement Act or the Open-Space Land Act shall be construed in favor of achieving the conservation purposes for which it was created. (21102392D-H1)

SB 1199 (Petersen) (Passed Senate; HAG) provides that an easement held pursuant to the Virginia Conservation Easement Act or the Open-Space Land Act be construed in favor of achieving the conservation purposes for which it was created. (21100906D-E)

HB 1902 (Carr) (Passed House; SACNR) prohibits the dispensing by a food vendor of prepared food to a customer in a single-use expanded polystyrene food service container, as defined in the bill. The bill requires certain chain restaurants to stop using such containers by July 1, 2023, and sets the date for compliance by all food vendors as July 1, 2025. The bill exempts nonprofit organizations from the definition of "food vendor" and provides a process by which a locality may grant consecutive one-year exemptions to individual food vendors on the basis of undue economic hardship. The bill provides a civil penalty of not more than \$50 for each day of violation, to be collected in a civil action brought by the Attorney General or the relevant locality. The penalties collected are to be deposited in the Litter Control and Recycling Fund or to the treasury of the relevant locality, as appropriate. A portion of the penalties deposited in the Fund are to be used for public information campaigns to discourage the sale and use of expanded polystyrene products. Finally, the bill directs the Department of Environmental Quality to post to its website information on compliance and the filing of complaints. This bill is a reenactment of Chapter 1104 of the Acts of Assembly of 2020. (21100816D-E)

HB 1965 (Bagby) (Passed House; SCL) directs the State Air Pollution Control Board to implement a low-emissions and zero-emissions vehicle program for motor vehicles with a model year of 2025 and later. Regulations adopted by the Board to implement the program are exempt from the Administrative Process Act and shall not become effective prior to January 1, 2024. The bill also authorizes the State Corporation Commission to exclude sales related to such vehicles from certain energy efficiency calculations. (21101651D-E)

HB 1983 (Bulova) (Passed House; SACNR) provides that when a water protection permit applicant is required to purchase wetland or stream mitigation bank credits but no credits are available (i) in any mitigation provider's primary service area or (ii) at a cost of less than 200 percent of the price of credits available from a fund dedicated to achieving no net loss of wetland acreage and functions, the applicant may purchase or use credits from a mitigation provider's secondary service area. The bill provides certain requirements that the permit applicant must comply with in order to purchase or use such credits from a secondary service area, including minimum tree canopy requirements. (21102632D-E)

HB 2030 (Krizek) (Passed House; SACNR) prohibits any person from applying an aerosolized neonicotinoid insecticide for personal use unless the person (i) is certified or under the direct supervision of a certified applicator or (ii) provides 24 hours' notice to the owner of any managed beehive within the line of sight of the application area. A person who violates the prohibition shall be subject to a civil penalty of \$100. (21103859D-H1)

SB 1265 (Deeds) (Passed Senate; HAG) authorizes the Department of Environmental Quality to conduct inspections of the land-disturbing activities related to construction of any natural gas transmission pipeline equal to or greater than 24 inches inside diameter. Current law authorizes such inspections only if such inside diameter is greater than 36 inches. The bill also specifies certain instances that may give rise to such inspection and authorizes the Department to issue a stop work order for every work area in Virginia in the event that substantial adverse impacts or likely adverse impacts are found on a repeated, frequent, and widespread basis. (21103789D-S1)

SB 1290 (Mason) (Passed Senate; HAG) establishes in the Department of Conservation and Recreation a data-driven Geographical Information Systems model to prioritize potential conservation areas across the Commonwealth that would provide quantifiable benefits to the citizens of Virginia, known as ConserveVirginia. Aspects of the program include (i) the synthesis of multiple mapped data inputs, divided into categories, each representing a different overarching conservation value, and periodic revision of such values; (ii) access to the model by the public and all state and federal agencies; and (iii) incorporation of the model into acquisition or grant decisions when appropriate. The bill requires the Virginia Land Conservation Foundation to report on the success of the program and incorporate the program into needs assessments for expenditures from the Virginia Land Conservation Fund. (21103330D-S1)

Firearms

HB 2128 (Lopez) (Passed House; SJUD) increases from three business days to five business days the time provided for the Department of State Police to complete a background check before a firearm may be transferred. If a dealer who has otherwise fulfilled all requirements is told by the State Police that a response will not be available by the end of the dealer's fifth business day, the dealer may complete the sale or transfer without being deemed in violation. (21102376D)

