



# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** January 22, 2019

**TO:** Board of Supervisors

**FROM:** Bryan J. Hill, County Executive *B. Hill*

**SUBJECT:** 2019 Legislative Report No. 1—Board Legislative Committee Meeting of January 18, 2019

The regular 2019 Session of the Virginia General Assembly convened on January 9, 2019 and is scheduled to adjourn on February 23, 2019. This is a “short” session of 45 days.

The 2019 General Assembly has been very active and the volume of legislation is comparable to years past. As of January 19, 2,245 bills and resolutions have been introduced. The majority of this legislation remains in various subcommittees and is expected to move forward in the coming weeks.

The Legislative Committee met on January 18 to consider several issues of importance to the County. The Committee offers the following report and recommendations for action to the Board.

### Legislative Committee Actions of January 18, 2019:

Members Present: Legislative Chairman McKay  
Chairman Bulova  
Supervisor Cook  
Supervisor Foust  
Supervisor Gross  
Supervisor Herrity  
Supervisor Hudgins  
Supervisor Smith  
Supervisor Smyth  
Supervisor Storck

### **Specific Issues**

Pending Proffer Legislation: The Committee received an update on pending legislation to amend the proffer law enacted by the 2016 General Assembly (see handout on handwritten pages 49-53).

Budget Update: The Committee received a summary of budget items submitted by Governor Northam and their respective impacts on the County, including K-12 education funding, and other proposals related to budget priorities in the County's Legislative Program. More detailed information may be found in the chart provided on handwritten pages 55-65 of the attachments to this memorandum.

Decriminalization of Marijuana: The Committee received copies of the Virginia State Crime Commission's presentation which summarized the findings of the Commission's study on the decriminalization of marijuana following the 2017 General Assembly (see handout on handwritten pages 67-99).

Body Worn Camera Study Report: The Committee received copies of the Compensation Board's report to the General Assembly on the impact of body worn cameras on the workload of Commonwealth's Attorneys' offices (see handout on handwritten pages 101-169).

### **Priority Principles for Reviewing Legislation**

1. **Adequately fund K-12 education.**
2. **The Commonwealth should build upon the successful enactment of significant transportation revenues by the 2013 General Assembly to ensure sufficient funding for transportation needs.**
3. **Restore the funding partnership between the state and localities through adequate state funding.**
4. **Preserve local government authority, particularly in taxation and land use; allow greater flexibility in the administration of government.**

### **Specific Legislation**

#### **County Initiatives**

**HB 1913** (Bulova) (HCCT)/**SB 1663** (Barker) (SLG) allows any locality to include provisions in its subdivision ordinance requiring that where a lot being subdivided or developed fronts on an existing street and the provision of a sidewalk is in accordance with the locality's adopted comprehensive plan, the locality may require the dedication of land for, and construction of, a sidewalk on the property being subdivided or developed. (19103330D, 19104255D)

**HB 2578** (Plum) (HTRAN)/**SB 1684** (Petersen) (STRAN) limits the requirement that a governing body with a six-year plan for improving the secondary highway system advertise for and hold a public meeting regarding such plan to only those years in which the county has a proposed new funding allocation greater than \$100,000. (19103260D, 19104464D)

## **Historical Positions of the Board**

### **SUPPORT**

#### **Education**

**SJ 307** (Lewis) (SRUL) directs the Joint Legislative Audit and Review Commission to study the true cost of education in the Commonwealth and provide an accurate assessment of the costs to implement the Standards of Quality. Support; Board has historically supported. Fairfax County's Legislative Program includes support for adequate K-12 education funding. (19103131D)

#### **Elections**

**HB 1977** (Sullivan) (HPE) adds to the list of acceptable forms of voter identification a valid student photo identification card issued by any institution of higher education located in any other state or territory of the United States. Current law allows students from any institution of higher education located in the Commonwealth to use their student photo identification cards for purposes of voting. Support; Board has historically supported. (19100529D)

#### *Absentee Voting*

**HB 1641** (Herring) (HPE)/**SB 1026** (Spruill) (SPE)/**SB 1035** (Locke) (SPE)/**SB 1672** (Locke) (SPE) permits any registered voter to vote by absentee ballot in any election in which he is qualified to vote. The bill removes the current list of statutory reasons under which a person may be entitled to vote by absentee ballot and removes references to those reasons from other sections of the Code. Support; Board has historically supported. (19100922D, 19100137D, 19100414D, 19102230D)

**HB 1628** (Hayes) (HPE) entitles a person who will be age 65 or older on the day of an election to vote by absentee ballot in that election. Support; Board has historically supported. (19100383D)

**HB 1959** (Toscano) (HPE) allows for any registered voter to vote by absentee ballot in person beginning on the twenty-first day prior to any election in which he is qualified to vote without providing a reason or making prior application for an absentee ballot. The bill makes absentee voting in person available beginning on the forty-fifth day prior to the election and ending at 5:00 p.m. on the Saturday immediately preceding the election. The bill retains the current provisions for voting an absentee ballot by mail or in person prior to the twenty-first day before the election, including the application requirement and the list of statutory reasons for absentee voting. Support with amendments to facilitate implementation. Board has historically supported with amendments. (19102642D)

**SB 1075** (Howell) (SPE) allows for any registered voter to vote by absentee ballot in person beginning on the twenty-first day prior to any election in which he is qualified to vote without providing a reason or making prior application for an absentee ballot. The bill makes absentee voting in person available beginning on the forty-fifth day prior to the election and ending at 5:00

p.m. on the Saturday immediately preceding the election. The bill retains the current provisions for voting an absentee ballot by mail or in person prior to the twenty-first day before the election, including the application requirement and the list of statutory reasons for absentee voting. Support with amendments to facilitate implementation. Board has historically supported with amendments. (19100722D)

**SB 1198** (Dance) (SPE) provides that any registered voter may vote by absentee ballot in person in any election in which he is qualified to vote without providing a reason for being unable to vote in person on election day. The bill retains the statutory list of reasons allowing a voter to cast an absentee ballot by mail. Support; Board has historically supported. (19101559D)

### **Equal Rights Amendment**

**HJ 577** (Rasoul) (HPE)/**HJ 583** (Ward) (HPE) ratifies the Equal Rights Amendment to the Constitution of the United States that was proposed by Congress in 1972. The joint resolution advocates the position that the 1972 Equal Rights Amendment remains viable and may be ratified notwithstanding the expiration of the 10-year ratification period set out in the resolving clause, as amended, in the proposal adopted by Congress. Support; Board has historically supported. (19100132D, 19100546D)

**HJ 579** (Carroll Foy) (HPE) ratifies the Equal Rights Amendment to the Constitution of the United States that was proposed by Congress in 1972. The joint resolution advocates the position that the 1972 Equal Rights Amendment remains viable and may be ratified notwithstanding the expiration of the 10-year ratification period set out in the resolving clause, as amended, in the proposal adopted by Congress. Support; Board has historically supported. (19100231D)

**SJ 284** (Sturtevant) (HPE) ratifies the Equal Rights Amendment to the Constitution of the United States that was proposed by Congress in 1972. The joint resolution advocates the position that the 1972 Equal Rights Amendment remains viable and may be ratified notwithstanding the expiration of the 10-year ratification period set out in the resolving clause, as amended, in the proposal adopted by Congress. Support; Board has historically supported. (19104385D-S1)

### **Fair Housing Law**

**HB 1645** (Bourne) (HRUL) adds discrimination on the basis of a person's source of income to the list of unlawful discriminatory housing practices. The bill defines "source of income" as any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity. Support; Board has historically supported. (19100302D)

**HB 1823** (Convirs-Fowler) (HRUL) adds discrimination on the basis of an individual's sexual orientation or gender identity as an unlawful housing practice. The bill defines "sexual orientation" and "gender identity." Support; Board has historically supported. (19102102D)

### **Health and Human Services**

**HB 1891** (James) (HHWI)/**SB 1129** (Locke) (SRSS) provides that a person who is otherwise eligible to receive food stamp benefits shall not be denied such assistance solely because he has been convicted of a drug-related felony. Under current law, such individuals may not be denied food stamp benefits based on a felony conviction of possession of a controlled substance, provided that such person is complying with, or has already complied with, all obligations imposed by the criminal court, is actively engaged in or has completed a substance abuse treatment program, participates in periodic drug screenings, and fulfills any other obligations as determined by the Department of Social Services. Support; Board has historically supported. (19101723D, 19102418D)

### **Sexual Orientation/Gender Identity**

**HB 2421** (Levine) (HRUL) 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 codifies existing prohibited discrimination in public employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, or status as a veteran and adds discrimination based on sexual orientation or gender identity to the list of unlawful discriminatory housing practices. The bill contains technical amendments. Support; Board has historically supported. (19100256D)

**HB 2067** (Bell, John J.) (HRUL) prohibits discrimination in public employment on the basis of sexual orientation or gender identity, as defined in the bill. The bill also codifies for state and local government employment the current prohibitions on discrimination in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, or status as a veteran. Support; Board has historically supported. (19102588D)

**SB 998** (Ebbin) (Senate Floor) prohibits discrimination in public employment on the basis of sexual orientation or gender identity, as defined in the bill. The bill also codifies for state and local government employment the current prohibitions on discrimination in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, or status as a veteran. Support; Board has historically supported. (19100117D)

### **Taxation**

**HB 2189** (Kilgore) (HCCT)/**SB 1127** (Favola) (SFIN) equalizes municipal taxing authority and county taxing authority by granting a county the same authority available to a municipality through the uniform charter powers. The bill has a delayed effective date of July 1, 2020, prior to which the Division of Legislative Services is directed to convene a working group to develop recommendations as to what additional legislative changes are needed to effectuate the provisions of the bill. Support; Board has historically supported. (19101905D, 19103307D)

### **Transportation**

**HB 2033** (Murphy) (HCCT) allows counties that operate under the urban county executive form of government (Fairfax County) by ordinance to develop a program to issue permits or stickers to residents of a designated area that will allow such residents to make turns into or out of the designated area during certain times of day where such turns would otherwise be restricted. Support; Board has historically supported. (19101114D)