HB 2295 (Levine) (Passed House; SRUL) makes it a Class 1 misdemeanor for a person to carry any firearm within (i) the Capitol of Virginia; (ii) Capitol Square and the surrounding area, as described in the bill; (iii) any building, parking lot, or parking structure owned or leased by the Commonwealth or any agency thereof; (iv) any building owned or leased by the Commonwealth where employees of the Commonwealth perform their official duties; or (v) any building where the General Assembly meets or conducts its business. The bill provides exceptions for law-enforcement officers, court officers, authorized security personnel, and active military personnel while in the conduct of such person's official duties; any retired law-enforcement officer who is visiting a gun range owned or leased by the Commonwealth; and any state employee of a state or juvenile correctional facility who is authorized to carry a firearm while in the conduct of such employee's official duties. The bill provides that an individual who lawfully possesses a firearm may keep such firearm in his locked vehicle in a parking lot or parking structure described in clause (iii) so long as the firearm is (a) secured, (b) not visible, and (c) in a container or compartment inside of the vehicle. The bill requires that notice of the provisions prohibiting the carrying of such firearms be posted at each of the public entrances to Capitol Square and such buildings, parking lots, and parking structures. The bill also provides that any firearm carried in violation of these provisions is subject to seizure by a law-enforcement officer and forfeiture to the Commonwealth. (21104055D-H3)

HB 2310 (Runion) (Passed House; SJUD) provides that any applicant for a concealed handgun permit who completed an online course to demonstrate competence with a handgun and contacted the circuit court clerk's office prior to January 1, 2021, but was prohibited from appearing in person at a circuit court clerk's office because of COVID-19 restrictions is eligible to apply for such permit through April 30, 2021. The bill contains an emergency clause. (21104074D-H1)

HB 2319 (Guzman) (Passed House; SJUD) makes it unlawful for an individual residing or cohabitating with any person who such individual knows or has reason to believe is prohibited from possessing or transporting a firearm to allow such person access to any firearm. The bill requires such individual to store such firearm in a manner that is inaccessible to such co-resident. If an individual violates any provision of the bill and the co-resident uses such firearm during the commission of a crime, such individual will be subject to a civil penalty of not more than \$500, except for any crime committed against such individual. The bill further provides that an individual who lawfully possesses a firearm is not in violation of the provisions of the bill if he carries the firearm on or about his person or exercises control of the firearm. (21104015D-H1)

Health and Human Services

HB 2053 (Samirah) (Passed House; SGL) directs the Department of Housing and Community Development (Department) to convene a stakeholder advisory group to evaluate the construction of internal, attached, and detached accessory dwelling units as a strategy to address the Commonwealth's growing demand for affordable and market-rate housing. The bill requires the stakeholder advisory group to report its findings and recommendations, including any legislative recommendations, to the Director of the Department, the Secretary of Commerce and Trade, the commissioners of the Virginia Housing Development Authority, and the Virginia Housing Commission no later than November 1, 2021. (21104312D-H1)

HB 2124 (Lopez) (Passed House; SEH) directs the Department of Medical Assistance Services to, during a public health emergency related to COVID-19 declared by the United States Secretary of Health and Human Services, deem testing for, treatment of, and vaccination against COVID-19 to be emergency services for which payment may be made pursuant to federal law for certain aliens not lawfully admitted for permanent residence. (21102611D-E)

HB 2154 (Adams, L.) (Passed House; SRSS) directs the Board of Health to amend regulations governing hospitals, nursing homes, and certified nursing facilities to require each hospital, nursing home, and certified nursing facility to establish and implement policies to ensure the permissible access to and use of an intelligent personal assistant provided by the patient while receiving inpatient services. "Intelligent personal assistant" is defined in the bill as a combination of an electronic device and a specialized software application designed to assist users with basic tasks using a combination of natural language processing and artificial intelligence, including such combinations known as "digital assistants" or "virtual assistants." (21103464D-H1)

HB 2230 (Bell) (Passed House; SEH) directs the Department of Behavioral Health and Developmental Services (the Department) to develop and implement a program to educate individuals with intellectual and developmental disabilities, their families, and others regarding the availability of supported decision-making agreements, the process by which an individual with

an intellectual or developmental disability may enter into a supported decision-making agreement with a supporter, and the rights and responsibilities of principals and supporters who are parties to a supported decision-making agreement, which shall include specific training opportunities, development of model supported decision-making agreements, and development of information about and protocols for preventing, identifying, and addressing abuse and exploitation of individuals with intellectual and developmental disabilities who enter into supported decision-making agreements. The bill directs the Department to collect data regarding the utilization of supported decision-making agreements in the Commonwealth and report such information, together with recommendations to enhance the utilization of supported decision-making agreements, annually to the Governor and the General Assembly by November 1. (21101478D)

SB 1235 (Peake) (Passed Senate; HHWI) prohibits any person employed by or who has entered into a contract to provide services on behalf of the Department of Health or a local department of health from initiating communication regarding the following matters with a minor on behalf of the Department or local department of health without the consent of the minor's parent or guardian or person serving in loco parentis: family living and community relationships; the benefits, challenges, responsibilities, and value of marriage for men, women, children, and communities; the value of family relationships; abstinence education; the value of postponing sexual activity; the benefits of adoption as a positive choice in the event of an unwanted pregnancy; human sexuality; human reproduction; the prevention of human trafficking; dating violence, the characteristics of abusive relationships, steps to take to deter sexual assault, the availability of counseling and legal resources, and, in the event of such sexual assault, the importance of immediate medical attention and advice, as well as the requirements of the law; the etiology, prevention, and effects of sexually transmitted diseases; and mental health education and awareness. The bill clarifies that its provisions do not apply to school nurses, physicians, or Department employees or agents who are inquiring about medical conditions, outbreaks, pandemics, or any other declared state of emergency relating to a communicable disease or public health threat. (21101145D-E2)

Land Use

HB 2054 (Samirah) (Passed House; SLG) adds reducing, modifying, or waiving local parking requirements or ratios to the strategies that may be included when certain larger localities consider incorporating strategies to promote transit-oriented development in reviews of their comprehensive plans. The bill removes from the existing strategy of increasing development density in certain areas to reduce density in others the phrase "to reduce density in others." (21101042D)

SB 1143 (Cosgrove) (Passed Senate; HAG) retroactively extends until January 1, 2022, certain wetlands permits set to expire between March 1, 2020, and July 1, 2021. (21101885D)

Public Safety/Criminal Justice

HB 2263 (Mullin) (Passed House; SJUD) abolishes the death penalty, including for those persons currently under a death sentence. The bill incorporates HB 1779. (21104346D-H1)

SB 1165 (Surovell) (Passed Senate; HCT) abolishes the death penalty, including for those persons currently under a death sentence. The bill provides that no person may be sentenced to death or put to death on or after its effective date for any violation of law. (21103949D-S4)

HB 1821 (Bulova) (Passed House; SJUD) prohibits the arrest or prosecution of an individual for the unlawful purchase, possession, or consumption of alcohol, possession of a controlled substance, possession of marijuana, intoxication in public, or possession of controlled paraphernalia if (i) such individual, in good faith, renders emergency care or assistance, including cardiopulmonary resuscitation (CPR) or the administration of naloxone or other opioid antagonist for overdose reversal, to an individual experiencing an overdose while another individual seeks or obtains emergency medical attention; (ii) such individual remains at the scene of the overdose or at any location to which he or the individual requiring emergency medical attention has been transported; (iii) such individual identifies himself to the law-enforcement officer who responds; and (iv) the evidence for a prosecution of one of the enumerated offenses would have been obtained only as a result of the individual's rendering emergency care or assistance. Current law prohibits arrest or prosecution for such offenses only to an individual who seeks or obtains emergency medical attention for himself or another individual or who is experiencing an overdose when another individual seeks or obtains emergency medical attention for him. (21102028D-E)

HB 1894 (Kory) (Passed House; SEH) authorizes employees of the Department of Juvenile Justice designated as probation and parole officers or as juvenile correctional officers to possess and administer naloxone or other opioid antagonist for overdose reversal pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice. (21101928D)

HB 1909 (Subramanyam) (Passed House; SEH) permits any school board to deem any non-school zone property that it owns or leases as a gun-free zone and prohibit any individual from knowingly possessing, purchasing, transferring, carrying, storing, or transporting firearms, ammunition, or components or combination thereof while such individual is upon such property, except certain individuals such as law-enforcement officers and qualified retired law-enforcement officers. (21103262D-H1)

HB 1936 (Watts) (Passed House; SJUD) creates degrees of punishment corresponding to the severity of a robbery offense. Any person who commits a robbery and causes serious bodily injury to or the death of another person is guilty of a Class 2 felony. Any person who commits robbery by using or displaying a firearm in a threatening manner is guilty of a Class 3 felony. Any person who commits robbery by using physical force not resulting in serious bodily injury, or by using or displaying a deadly weapon other than a firearm in a threatening manner, is guilty of a Class 5 felony. Any person who commits robbery by using threat or intimidation not involving a deadly weapon is guilty of a Class 6 felony. Under current law, any robbery is punishable by confinement in a state correctional facility for life or any term not less than five years. (21103380D-H1)

HB 1948 (Levine) (Passed House; SJUD) requires any law-enforcement officer on duty who witnesses another person suffering from a serious bodily injury or a life-threatening condition to render aid and makes it a duty to report acts of wrongdoing, defined in the bill and including bias-based profiling, committed by another law-enforcement officer on duty. Any law-enforcement

officer who fails to render such aid or report such wrongdoing committed by another law-enforcement officer shall be subject to disciplinary action, including dismissal, demotion, suspension, or transfer of the law-enforcement officer. The bill also expands the definition of "bias-based profiling," a practice banned for sheriffs, deputy sheriffs, other local law-enforcement officers, and State Police officers in the performance of their official duties, to include sexual orientation and gender identity. (21102665D)