### **OPPOSE**

**HB 2736** (Hugo) (HCCT) provides that qualifying grievances by local government employees shall advance to a final step as agreed upon by the aggrieved and the local government; however, if an agreement cannot be reached on whether to use a panel hearing or hearing officer, a three-person panel shall be used. The bill contains technical amendments. Oppose; Board has historically opposed. (19104660D)

### **Elections**

**SB 1038** (Peake) (SFIN) requires the general registrars to verify that the name, date of birth, and social security number provided by an applicant on the voter registration application match the information on file in the Social Security Administration database or other database approved by the State Board of Elections (State Board) before registering such applicant. If the information provided by the applicant does not match the information in such a database, the applicant (i) is provisionally registered to vote and notified as to what steps are needed to be fully registered to vote and (ii) is permitted to vote by provisional ballot, but such ballot shall not be counted until the voter presents certain information. The bill also requires the general registrars to verify annually no later than August 1 that the name, date of birth, and social security number in the registration record of each registered voter in the registrar's jurisdiction match the information on file with the Social Security Administration or other database approved by the State Board and, in accordance with current law, to initiate the cancellation of the registration of any voter whose registration record information does not match the database information. The State Board is authorized to approve the use of any government database to the extent required to enable each general registrar to carry out the provisions of this measure and to promulgate rules for the use of such database. The Department of Elections is required to provide to the general registrars access to the Social Security Administration database and any other database approved by the State Board. The Department of Elections is further required to enter into any agreement with any federal or state agency to facilitate such access. Oppose; Board has historically opposed. (19100267D)

### **School Funding**

**HJ 643** (Webert) (HRUL) requests the Department of Education to (i) determine, for each of the 95 localities that have adopted ordinances to provide for the use value assessment and taxation of certain real estate, the use value of all applicable real estate devoted to (a) agricultural use, (b) horticultural use, (c) forest use, and (d) open-space use, as those terms are defined in the Code of Virginia, and (ii) recalculate the composite index of local ability to pay for each such locality after

taking into consideration such use values. Oppose; Board has historically opposed. Rather than modifying individual components of the LCI formula, a comprehensive approach should be taken, including addressing factors relating to cost of living. (19100976D)

**SB 1471** (Hanger) (SFIN) requires the General Assembly to modify the current standards of quality funding formula and the calculation of composite index of local ability to pay to incorporate within the real estate indicator of local wealth the land-use assessment value for those properties located within a land-use plan. Oppose; Board has historically opposed. Rather than modifying individual components of the LCI formula, a comprehensive approach should be taken, including addressing factors relating to cost of living. (19102935D)

### Transportation

**HB 1872** (Webert) (HTRAN) exempts any operator of and passenger on a motorcycle or autocycle who is 21 years of age or older and a registered organ donor from the requirement to wear a protective helmet when on a motorcycle or autocycle. The bill reduces operating or riding on a motorcycle or autocycle without a protective helmet from a primary offense to a secondary offense, which can be charged only when the offender is stopped for another, separate offense. Oppose; Board has historically opposed. (19100466D)

**SB 1578** (Suetterlein) (STRAN) raises from 80 to 85 miles per hour the speed above which a person who drives a motor vehicle on the highways in the Commonwealth is guilty of reckless driving regardless of the applicable maximum speed limit. Oppose; Board has historically opposed. (19101770D)

### AMEND

### Administration of Government

**HB 1907** (VanValkenburg) (HCCT)/**SB 1262** (Sturtevant) (SLG) requires every locality with a population greater than 25,000 and each school division with greater than 5,000 students to post quarterly on the public government website of such locality or school division a register of all funds expended, showing vendor name, date of payment, amount, and a description of the type of expense, including credit card purchases with the same information. The bill allows any locality or school division to exclude from such posting any information that is exempt from mandatory disclosure under the Virginia Freedom of Information Act, any personal identifying information related to a court-ordered payment, and any information related to undercover law-enforcement officers. The bill has a delayed effective date of July 1, 2020. Amend to allow flexibility to exclude personally identifiable information of constituents and employees; Board has historically recommended amendment. (19103212D, 19103271D)

### Taxation

**HB 1655** (Miyares) (House Floor)/**SB 1270** (Stuart) (Senate Floor) enacts as statutory law an amendment to subdivision (a) of Section 6-A of Article X of the Constitution of Virginia that was

adopted by the voters on November 6, 2018, which applies the real property tax exemption for the surviving spouse of a disabled veteran to such spouse's principal place of residence regardless of whether such spouse moves to a different residence. Amend to support as a state tax credit; Board has historically recommended amendment. (19103726D-H1, 19101186D)

**MONITOR**

**HB 2084** (Watts) (HCCT) grants counties with a population greater than 100,000 certain powers of cities and towns, including taxation, borrowing, and eligibility for highway maintenance funds. Currently, such powers are generally granted only to cities and towns. Monitor; Board has historically monitored. (19101523D)

## **New Bills – 2019 GA**

**HB 1966** (Yancey) (HGL) requires local building departments, when denying an application for the issuance of a building permit, to provide to the applicant a written explanation detailing the reasons for which the application was denied. The bill provides that the applicant may submit a revised application addressing the reasons for which the application was previously denied and that, if the applicant does so, the local building department shall limit its review of the revised application to only those portions of the application that were previously deemed inadequate and that the applicant has revised. Oppose. (19101136D)

**HB 2359** (Jones, S.C.) (HAPP) updates the six-year capital outlay plan for projects to be funded entirely or partially from general fund-supported resources. Support; The County supports funding for a Northern Virginia regional science center which is included in the capital outlay plan. (19103644D)

**SB 1323** (Hanger) (Senate Floor) updates the six-year capital outlay plan for projects to be funded entirely or partially from general fund-supported resources. Support; The County supports funding for a Northern Virginia regional science center which is included in the capital outlay plan. (19103643D-E)

### **Administration of Government**

**HB 1698** (Fariss) (HCCT) authorizes a locality to send a zoning administrator's appeal order using certified mail. Current law allows such an order to be sent only by registered mail. Support. (19102389D)

**SB 1553** (Surovell) (SLG) provides that any county that has adopted the urban county executive form of government (Fairfax County) may, by ordinance, provide that it shall be unlawful for any person to place, leave, or abandon on any real property in the county, or within specified districts within the county, any dilapidated furniture, appliance, machinery, equipment, shopping cart, building material, or other item or personal property, which is either in a wholly or partially rusted, wrecked, junked, dismantled, or inoperative condition and which is not completely enclosed within a building. The ordinance shall provide that any such item which remains on the real property for a period of seven days after a notice of violation is given to the owner of such personal property shall be presumed to be abandoned and subject to being removed from the real property by the county or its agents without further notice. In the event any such item is so removed, the cost of removal, including an administrative fee in the amount of \$150.00, shall be charged to the owner of the personal property. No such ordinance shall apply to any real property used for the purpose of a licensed junk dealer or an establishment engaged in the repair, rebuilding, reconditioning, or salvaging of equipment. The ordinance may provide that a violation of the ordinance shall constitute a Class 1 misdemeanor. Support with amendment to narrow scope of legislation to improve implementation. (19104083D)

**Courts**

**HB 2510** (Hugo) (HCT)/**SB 1121** (Petersen) (Passed Senate) increases from 11 to 12 the maximum number of authorized general district court judgeships in the nineteenth judicial district. This bill is a recommendation of the Committee on District Courts. Support. (19101667D, 19102862D)

*Protective Orders*

**SB 1078** (Howell) (SCT) provides that it is a Class 6 felony for a person who is subject to a permanent protective order (i.e., a protective order with a maximum duration of two years) for subjecting another person to an act of violence, force, or threat to possess a firearm while the order is in effect, which is equivalent to the existing penalty for possession of a firearm by a person subject to a permanent protective order for family abuse. The bill also provides that such person may continue to possess and transport a firearm for 24 hours after being served with the order for the purposes of selling or transferring the firearm to another person. Support. (19100829D)

**HB 2504** (Murphy) (HCT) provides that it is a Class 6 felony for a person who is subject to a permanent protective order (i.e., a protective order with a maximum duration of two years) for subjecting another person to an act of violence, force, or threat to possess a firearm while the order is in effect. This penalty is equivalent to the existing penalty for possession of a firearm by a person subject to a permanent protective order for family abuse. The bill also provides that such person may continue to possess and transport a firearm for 24 hours after being served with the order for the purposes of selling or transferring the firearm to another person. The bill requires that any person who is prohibited from possessing a firearm because he is subject to a permanent protective order certify in writing to the clerk of the court that issued the order within 48 hours after being served with the order that any firearm in his possession has been sold or transferred. The bill provides that failure to file such certification is a Class 1 misdemeanor. Support. (19103833D)

**SB 1467** (Saslaw) (SCT) provides that a court shall order a person subject to a permanent protective order (i.e., a protective order with a maximum duration of two years) to (i) within 24 hours, surrender any firearm possessed by such person to a designated local law-enforcement agency, sell or transfer any firearm possessed by such person to a dealer, or sell or transfer any firearm possessed by such person to any person who is not otherwise prohibited by law from possessing such firearm, provided that such person will not allow the person subject to a protective order to exert any influence or control over the sold or transferred firearm, or (ii) certify in writing that such person does not possess any firearms and file such certification with the clerk of the court that entered the protective order within 48 hours after being served with a protective order. The bill provides that within 48 hours after surrendering or selling or transferring all firearms, such person must certify in writing that all firearms possessed by such person have either been surrendered or sold or transferred and file such certification with the clerk of the court that entered the protective order. The bill also provides that any person subject to a protective order who fails to certify in writing that all firearms possessed by such person have either been surrendered or sold or transferred or that such person does not possess any firearms is guilty of a Class 1 misdemeanor. The bill provides procedures for designating a local law-enforcement agency to receive and store firearms as well as a process to return such surrendered firearms. The bill also provides that any

person who buys or has a firearm transferred to him from a person subject to a permanent protective order and allows the person subject to a protective order to exert any influence or control over the sold or transferred firearm is guilty of a Class 1 misdemeanor. Support. (19103735D)