HB 1951 (Simon) (Passed House; SJUD) abolishes the common-law crime of suicide. Suicide is currently a common-law crime in Virginia, although there is no statutorily prescribed punishment. (21100986D)

HB 2331 (Mullin) (Passed House; SJUD) eliminates mandatory minimum sentences of confinement for certain crimes. The bill also provides a petition process for a person who was convicted or adjudicated delinquent of certain felony offenses committed prior to July 1, 2021, sentenced to a mandatory minimum term of confinement for any such felony offense, and remains incarcerated in a state or local correctional facility serving the mandatory minimum term of confinement for any such felony offense to petition the circuit court that entered the original judgment or order to (i) suspend the unserved portion of such mandatory minimum sentence, (ii) place such person on probation for such time as the court shall determine, or (iii) otherwise modify the sentence imposed. The bill provides that such petition shall be filed by July 1, 2024. (21103590D-E)

SB 1138 (Locke) (Passed Senate; HCT) provides that any person who is diagnosed with a sexually transmitted infection and engages in sexual behavior that poses a substantial risk of transmission to another person according to current Centers for Disease Control and Prevention recommendations regarding such risk of transmission with the intent to transmit the infection to another person and transmits such infection to that person is guilty of infected sexual battery, punishable as Class 1 misdemeanor. Under current law, the crime of infected battery is punishable as a Class 6 felony. The bill also repeals the crime of donating or selling blood, body fluids, organs, and tissues by persons infected with human immunodeficiency virus and the provisions regarding the testing of certain persons for human immunodeficiency virus or hepatitis B or C viruses. The bill contains technical amendments. (21104447D-S1)

SB 1306 (Morrissey) (Passed Senate; HCT) eliminates the mandatory minimum term of confinement of six months for an assault and battery committed against a judge, magistrate, law-enforcement officer, correctional officer, person directly involved in the care, treatment, or supervision of inmates, firefighter or volunteer firefighter, or emergency medical services personnel. The bill removes simple assault from enhanced punishment and provides that the enhanced punishment applies for assault and battery only when it results in bodily injury. The bill also provides that a jury or the court may find any person charged with such offense (i) whose physical or mental capacity is diminished to the extent that he needs counseling or supervisory assistance or assistance with activities of daily living or instrumental activities of daily living or (ii) who has been diagnosed with an autism spectrum disorder, a developmental disability, or an intellectual disability, not guilty of such offense but guilty of a simple assault or assault and battery, punishable as a Class 1 misdemeanor. The bill also provides that before any arrest, indictment, or service of a petition in the case of a juvenile is made for an alleged assault and battery against a

law-enforcement officer, (a) such alleged assault and battery shall be investigated by another law-enforcement officer who was not the subject of such alleged assault and battery and (b) the arrest, indictment, or service of a petition shall be approved by the attorney for the Commonwealth. (21103079D-ES1)

SB 1443 (Edwards) (Passed Senate; HCT) eliminates all mandatory minimum sentences of confinement from the Code of Virginia. The bill directs the Secretary of Public Safety and Homeland Security to establish a work group to evaluate the feasibility of resentencing persons previously convicted of a felony offense that was punishable by a mandatory minimum term of confinement. The work group would report on its findings by November 1, 2021. As introduced, this bill was a recommendation of the Virginia State Crime Commission. (21103563D-ES1)

SB 1461 (Lewis) (Passed Senate; HCT) provides that any person who (i) offers, confers, or agrees to confer upon another any pecuniary benefit as consideration for the recipient to act in the unlawful delivery of items or contraband to prisoners or (ii) receives any pecuniary benefit or other consideration to act in in the unlawful delivery of items or contraband to prisoners shall be guilty of bribery, punishable as a Class 4 felony. The bill also provides that any law-enforcement officer, jail officer, or correctional officer who violates the provisions of the bill shall be decertified and shall be forever ineligible for reemployment as a law-enforcement officer, jail officer, or correctional officer in the Commonwealth. (21102737D)

SB 1475 (Stuart) (Passed Senate; HCT) provides that a search warrant for the search of any place of abode shall be executed by initial entry of the abode only in the daytime hours between 8:00 a.m. and 5:00 p.m. unless (i) a judge or a magistrate, if a judge is not available, authorizes the execution of such search warrant at another time for good cause shown by particularized facts in an affidavit; or (ii) prior to the issuance of the search warrant, law-enforcement officers lawfully entered and secured the place to be searched and remained at such place continuously. The bill also provides that a law-enforcement officer shall make reasonable efforts to locate a judge before seeking authorization to execute the warrant at another time, unless the warrant was issued after 5 p.m., in which case the law-enforcement officer may seek such authorization from a magistrate without first making reasonable efforts to locate a judge. (21104245D-S1)