### *Specialty Dockets*

**HB 2665** (Stolle) (HCT)/**SB 1655** (Cosgrove) (SCT) requires the Office of the Executive Secretary of the Supreme Court to develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of all local specialty dockets established in accordance with the Rules of Supreme Court of Virginia and submit a report of these evaluations to the General Assembly by December 1 of each year. Monitor. (19103681D, 19101131D)

### **Education**

**SB 1575** (Ebbin) (SEH) permits any school board to employ any individual, who is employed by an accredited institution of higher education as an instructor, to teach career and technical education courses or dual enrollment courses in the local school division, regardless of whether such individual holds a license issued by the Board of Education. Support. (19102839D)

**SB 1545** (Sturtevant) (SEH) allows a school board to adopt an alternative accountability process to provide a principal and parties involved in an incident involving assault or assault and battery without bodily injury that occurs on a school bus, on school property, or at a school-sponsored event an option to enter into a mutually agreed upon mediation process between the involved parties as an alternative to reporting such incident to law enforcement. The bill requires a principal in a school division with such a process to attempt to engage the parties involved in such an incident in the alternative accountability process prior to reporting such incident to the local law-enforcement agency. The bill prohibits a principal from reporting such an incident when the parties successfully complete the alternative accountability process. Amend to ensure the bill does not impact the County's existing Alternative Accountability Program. (19103322D)

### **Freedom of Information Act**

**HB 1772** (Mullin) (HCT) provides that any officer, employee, or member of a public body alleged to have willfully and knowingly violated the Virginia Freedom of Information Act who acted in good faith reliance upon an advisory opinion issued by the Virginia Freedom of Information Advisory Council may introduce such advisory opinion as evidence that the alleged violation was not made willfully and knowingly. The bill contains technical amendments. This bill is a recommendation of the Virginia Freedom of Information Advisory Council. Support. (19100432D)

### **Health**

**HB 1870** (Sickles) (HHWI)/**HB 2451** (Bell, Richard P.) (HHWI)/**SB 1277** (Barker) (SEH) provides for a 30-day exemption from the requirement to obtain a certificate of public need for an increase in the total number of beds in nursing homes or hospitals if the State Health Commissioner

has determined that a natural or man-made disaster has caused the evacuation of nursing homes or hospitals and that a public health emergency exists due to a shortage of nursing home or hospital beds. Support. (19101516D, 19101416D, 19101545D)

**HB 1914** (Herring) (HHWI) authorizes practitioners contracted by the Department of Health and practitioners employed or contracted by a local health department to prescribe antibiotic therapy to the sexual partner of a patient diagnosed with a sexually transmitted disease without the physical examination normally required. Under current law, only employees of the Department of Health are so authorized. Additionally, the bill authorizes a practitioner, who is an employee of or contracted by the Department of Health or a local health department, to prescribe Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient without a bona-fide practitioner-patient relationship with the diagnosed patient when emergency treatment is necessary to prevent imminent risk of death, life-threatening illness, or serious disability. Support. (19101794D)

### **Human Services**

**HB 1871** (Jones, J.C.) (HHWI) allows VIEW participants whose Temporary Assistance for Needy Families financial assistance is terminated to receive child care assistance for up to 12 months after termination if the individual is enrolled in an accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia and is taking courses as part of a curriculum that leads to a postsecondary credential, such as a degree or an industry-recognized credential, certification, or license. Under current law, such child care assistance is only available if it enables the individual to work. Support. (19101902D)

**HB 2458** (Landes) (HED)/**SB 1095** (Howell) (SFIN) requires the Board of Education to establish a statewide unified public-private system for early childhood care and education in the Commonwealth to be administered by the Board of Education, the Superintendent of Public Instruction, and the Department of Education. The bill transfers the authority to license and regulate child day programs and other early child care agencies from the Board of Social Services and Department of Social Services to the Board of Education and the Department of Education. The bill maintains current licensure, background check, and other requirements of such programs. The bill establishes the Early Childhood Innovation Fund for the purpose of facilitating regional public-private collaboration and to field test innovative strategies and evidence-based practices that support a robust system of comprehensive early childhood care and education services to deliver measurable school readiness outcomes and meet regional workforce support needs. Such provisions of the bill have a delayed effective date of July 1, 2021. The bill requires the Superintendent of Public Instruction to establish a plan for implementing the statewide unified early childhood care and education system and requires the Department of Social Services and the Department of Education to enter into a cooperative agreement to coordinate the transition. The bill provides that, beginning July 1, 2021, the Department of Education will be the lead agency for the administration of the Child Care and Development Block Grant and the Head Start Collaboration Office. Finally, the bill requires the Board of Education and the Board of Social

Services to promulgate regulations to implement the provisions of the bill to become effective on July 1, 2021. Monitor. (19102705D, 19102558D)

**SB 1135** (Favola) (SRSS) directs the Department of Behavioral Health and Developmental Services to amend the criteria for determining the priority status of individuals on the waiting list for services under the Community Living Waiver to include individuals with developmental disabilities who will exit foster care and require waiver services within one year in the Priority One status. Support. (19102930D)

**SB 1145** (Favola) (SRSS) allows VIEW participants whose Temporary Assistance for Needy Families financial assistance is terminated to receive child care assistance for up to 12 months after termination if the individual is enrolled in an accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia and is taking courses as part of a curriculum that leads to a postsecondary credential, such as a degree or an industry-recognized credential, certification, or license. Under current law, such child care assistance is only available if it enables the individual to work. Support. (19101901D)

**SB 1576** (Suetterlein) (SEH) requires the Department of Education and relevant local school boards to develop and implement a pilot program for up to four years in two to eight local school divisions in the Commonwealth. In developing the pilot, the Department is required to partner with the appropriate school board employees in each such local school division to (i) identify the resources, services, and supports required by each student who resides in each such local school division and who is educated in a private school setting pursuant to his Individualized Education Program; (ii) study the feasibility of transitioning each such student from his private school setting to an appropriate public school setting in the local school division and providing the identified resources, services, and supports in such public school setting; and (iii) recommend a process for redirecting federal, state, and local funds, including funds provided pursuant to the Children's Services Act, provided for the education of each such student to the local school division for the purpose of providing the identified resources, services, and supports in the appropriate public school setting. The bill requires the Department of Education to make a report to the Governor, the Senate Committees on Education and Health and Finance, and the House Committees on Education and Appropriations on the findings of each pilot program after two and four years. Support. (19100917D)

#### *Adult Protective Services*

**SB 1224** (Chafin) (SRSS) allows the attorney for the Commonwealth in each political subdivision to coordinate the establishment of a multidisciplinary response to elder abuse, neglect, and financial exploitation of incapacitated adults to (i) conduct regular reviews of new and ongoing reports of elder abuse, neglect, and financial exploitation of incapacitated adults and, at the request of any member of the team, conduct reviews of any other reports of elder abuse, neglect, or financial exploitation in the jurisdiction involving an incapacitated or older adult and (ii) establish and review guidelines for the community's response to elder abuse, neglect, and financial exploitation of incapacitated adults. Support. (19103368D)

*Child Care*

**HB 1994** (Price) (HAPP)/**SB 1407** (Mason) (SRSS) allows local law-enforcement agencies to process and submit requests for national fingerprint background checks required for (i) applicants for licensure as a child day center, family day home, or family day system, registration as a family day home, or approval as a family day home by a family day system; (ii) agents of an applicant for licensure as a child day center, family day home, or family day system, registration as a family day home, or approval as a family day home by a family day system at the time of application who is or will be involved in the day-to-day operations of the child day center, family day home, or family day system, or who is or will be alone with, in control of, or supervising one or more of the children; (iii) adults living in such child day center or family day home; and (iv) employees and volunteers of any child day center, family day home, or family day system licensed in accordance with the provisions of this chapter, child day center exempt from licensure, registered family day home, family day home approved by a family day system, or child day center, family day home, or child day program that enters into a contract with the Department or a local department to provide child care services funded by the Child Care and Development Block Grant. Support. (19102000D, 19101950D)

*Supportive Housing*

**HB 2017** (Peace) (Reported from HHWI) allows individuals receiving auxiliary grants to select supportive housing without any requirement that such individuals wait until their first or any subsequent annual reassessment to make such a selection. The bill directs the Commissioner for Aging and Rehabilitative Services to (i) promulgate regulations to implement the provisions of the bill within 180 days of its enactment and (ii) develop guidance documents for implementation of the provisions of the bill no later than February 1, 2020. Support. (19102319D)

**SB 1286** (Barker) (SRSS) clarifies language surrounding receipt of auxiliary grants by individuals living in supportive housing and increases the maximum number of auxiliary grant recipients in supportive housing from 60 to 120. Support. (19102021D)

**Land Use**

**HB 2051** (McQuinn) (HCCT) provides that local subdivision ordinances may include certain requirements to govern the private development of land containing an existing cemetery. The bill also authorizes localities to adopt ordinances requiring that certain research in local property records be conducted prior to development to identify any cemeteries on the property. Monitor. (19102310D)

**HB 2146** (Turpin) (HCCT) authorizes any locality to adopt an ordinance providing for either the conservation of or the planting and replacement of trees during the land development process. Currently, only a locality within Planning District 8 with a population density of 75 persons per square mile and which is classified as an eight-hour nonattainment area for ozone under the federal Clean Air Act and Amendments of 1990, in effect as of July 1, 2008, may adopt such an ordinance for the conservation of trees and only a locality with a population density of 75 persons per square

mile or within the Chesapeake Bay watershed may adopt such an ordinance for the planting and replacement of trees during the land development process. Monitor. (19101980D)

**SB 1701** (Ebbin) (SLG) requires any ordinance adopted by the governing body of any county that operates under the urban county executive form of government (Fairfax County) relating to regulation of short-term rentals to comply with various provisions related to the short-term rental of property, including limits on (i) the total number of nights permitted for short-term rental on the short-term rental operator's property and (ii) the number of short-term rental properties owned by any one person or entity. The bill also requires such ordinance to comply with various Code of Virginia provisions related to zoning enforcement, the Virginia Uniform Statewide Building Code, real estate licensing, common interest communities, and covered entities otherwise regulated by localities. Oppose. (19104398D)

#### *Eminent Domain*

**SB 1404** (Petersen) (Passed Senate) provides that the costs of filing a petition with the court for the distribution of the funds due pursuant to an eminent domain proceeding shall be taxed against the condemnor. The bill also provides that the interest rate on the funds represented by a certificate of deposit from the date of filing of the certificate until the funds are paid into the court shall not be less than the judgment rate of interest. Finally, the bill reorganizes for clarity the provisions governing what happens upon recordation of a certificate by the Commissioner of Highways in a condemnation proceeding. Monitor. (19102876D-E)

**SB 1421** (Obenshain) (Passed Senate) makes various changes to provisions related to entry upon private property in an eminent domain proceeding, including (i) requiring that the number of persons for whom permission to inspect the premises is sought be included in a request for permission to inspect private property for the purposes of a project wherein the power of eminent domain may be exercised; (ii) requiring the notice of intent to enter the property to include all of the information contained in the request for permission to inspect the property; (iii) requiring the court to award fees for at least three expert witnesses if the petitioner damages the property during its entry; (iv) removing the requirement that the damage must be done maliciously, willfully, or recklessly for the owner to be reimbursed for his costs; and (v) removing the option that the owner may be reimbursed for his costs if the court awards the owner actual damages in an amount 30 percent or more greater than the petitioner's final written offer made no later than 30 days after the filing of an answer in circuit court or the return date in general district court. The bill also provides the method by which just compensation for the taking of property in an eminent domain proceeding is calculated. The bill provides that the body determining just compensation shall ascertain the value of the property to be taken and the damages, if any, that may accrue to the residue beyond the specific enhancement in value, if any. The bill further outlines the considerations that may be used to determine the market value of the property before the taking and the residue after the taking. Finally, the bill allows a person to recover damages resulting from reformation, alteration, revision, amendment, or invalidation of a certificate in an eminent domain proceeding. The bill provides that an owner may recover costs incurred if the taking of land in an eminent domain proceeding is abandoned, in full or in part. Oppose. (19103612D)

### **Taxation**

**HB 1937** (Krizek) (House Floor) provides that, if a locality has established a real estate tax exemption for the elderly and handicapped and enacted an income limitation related to the exemption, the locality may exclude, for purposes of the limitation, any income received by a family member or nonrelative who lives in the dwelling and who is permanently and totally disabled. Monitor. (19100954D-E)

**HJ 657** (Pogge) (HPE) provides that, as of January 1, 2021, the real property tax exemption for the surviving spouse of a 100 percent disabled veteran shall apply regardless of whether the disabled veteran died prior to January 1, 2011. Under the current constitutional real property tax exemption, if a veteran received a 100 percent disability rating and died prior to January 1, 2011, his surviving spouse is not eligible for the exemption pursuant to state statutory law. Amend to support as a state tax credit. For similar constitutional amendments, the Board has historically sought to amend to support as a state tax credit. (19101855D)

### **Transportation**

**HB 2155** (Plum) (HTRAN) prohibits the driver of a vehicle from overtaking and passing a vehicle stopped at a marked crosswalk to permit a pedestrian to cross the highway. Support. (19101728D)

**HB 2553** (Thomas) (HAPP)/**SB 1680** (Mason) (STRAN) provides that any mass transit provider that incurs a loss in operating funds as a direct result of the performance-based allocation process set forth in Chapter 854 of the Acts of Assembly of 2018 shall be eligible for supplemental funds commensurate with operating funds in 2019. The total amount of supplemental funds available shall not exceed \$5 million. Support. (19104021D, 19104336D)

**SB 1073** (Marsden) (Reported from STRAN) requires the driver of a motor vehicle involved in an accident on a high occupancy toll (HOT) lane that is under construction on Interstate 66 to move such motor vehicle to the nearest pull-off area if the driver can safely do so, the vehicle is movable, and there are no injuries or deaths resulting from the accident. The bill provides that such requirement will expire upon the certification by the Secretary of Transportation that the HOT lane construction on I-66 is complete. Support. (19101626D)

**SB 1468** (Black) (Reported from STRAN) shifts responsibility from the Department of Transportation to the Northern Virginia Transportation Authority for the evaluation and rating of significant transportation projects in and near the Northern Virginia Transportation District. The bill also adds administrative and operating expenses to those expenses that can be paid by the Northern Virginia Transportation Authority Fund. Current law provides that administrative expenses be allocated to the component counties and cities of the Authority. Support. (19104213D)

*I-66 Tolling*

**HB 2643** (Delaney) (HTRAN) limits to \$15 the tolls collected on the tolled portion of Interstate 66 east of mile marker 67. The bill expands the limitation to the tolled portion of Interstate 66 east of mile marker 43 upon completion of the Transform 66 Outside the Beltway project. Oppose. Including a maximum fee would impact the traffic flow on I-66 Inside the Beltway and may impact the Concessionaire contract on I-66 Outside the Beltway. (19103674D)

*School Bus Cameras*

**HB 1695** (Fariss) (HCT) increases from \$250 to \$500 the civil penalty for passing a stopped school bus. Support. (19101584D)

**HB 2273** (Webert) (HCT) increases the civil penalty for passing a stopped school bus from \$250 to \$300. The bill creates an increased penalty of \$600 for any driver who passes a stopped school bus while holding or manually manipulating a handheld personal communications device. Support. (19100523D)

**HB 2344** (Bell, Robert B.) (HCT) requires the Department of Motor Vehicles to release certain vehicle owner data, upon request, to a private vendor operating a video-monitoring system on or in a school bus. The bill limits how such data can be used and stored and provides that it is a Class 1 misdemeanor to violate such limitations. Support. (19102619D)

**SB 1476** (Deeds) (STRAN) authorizes the Department of Motor Vehicles to release vehicle owner data of a vehicle that failed to stop for a stopped school bus upon request of a video-monitoring system operator or upon request of the authorized agent or employee of a video-monitoring system operator. Support; Board has historically supported. (19101967D)

**SB 1520** (Carrico) (STRAN) authorizes the Department of Motor Vehicles (the Department) to release vehicle owner data of a vehicle that failed to stop for a stopped school bus upon request of a video-monitoring system operator or upon request of the authorized agent or employee of a video-monitoring system operator. The bill expands the length of time for which a driver of a motor vehicle must remain stopped for a stopped school bus from when all persons are clear of the roadway to when the bus is back in motion. The bill provides that any conviction for passing a stopped school bus imposed by mailing a summons will not be reported to the Department or made part of the operator's driving record. However, the bill provides that if the conviction is imposed as a result of a law-enforcement officer personally issuing a summons at the time of violation the conviction shall be reported to the Department and shall result in the assessment of four demerit points to that person's driving record. The bill provides that an ordinance enacted by a county regarding a video-monitoring system applies to infractions that occur within any town located within the county for which the county provides the public school system. Monitor. (19103029D)

*Towing*

**HB 1865** (Fowler) (HTRAN) sets maximum towing hookup and initial towing fees at \$150 for all localities. Current law authorizes local governing bodies to set towing fee limits different from the maximums retained by the bill. Oppose unless amended to limit fee increases. (19104945D)

**SB 1567** (Marsden) (STRAN) sets maximum towing hookup and initial towing fees at \$150 for all localities. Current law authorizes local governing bodies to set towing fee limits different from the maximums retained by the bill. Oppose unless amended to limit fee increases. (19101339D)

*Transportation Studies*

**HB 2466** (Roem) (HRUL) directs the Department of Transportation to study the feasibility of implementing improvements to State Route 28 in Prince William County between the City of Manassas Park and Fairfax County. Monitor. (19102854D)

**HB 2467** (Roem) (HRUL) directs the Department of Transportation to study the feasibility of implementing improvements to State Route 28 between the City of Manassas Park and State Route 29 in Fairfax County. Amend limits of study to remove segments in Fairfax County. (19102882D)

**HB 2468** (Roem) (HRUL) directs the Department of Transportation to study the feasibility of implementing improvements to State Route 28 between U.S. Route 15 in Fauquier County and State Route 29 in Fairfax County. Amend limits of study to remove segments of Fairfax County. (19102971D)

**Environment**

**HB 2070** (Bell, John J.) (HFIN) establishes a tax deduction for the amount a taxpayer pays for energy saving products, not to exceed \$10,000. Energy saving products are defined as being either (i) solar panels or (ii) products that meet the requirements of the Energy Star program established by the U.S. Environmental Protection Agency and the U.S. Department of Energy. To qualify for the deduction, the taxpayer must spend at least \$1,000 on energy saving products. The bill also provides that a person may not claim both this deduction and the existing deduction for certain energy efficient products during the same taxable year. Support. (19102583D)

**HB 2495** (Tran) (HCCT) prohibits localities from spraying pesticides intended to suppress an infestation of the fall cankerworm during the period between March 1 and August 1. Oppose. (19104098D)

*Solar Freedom*

**HB 2329** (Keam) (HLC) promotes the establishment of distributed renewable solar and other renewable energy. The measure (i) removes the one percent cap on the total amount of renewable energy that can be net metered in a utility's service territory, (ii) authorizes third-party power purchase agreements for all customer classes throughout the Commonwealth, (iii) allows local

governments and certain other public bodies to install solar or wind facilities of up to five megawatts on government-owned property and use the electricity for government-owned buildings, (iv) allows all net metering customers to attribute output from a single solar array to multiple meters, (v) allows the owner of a multi-family residential building or the common areas of a condominium to install a renewable energy generation facility and sell the electricity to tenants or condominium unit owners, (vi) removes the restriction on customers installing a net-metered generation facility larger than that required to meet their previous 12 months' demand, (vii) raises the cap for net-metered nonresidential generation facilities from one megawatt to two megawatts, and (viii) removes the ability of utilities to assess standby charges. The measure also amends the Commonwealth Energy Policy to include provisions supporting distributed generation of renewable energy. Support. (19103955D)

**SB 1456** (McClellan) (SCL) promotes the establishment of distributed renewable solar and other renewable energy. The measure (i) removes the one percent cap on the total amount of renewable energy that can be net metered in a utility's service territory, (ii) authorizes third-party power purchase agreements for all customer classes throughout the Commonwealth, (iii) allows local governments and certain other public bodies to install solar or wind facilities of up to five megawatts on government-owned property and use the electricity for government-owned buildings, (iv) allows all net metering customers to attribute output from a single solar array to multiple meters, (v) allows the owner of a multi-family residential building or the common areas of a condominium to install a renewable energy generation facility and sell the electricity to tenants or condominium unit owners, (vi) removes the restriction on customers installing a net-metered generation facility larger than that required to meet their previous 12 months' demand, (vii) raises the cap for net-metered nonresidential generation facilities from one megawatt to two megawatts, and (viii) removes the ability of utilities to assess standby charges. The measure also amends the Commonwealth Energy Policy to include provisions supporting distributed generation of renewable energy. Support. (19103827D)

#### *Stormwater*

**HB 1879** (Convirs-Fowler) (HGL) directs the State Water Control Board to adopt regulations requiring any local stormwater management authority that requires a residential landowner to maintain a stormwater management facility on his property to record with the deed for the property a statement of the specifications and requirements and a schedule of audits of the facility. The bill requires the seller of any property with such a facility to disclose the specifications, requirements, and schedule of audits to a purchaser of the property. Support. (19101519D)

**HB 2019** (Murphy) (HGL) requires (i) residential real property owners to disclose the presence of any stormwater management facilities located on the owner's property and any maintenance agreement for such facilities and (ii) residential real property owners subject to the declaration of a property owners' association to disclose the presence of any stormwater management facilities that the association has the obligation to repair, replace, or restore and any maintenance agreements for such facilities. The bill requires property owners' associations to disclose in the required association disclosure packet the presence of any stormwater management facilities that the

association has the obligation to repair, replace, or restore and any maintenance agreement for such facilities. Support. (19101112D)

### *Water Quality*

**HB 1822** (Bulova) (HAPP) authorizes the Director of the Department of Environmental Quality (the Department) to authorize grants from the Virginia Water Quality Improvement Fund (the Fund) for the installation of certain wastewater conveyance infrastructure. Any such infrastructure shall divert wastewater from one publicly owned treatment works that is eligible for grant funding to another such eligible treatment works and shall result in no more expense to the Fund than would otherwise be incurred to install eligible nutrient removal technology or other treatment technology at the treatment works from which the wastewater will be diverted. The bill also directs the Department to consult with stakeholders annually to estimate the amount of grant funding that local governments will request during the upcoming year from (i) the Fund and (ii) the Stormwater Local Assistance Fund and to submit those estimates to the Governor as part of a biennial funding report and an annual progress report that are required by current law. The bill contains technical amendments. Support. (19103598D)

### **Procurement**

**HB 1667** (Kilgore) (HCT)/**SB 1369** (Norment) (SGL) provides that no action may be brought by a public body on any construction contract, including construction management and design-build contracts, unless such action is brought within five years after substantial completion of the work on the project and that no action may be brought by a public body on a warranty or guarantee in such construction contract more than one year from the breach of that warranty, but in no event more than one year after the expiration of such warranty or guarantee. The bill also limits the time frame during which a public body, other than the Department of Transportation, may bring an action against a surety on a performance bond to within one year after substantial completion of the work on the project. Current law allows a public body, other than the Department of Transportation, to bring such an action within one year after (i) completion of the contract, including the expiration of all warranties and guarantees, or (ii) discovery of the defect or breach of warranty that gave rise to the action. Oppose. (19101460D, 19101482D)

### **Public Safety/Criminal Justice**

**HB 1903** (Head) (HCT) limits the criminal history information that the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, may provide to a requesting employer or prospective employer to convictions occurring within seven years prior to the request, except for any information related to a felony act of violence or a barrier crime. Amend to allow public employers to receive criminal history information older than seven years from the date of the request. (19100543D)

### **School Resource Officers**

**HB 1733** (Gilbert) (Reported from HED) requires the school board in each school division in which the local law-enforcement agency employs school resource officers to enter into a memorandum of understanding with such local law-enforcement agency that sets forth the powers and duties of the school resource officers. The bill requires each such school board and local law-enforcement agency to review and amend or affirm the memorandum at least once every five years. Monitor. (19100602D)

**HB 2291** (VanValkenburg) (HED) requires the school board in each school division in which the local law-enforcement agency employs school resource officers to enter into a memorandum of understanding with such local law-enforcement agency that sets forth the respective roles and responsibilities of the school board and the law-enforcement agency and the roles and responsibilities of such school resource officers. The bill requires each such school board and local law-enforcement agency to (i) review the memorandum of understanding every two years or at any time upon the request of either party and may revise such memorandum at any time as agreed by the parties and (ii) ensure that all relevant personnel employed by either party are informed of and review the provisions of the memorandum of understanding, including any revisions to the memorandum of understanding. The bill also requires the Virginia Center for School and Campus Safety to develop a model memorandum of understanding that may be used by local school boards and local law-enforcement agencies to satisfy the new requirements put forth in the bill. Monitor. (19104117D)

### **Legislation Provided for Discussion**

#### **Animals**

**HB 1625** (Orrock) (Reported from HAG) provides that the definition of "adequate shelter" includes the provision of shelter that protects the animal from exposure to heat or cold. Current law requires such shelter to protect the animal from the adverse effects of heat or cold. Monitor. (19100436D)

**SB 1058** (Favola) (SACNR) authorizes any locality to adopt an ordinance that parallels and makes more stringent the state law regarding the care of companion animals. Support. (19100755D)

#### **Proffers**

**HB 2342** (Thomas) (Reported from HCCT)/**SB 1373** (Favola) (Senate Floor) makes extensive changes to conditional zoning provisions first enacted in 2016. Specific amendments include the addition of provisions stating that no local governing body shall require any unreasonable proffer. Under current law, no locality may request or accept any unreasonable proffer. Other changes (i) allow an applicant to submit any proffer that the applicant deems reasonable and appropriate, as conclusively evidenced by the signed proffers, (ii) rewrite provisions related to certain revitalization areas and floor area density standards that are excluded from the statute's requirements, and (iii) state that nothing in the bill shall be deemed or interpreted to prohibit

communications between an applicant or owner and the locality or to prohibit presentation, analysis, or discussion of the potential impacts of new residential development or other new residential use on the locality's public facilities. The provisions of the bill are effective as to any application for a rezoning or proffer condition amendment filed on or after July 1, 2019, or to certain other pending applications. The bill also provides that an applicant with a pending application for a rezoning or proffer condition amendment that was filed prior to July 1, 2016, may elect to proceed under the law as it existed prior to that date, and an applicant with a pending rezoning or proffer condition amendment application filed after July 1, 2016, but before July 1, 2019, may elect to proceed under the law as it existed during that period. Support. (19104992D-H1, 19104977D-S1)

### **Transportation**

**HB 1703** (Guzman) (HFIN) imposes a tax at a rate of five cents per gallon on aviation jet fuel purchased or used by an airline licensed by the Federal Aviation Administration with more than eight billion passenger-miles originating at Virginia airports during the calendar year and any regional air carrier contracting with such airline. The bill disburses revenue from the tax to the Metropolitan Washington Airports Authority (the Authority), provided that the Authority enters into an agreement to use the proceeds to finance Phase 2 of the Dulles Corridor Metrorail project and to reduce toll rates on users of the Dulles Toll Road. If the Authority does not enter into such an agreement, the bill prohibits the Department of Aviation from disbursing any revenue from taxes on aviation fuel to the Authority. Oppose. (19101086D)

### *Driver Privilege Cards*

**HB 1843** (Bloxom) (HTRAN) authorizes the issuance of new driver privilege cards by the Department of Motor Vehicles to an applicant who (i) has reported income from Virginia sources on an individual tax return filed with the Commonwealth in the preceding 12 months; (ii) is not in violation of the insurance requirements for the registration of an uninsured motor vehicle; and (iii) provides an unexpired passport as proof of identity. The bill provides that driver privilege cards shall confer the same privileges and shall be subject to the same provisions as driver's licenses and permits; however, driver privilege cards shall not (a) confer voting privileges, (b) permit an individual to waive any part of the driver examination, or (c) have their issuance be contingent upon the applicant's ability to produce proof of legal presence in the United States. The bill provides for the term "driver's license" to consistently refer to all driver's licenses, permits, driver privilege cards, and special identification cards issued by the Commonwealth or the comparable law of another jurisdiction. The bill allows the issuance of a limited-duration driver's license and special identification card to an applicant presenting valid documentary evidence that a federal court or federal agency having jurisdiction over immigration has authorized the applicant to be in the United States for a period of at least 30 days from the date of application. The bill authorizes the Tax Commissioner to provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit reported income from Virginia sources on an individual tax return filed with the Commonwealth in the preceding 12 months. The bill has a delayed effective date of January 1, 2020. Support. (19101370D)

**HB 2025** (Tran) (HTRAN) authorizes the issuance of new driver privilege cards by the Department of Motor Vehicles to an applicant who (i) has reported income from Virginia sources on an individual tax return filed with the Commonwealth in the preceding 12 months and (ii) is not in violation of the insurance requirements for the registration of an uninsured motor vehicle. The bill provides that driver privilege cards shall confer the same privileges and shall be subject to the same provisions as driver's licenses and permits; however, driver privilege cards shall not (a) confer voting privileges, (b) permit an individual to waive any part of the driver examination, or (c) have their issuance be contingent upon the applicant's ability to produce proof of legal presence in the United States. The bill provides for the term "driver's license" to consistently refer to all driver's licenses, permits, driver privilege cards, and special identification cards issued by the Commonwealth or the comparable law of another jurisdiction. The bill allows the issuance of a limited-duration driver's license and special identification card to an applicant presenting valid documentary evidence that a federal court or federal agency having jurisdiction over immigration has authorized the applicant to be in the United States for a period of at least 30 days from the date of application. The bill authorizes the Tax Commissioner to provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit reported income from Virginia sources on an individual tax return filed with the Commonwealth in the preceding 12 months. The bill has a delayed effective date of January 1, 2020. Support. (19103137D)

## **Legislation Requiring Further Review**

### **Administration of Government**

**HB 1999** (Price) (HMP) directs the Department of Emergency Management (the Department) to ensure that training programs and programs of public information and education regarding emergency services and disaster preparedness activities established and operated by state agencies be designed to include and reach individuals with limited English proficiency, disabilities, or other special needs. The bill also directs the Department to develop an emergency response plan to (i) address the needs of individuals with limited English proficiency, disabilities, or other special needs in the event of a disaster, including the provisions of competent interpretation services and translated documents, and (ii) assist and coordinate with local agencies in developing a similar emergency response plan for individuals with limited English proficiency, disabilities, or other special needs. The bill requires that every local and interjurisdictional emergency management agency include in its emergency operations plan provisions to ensure that adequate and timely emergency relief assistance, including competent interpretation services and translated documents, is provided to individuals with limited English proficiency, disabilities, or other special needs. The bill requires that the governing body of each locality that is required to establish an alert and warning plan for the dissemination of adequate and timely warning to the public in the event of an emergency or threatened disaster ensure that such alert and warning plan provides adequate and timely warning to individuals with limited English proficiency, disabilities, or other special needs. (19102718D)

### **Conflict of Interests Act**

**SB 1430** (Obenshain) (SRUL) requires all local elected officials to take training on the provisions of the State and Local Government Conflict of Interests Act at least once every two years. The bill requires such officials in office on July 1, 2019, to complete such training no later than December 31, 2019. The bill also prohibits an attorney for the Commonwealth from serving simultaneously as a county, city, or town attorney. The bill requires the Virginia Conflict of Interest and Ethics Advisory Council (the Council) to offer guidance to any person who contacts the Council with an inquiry regarding ethics, conflicts issues, or a person's duties under the General Assembly Conflicts of Interests Act, the State and Local Government Conflict of Interests Act, or lobbying laws. Current law requires the Council to offer guidance on such Acts and lobbying laws to state and local government agencies and to those individuals to whom the Acts and lobbying laws apply. (19103492D)

### **Courts**

**HB 1665** (Hayes) (HCT)/**HB 1782** (Jones, J.C.) (HCT) requires courts to provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work before or after imprisonment. Under current law, providing this option is discretionary. (19102120D, 19101333D)

**HB 1741** (Bulova) (HCT) provides that any person who (i) knowingly makes or causes to be made any false statement in writing or fails to disclose any material fact concerning the financial means or ability to pay for the purpose of procuring aid and benefits under any local, state, or federally funded housing assistance program or (ii) knowingly fails to disclose a change in circumstances in order to obtain or continue to receive aid or benefits under such program or who knowingly aids and abets another person in the commission of any such act is guilty of larceny. If the amount of the aid or benefits obtained is \$500 or more, such person is guilty of grand larceny, which is punishable by imprisonment in a state correctional facility for not less than one nor more than 20 years or, in the discretion of the jury or a court trying the case without a jury, confinement in jail not exceeding 12 months or a fine of not more than \$2,500, either or both. If the amount of the aid or benefits obtained is less than \$500, such person is guilty of petit larceny, which is a Class 1 misdemeanor. Under current law, such actions are punishable as a Class 1 misdemeanor regardless of the amount of the aid or benefits obtained. (19103572D)

**HB 1767** (Jones, J.C.) (HCT) adds parents who receive support or services from the deceased to the primary list of beneficiaries who may receive a distribution of wrongful death damages. (19104764D)

**HJ 661** (Poindexter) (HRUL) directs the Virginia State Crime Commission to study the effects of changes in policies regarding the cash bail bond system on referrals to pretrial services agencies and costs associated with such referrals. (19103692D)

**HJ 687** (Keam) (HRUL) requests that the Office of the Executive Secretary of the Virginia Supreme Court study options and models for a tax court system in the Commonwealth, including the tax court systems of other states, as well as options and models provided by research organizations. The Office of the Executive Secretary shall report its findings to the members of the General Assembly by the first day of the 2020 Regular Session. (19103680D)

**SB 1019** (Marsden) (SCT) requires a court, in assessing whether a case regarding child custody, visitation, or support is appropriate for referral to mediation, to consider whether such case can be heard by the court within 120 days of the filing of an initial petition. The bill provides that if a case cannot be heard by the court within 120 days and is otherwise deemed appropriate for referral, such case shall be referred. (19100426D)

**SB 1309** (Edwards) (SCT) provides civil immunity to an employer who makes a report to a potential employer or law-enforcement agency of violent or threatened violent behavior, as defined in the bill, by an employee or former employee, provided that such a report was made in good faith and with reasonable cause to make such report. The bill further provides immunity to a potential employer who receives such a report and takes reasonable action in good faith to respond to the violent or threatened violent behavior noted in such report. The bill further provides that the court shall award reasonable attorney fees and costs to any employer or potential employer who has a suit dismissed against him pursuant to the immunity provided to him. (19102632D)

### **Education/Schools**

**HB 1877** (Convirs-Fowler) (HAPP) requires year-round operation of adult education programs by local school divisions. (19104700D)

**HB 2053** (McQuinn) (HED) changes the name of guidance counselors to school counselors and requires school boards to employ school counselors in accordance with the following ratios: (i) effective with the 2019-2020 school year, in elementary schools, one hour per day per 75 students, one full-time at 375 students, one hour per day additional time per 75 students or major fraction thereof; in middle schools, one period per 65 students, one full-time at 325 students, one additional period per 65 students or major fraction thereof; in high schools, one period per 60 students, one full-time at 300 students, one additional period per 60 students or major fraction thereof; (ii) effective with the 2020-2021 school year, in elementary schools, one hour per day per 60 students, one full-time at 300 students, one hour per day additional time per 60 students or major fraction thereof; in middle and high schools, one period per 55 students, one full-time at 275 students, one additional period per 55 students or major fraction thereof; and (iii) effective with the 2021-2022 school year, in elementary, middle, and high schools, one hour per day per 50 students, one full-time at 250 students, one additional hour per day per 50 students or major fraction thereof. (19102240D)

#### *School Resource Officers*

**SB 1130** (Locke) (SEH)/**SB 1299** (Barker) (SEH) requires each school resource officer to be trained and certified by the Virginia Center for School and Campus Safety. The bill expands the topics on which school security officers are required to be trained. The bill also requires any school board that agrees to place school resource officers in any school in the school division and the relevant local law-enforcement agency to establish and annually review and update a memorandum of understanding (MOU) governing the use and duties of school resource officers, and ensure that all relevant parties receive initial and ongoing training on the contents of such MOU. (19102420D, 19102735D)

### **Elections**

**HB 1993** (Price) (HPE) provides that if, after a recount of an election, the recount court finds that each party to the recount has received an equal number of votes, there shall be a special election to determine which candidate is elected to the office. This provision would not apply in cases of recounts of elections for Governor, Lieutenant Governor, or Attorney General; the Constitution of Virginia sets out the process for determining a winner in the case of tie votes for statewide offices. (19101998D)

**HB 2034** (McGuire) (HPE) provides for the removal of a general registrar by the circuit court upon a petition signed by a majority of the members of the State Board of Elections or a majority of members of the local electoral board. Currently, a local electoral board may remove a general registrar with a majority vote, while the State Board of Elections may petition the circuit court to remove a general registrar only after petitioning the local electoral board to remove the

registrar and the electoral board fails to do so. The bill requires the Virginia Division of Risk Management to assign counsel to the defense of any member of a local electoral board or general registrar subject to a petition for removal, upon that member's or registrar's application. (19100419D)

**HJ 670** (Landes) (HRUL)/**SJ 291** (DeSteph) (SRUL) requests the Secretary of Administration to oversee and develop a charter and directives for the State Board of Elections to form a working group to study implementation of electronic return of voted military-overseas ballots. In conducting its study, the State Board of Elections with the working group shall study and develop initial instructions and procedures which (i) consider issues related to accessibility, auditability, authentication, verification, and security through encryption, in order to ensure that any process implemented would guarantee the accuracy and integrity of voted military-overseas ballots, and (ii) recommend (a) security measures necessary to reasonably secure the transmission, processing, and storage of voter data from interception and unauthorized access, (b) methods for verifying and authenticating the identity of the voter electronically when registering to vote and when requesting a ballot from and returning a ballot to the voter's jurisdiction, (c) methods for the encryption of voted ballots, and (d) a procedure for security reviews after an election. The study shall focus on implementation of electronic return of voted military-overseas ballots first as a limited pilot program in 2020, and later on a statewide basis. (19103799D, 19104220D)

**SB 1281** (Barker) (SPE) provides that the expiration date on a Virginia driver's license offered for voting identification purposes shall not be considered when determining the validity of the license. (19101554D)

#### *Absentee Voting*

**HB 2682** (Sickles) (HPE) provides that any absentee ballot that is returned to the general registrar after the closing of the polls on election day but before noon on the third day after the election and postmarked on or before the date of the election shall be counted if the voter is found entitled to vote. The bill contains technical amendments. (19104578D)

**SB 1552** (Surovell) (SPE) provides that the alternative locations approved by the electoral boards for absentee voting in person prior to election day shall be in a public facility owned or leased by the city, the county, or a town within the county, at which all records concerning the absentee voters, the absentee ballots, both voted and unvoted, and any voting equipment in use at the location are adequately protected and secured. Currently, the law limits the electoral boards to approving alternative locations only in public buildings. (19100858D)

#### *June Primary Date*

**HB 1615** (Landes) (HPE) changes the date of the primary election held in June from the second Tuesday in June to the third Tuesday in June. The bill also changes candidate filing deadlines to reflect the change of date. (19100239D)

**SB 1243** (Reeves) (Senate Floor) changes the date of the primary election held in June from the second Tuesday in June to the third Tuesday in June. The bill also changes candidate filing deadlines to reflect the change of date. (19104969D-S1)

*June Primary Date and May General Election*

**HB 2048** (McGuire) (HPE) changes the date of the primary election held in June from the second Tuesday in June to the third Tuesday in June. The bill also changes candidate filing deadlines to reflect the change of date to the June primary. The bill changes the date of the general election held in May from the first Tuesday in May to the second Tuesday in May. The bill does not change candidate filing deadlines associated with the May general. (19100320D)

*Redistricting*

**HJ 591** (Cole) (HPE) gives the General Assembly the authority to make technical adjustments to legislative electoral district boundaries following the enactment of any decennial reapportionment law. Such adjustments may be made solely for the purpose of causing legislative electoral district boundaries to coincide with the boundaries of voting precincts established in the counties and cities and shall be permitted only to the extent necessary to accomplish this purpose. Any change made shall be consistent with any criteria for legislative electoral districts adopted for the preceding decennial redistricting. (19101055D)

**HJ 615** (Cole) (HPE) requires the establishment of independent redistricting commissions by the General Assembly and the governing bodies of each county, city, or town in which members of the governing body are elected from districts. The purpose of these independent redistricting commissions is to propose electoral districts following the decennial census. The independent redistricting commission established by the General Assembly will consist of eight members, with equal representation given to the political parties, and will be responsible for submitting to the General Assembly proposed plans for congressional and legislative electoral districts. A proposed plan submitted to the General Assembly shall be introduced as a bill, subject to constitutional requirements for the enactment of laws, but will not be subject to amendment or veto by the Governor. The independent redistricting commissions established by the governing body of each county, city, and town in which members of the governing body are elected from districts will consist of four members, with equal representation given to the political parties, and will be responsible for submitting to its governing body proposed plans for local electoral districts. A proposed plan submitted to a governing body shall, if enacted, be done so in accordance with law. (19101058D)

*Split Precincts*

**SB 1087** (Obenshain) (Reported from SPE) requires counties, cities, and towns to adjust local election district lines to coincide with congressional or state legislative district lines established by the General Assembly. Precincts are required to be wholly contained within a single congressional district, Senate district, House of Delegates district, or local election district, and local governing bodies are directed to establish precinct boundaries immediately after the

completion of the General Assembly's decennial redistricting so that each precinct is so wholly contained. The bill provides that if a locality is unable to comply with this requirement it shall apply to the State Board of Elections for a waiver to administer a split precinct and the State Board may grant that waiver or direct the locality to create a precinct with fewer than the required number of registered voters, as it deems appropriate. (19104968D-S1)

#### *Voter Registration*

**HB 2178** (Sickles) (HPE) directs the State Board of Elections to promulgate regulations and standards necessary to ensure the security and integrity of the Virginia voter registration system and the supporting technologies utilized by the counties and cities to maintain and record registrant information. The local electoral boards are also required to develop and update annually written plans and procedures to ensure the security and integrity of the supporting technologies. The local electoral boards are further required to report annually to the Department of Elections on its security plans and procedures. The bill authorizes the Department of Elections to limit a locality's access to the Virginia voter registration system if it is determined that the county or city has failed to develop security plans and procedures or to comply with the security standards established by the State Board; such access would be limited as necessary to address and resolve any security risks or to enforce compliance. Records describing protocols for maintaining the security of the Virginia voter registration system and the supporting technologies utilized to maintain and record registrant information are exempted from the Freedom of Information Act and meetings to discuss those protocols are permitted to be closed pursuant to the provisions of the Freedom of Information Act. (19101864D)

**SB 1250** (Reeves) (SPE) prohibits changes to the registration record of a registered voter who has been sent or provided an absentee ballot from being processed until after the election for which he was sent or provided an absentee ballot. The prohibition applies to registration transactions by electronic means. The bill requires the Department of Elections to provide instructions to the general registrars for enrolling the name and address of voters to whom an absentee ballot is sent or provided into the Virginia voter registration system and for checking the registration record to determine whether a registered voter has been sent or provided an absentee ballot when receiving a request for a change to the registration record. (19103145D)

#### **Employment Issues and Grievances**

**HB 1687** (Krizek) (HCT) 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. (19100994D)

**HB 2263** (Krizek) (HCT) creates a cause of action for breach of procedures under the Firefighters and Emergency Medical Technicians Procedural Guarantee Act. The bill removes certain provisions limiting the effect of rights granted by the Act. (19102473D)

### **Environment**

**HB 1683** (Ware) (HLC) authorizes any electric cooperative to (i) increase or decrease its rates without State Corporation Commission approval for any of its services, rather than only for distribution services, at any time if such adjustments will not effect a cumulative net increase or decrease in excess of 5 percent in such rates in any three year period; (ii) if it does not hold a membership interest in a utility aggregation cooperative and the facility that is the subject of the petition is either owned by the cooperative or has achieved commercial operation, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the costs of generation facilities, underground facilities to replace certain existing overhead distribution facilities, or certain pumped hydroelectricity generation and storage facilities; (iii) adjust the total system cap for net energy metering, agricultural net energy metering, and small agricultural generators to up to five percent of the cooperative's highest total coincident system peak within the past five years; and (iv) subject to findings that it will not result in either an intra-class or inter-class change in cost recovery, adopt any rate, rate component, program, tariff, or terms or conditions of service that the Commission has previously approved for any other cooperative. (19101783D)

### *Plastic Bags*

**HB 2095** (Guzman) (HRUL) authorizes a locality to prohibit by ordinance the purchase, sale, or provision, whether free or for a cost, of certain single use products that are not recyclable or compostable and for which there is a suitable and cost-effective compostable or recyclable alternative product available, with certain exceptions. The bill also authorizes any county or city to impose a five-cent per bag tax on disposable plastic bags provided to customers by certain retailers, with certain bags being exempt from the tax. The bill directs revenue from the local tax to be used by the county or city imposing the tax for litter control and stormwater management. The bill allows every retailer that collects the tax to retain one cent of the five-cent tax if the tax is paid in a timely manner. (19102821D)

### *Recycling*

**SB 1305** (Edwards) (SLG) authorizes a locality to recover unpaid charges, including interest for recycling and waste disposal services. The bill provides that such action shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes, and authorizes localities to combine billings for recycling and waste disposal charges with billings for water or sewer charges, stormwater charges, real property tax assessments, or other billings, in an order established by the locality. (19102413D)

*Solar*

**HB 2621** (Ingram) (HCCT)/**SB 1398** (Stanley) (SLG) authorizes a locality, as a condition of approval of a site plan, to require an owner or developer of real property to enter into a written agreement to decommission certified solar energy equipment, facilities, or devices upon certain terms and conditions, including right of entry by the locality and financial assurance. The bill exempts a public utility from such requirements. (19104060D, 19104052D)

**SB 1091** (Reeves) (SFIN) requires an owner or operator of solar photovoltaic systems and related equipment to submit a performance and reclamation bond to the Department of Mines, Minerals and Energy (the Department) in order to qualify for a property tax exemption. The bill also requires the Department to promulgate regulations requiring all such owners and operators to submit decommissioning and site reclamation plans. (19100804D)

*Stormwater*

**HB 2154** (Stolle) (HAG) authorizes any land-disturbing activity that is eligible to take place pursuant to technical criteria that were adopted by the State Water Control Board prior to July 1, 2014, to be governed by such criteria until July 1, 2024. Current regulations grandfather such activities until July 1, 2019. (19104017D)

**HB 2361** (Jones, S.C.) (HAG) provides that beginning July 1, 2019, all land-disturbing activities that are regulated pursuant to the Stormwater Management Act shall meet the technical criteria for stormwater management that were adopted by the State Water Control Board during 2011 and became effective July 1, 2014. Under current regulations, certain projects are grandfathered under the technical criteria that applied prior to July 1, 2014. (19104018D)

**SB 1328** (Hanger) (SACNR) authorizes the Department of Environmental Quality (the Department), with the approval of the Secretary of Natural Resources, to designate a portion of the moneys in the Stormwater Local Assistance Fund to provide matching grants to local governments that are not regulated under municipal separate storm sewer (MS4) permits for the planning, design, and implementation of stormwater best management practices. The bill directs the Department to prioritize grants for projects that are regional in scope. The bill directs the Department to seek stakeholder input and public comment in developing eligibility criteria and to submit such criteria by January 1, 2020, for consideration by the State Water Control Board. (19103935D)

**Health and Human Services**

**HB 1663** (Edmunds) (HGL) provides that no food establishment that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code shall be required to employ a certified food protection manager. (19105081D)

**HB 1735** (Robinson) (HRUL) establishes the Commission on Student Behavioral Health as a legislative branch commission. The purpose of the Commission shall be to (i) assess the efficacy

of developing and implementing a statewide behavioral health and suicide prevention hotline that students may use to report threats of violence or receive real-time counseling services; (ii) review the current school counselor-to-student ratio, and whether the realignment of counseling responsibilities proposed by the House Select Committee on School Safety is improving schools' ability to provide counseling services to students; (iii) review the current roles and responsibilities of school nurses, psychologists, and social workers in schools and determine whether a realignment of responsibilities could improve or streamline behavioral health services offered to students; (iv) evaluate the efficacy and costs of providing enhanced behavioral health services in schools delivered through partnerships established between school divisions and local departments of social services and community services boards; (v) assess the effectiveness of de-escalation and other alternative disciplinary policies when interacting with students suffering from behavioral health challenges; (vi) examine the value of additional teacher training requirements on student behavioral health, such as mental health first aid; and (vii) examine other topics related to student behavioral health identified by the Commission. The Commission shall consist of 12 members as follows: seven members of the House of Delegates, of whom two shall be members of the House Committee on Health, Welfare and Institutions, two shall be members of the House Committee on Education, two shall be members of the House Committee on Appropriations, and one shall be a member at-large, to be appointed by the Speaker of the House of Delegates; and five members of the Senate, of whom two shall be members of the Senate Committee on Education and Health, two shall be members of the Senate Committee on Finance, and one shall be a member at-large, to be appointed by the Senate Committee on Rules. The Commission may appoint, employ, and remove an executive director and such other persons as it deems necessary and determine their duties and fix their salaries or compensation within the amounts appropriated therefor. The Commission may also employ experts who have special knowledge of the issues before it. All agencies of the Commonwealth shall provide assistance to the Commission, upon request. The bill has an expiration date of July 1, 2021. (19101085D)

**HB 2014** (Peace) (HHWI) aligns the Code of Virginia with the Family First Prevention Services Act of 2018. The bill contains an emergency clause for provisions of the bill relating to background checks for employees of, volunteers at, and contractors providing services to juveniles at children's residential facilities. (19101811D)

**SB 1253** (Reeves) (SRSS) requires local departments of social services to request the placement of a security freeze on the credit report or record of any child who has been in foster care for at least six months in order to prevent cases of identity theft and misuse of personal identifying information. The bill directs local departments to request the removal of such security freezes upon the child's removal from foster care. The bill allows local departments, with the child's consent, to request the removal of a security freeze placed on the credit report or record of a child who continues to receive foster care or independent living services beyond his eighteenth birthday; however, in such instances, the local department is required to conduct annual credit checks on the child. (19101851D)

**SB 1302** (Barker) (SCT) requires a person who alleges that the website of a bank, trust company, savings institution, or credit union does not comply with applicable law regarding its accessibility by the vision impaired or hearing impaired to provide such entity with notice of the

alleged violation at least 120 days prior to filing a civil cause of action. If the entity cures the defect within the 120 days, then the court shall dismiss the action. The bill also requires the court to dismiss a cause of action filed after the defendant has cured the defect and award reasonable costs and attorney fees to the defendant. (19104075D)

**SB 1608** (Dunnavant) (SFIN) requires the Virginia Fusion Intelligence Center (the Center) to develop or obtain a school safety mobile application to (i) facilitate the provision of real-time, 24 hours a day, seven days a week crisis intervention services by licensed clinicians, including support or crisis counseling, suicide prevention, and referral services to students and youth in the Commonwealth through calls, texts, and online chats and (ii) provide to students and youth in the Commonwealth a platform that is capable of receiving text, audio, images, or video to furnish information concerning a suspected, anticipated, or completed criminal violation. The Center shall coordinate with the Department of Medical Assistance Services to contract with a third-party to provide such crisis intervention services. (19103999D)

**SB 1622** (McPike) (SRSS) requires licensed child day programs and certain other programs that serve preschool-age children to develop and implement a plan to test potable water from sources identified by the U.S. Environmental Protection Agency as high priority as often as is required of the supplying public water system by the Virginia Department of Health's Office of Drinking Water. The bill requires such plan and the results of each such test to be submitted to the Commissioner of Social Services and the Department of Health's Office of Drinking Water. The bill stipulates that if the result of any such test indicates a level of lead in the potable water that is at or above 15 parts per billion, the program shall remediate the level of lead in the potable water to below 15 parts per billion and confirm such remediation by retesting the water at two consecutive six-month intervals and submitting the results of the retests to the Commissioner of Social Services and the Department of Health's Office of Drinking Water. The bill also provides such programs the option of using bottled water in lieu of testing or remediation. (19104179D)

#### *Adult Protective Services*

**HB 2132** (Murphy) (HCT) expands the crime of abuse and neglect of an adult to include abuse and neglect of vulnerable adults, defined in the bill as persons 60 years of age or older. Current law applies only to incapacitated adults, defined as persons 18 years of age or older who are impaired by reason of mental illness, intellectual disability, physical illness or disability, advanced age, or other causes to the extent the adult lacks sufficient understanding or capacity to make, communicate, or carry out reasonable decisions concerning his well-being. The bill also expands the class of victims of the crime of financial exploitation of incapacitated persons to include persons incapacitated due to physical illness or disability, advanced age over the age of 60, or other causes that prevent such persons from understanding the nature or consequences of the financial transaction involved in an offense against such person. The current law applies only to victims who suffer from mental incapacity. (19104118D)

**SB 1570** (Lewis) (SRSS) creates a central registry of founded complaints of adult abuse, neglect, and exploitation to be maintained by the State Department of Social Services. The bill establishes (i) investigation requirements for local departments of social services related to complaints of

adult abuse, neglect, and exploitation; (ii) record retention and disclosure requirements for the Department and local departments; (iii) notice requirements related to findings by local departments and central registry entries; and (iv) an appeals process to contest the findings of a local department related to founded reports of adult abuse, neglect, or exploitation. (19102290D)

*Child Protective Services*

**SB 1339** (Reeves) (SRSS) makes numerous changes to the laws governing the provision of foster care services in the Commonwealth. Among other things, the bill (i) allows the Commissioner of Social Services to develop and implement a corrective action plan for or assume temporary control over the foster care services of a local board of social services upon determining that the local board (a) has failed to provide foster care services or make placement and removal decisions in accordance with applicable laws or regulations or (b) has taken any action that poses a substantial risk to the health, safety, or well-being of any child under its supervision and control; (ii) requires the Commissioner to create within the State Department of Social Services (the Department) a foster care health and safety director position; (iii) directs the Commissioner to establish and maintain a confidential hotline to receive reports and complaints from foster parents and other persons regarding violations of laws or regulations applicable to foster care and any other matters related to the health, safety, or well-being of children in foster care; (iv) directs the Department to develop and implement a more reliable, structured, and comprehensive case review and quality improvement process to monitor and improve foster care services provided by local boards and departments of social services; and (v) requires the Department to establish and update annually a caseload standard that limits the number of foster care cases that may be assigned to each foster care caseworker. (19102687D)

**HB 1953** (Campbell, J.) (Reported from HHWI)/**SB 1416** (Mason) (SRSS) provides that whenever an appeal of a finding by a local department of social services is made and a criminal investigation is also commenced against the appellant for the same conduct involving the same victim as investigated by the local department, the appeal process shall automatically be stayed until the criminal investigation is closed or, in the case of a criminal investigation that is not completed within 180 days of the appellant's request for an appeal, for 180 days. (19103324D, 19102940D)

**SB 1435** (McClellan) (SRSS) allows the Commissioner of Social Services to issue a summary order of suspension of the license of any child welfare agency when conditions or practices exist that pose an immediate and substantial threat to the health, safety, and welfare of the children receiving care. The bill allows the Commissioner, in issuing an order of summary suspension, to suspend the license of the child welfare agency or to suspend only certain authority of the child welfare agency to operate, including the authority to provide certain services or perform certain functions that the Commissioner determines should be restricted or modified in order to protect the health, safety, or welfare of the children receiving care. The bill establishes notice, hearing, appeal, and posting requirements for such summary suspensions. (19102035D)

### **Land Use**

**HB 2139** (Thomas) (HCCT) authorizes a locality to designate receiving areas or receiving properties that shall receive development rights only from certain sending areas or sending properties specified by the locality. The bill also authorizes a locality to provide for areas defined similarly to urban development areas in the ordinance relating to the transfer of development rights. Current law only authorizes inclusion of urban development areas. (19101605D)

**HB 2141** (Thomas) (HCCT) authorizes a local governing body, with respect to a service district, to construct, maintain, and operate such facilities and equipment as may be necessary or desirable to provide broadband and telecommunications services. (19103237D)

**HB 2364** (Knight) (HAG) amends the definition of "agritourism activity," for purposes of liability as well as the statutory limit on the imposition of restrictions by local governments, to include service as a wedding venue for not more than 12 weddings per calendar year, each wedding involving not more than 250 guests. (19100761D)

**HB 2420** (Bell, Richard P.) (HCCT) provides that a wall built on residential property shall be grandfathered as a valid nonconforming use, and the wall shall not be subject to removal solely due to such nonconformity, in any instance where (i) a residential property owner sought local government approval prior to 2008 for construction of a wall on the owner's property, (ii) the property owner was informed by a local official that such wall required no permit and that the structure would comply with the zoning ordinance, (iii) the wall was thereafter constructed, (iv) the locality subsequently informed the property owner that the wall was illegal, and (v) such a wall, had it been constructed as described in clauses (ii) and (iii) after 2017, would be considered a valid nonconforming use not subject to removal. (19100765D)

**SB 1260** (Sturtevant) (SACNR) allows a planning commission to designate an area as a conservation area. Current law only allows a redevelopment and housing authority to make such designation. (19101491D)

**SB 1403** (Petersen) (Senate Floor) eliminates specific provisions for the assessment of costs in eminent domain proceedings where the condemnor is a public service company, public service corporation, railroad, or government utility corporation and provides that all costs shall be assessed in the same manner, regardless of the identity of the condemnor. (19102869D)

### **Opioids**

**HB 2158** (Plum) (HHWI) expands the list of individuals who may dispense naloxone pursuant to a standing order to include emergency medical services personnel and health care providers providing services in hospital emergency departments and eliminates the requirements (i) that an organization providing services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal obtain a controlled substances registration prior to dispensing naloxone, (ii) that naloxone dispensed on behalf of the organization be dispensed by a person who is authorized to train individuals on the

administration of naloxone, and (iii) that individuals to whom naloxone is dispensed complete a training program prior to dispensing. The bill also provides that a person who dispenses naloxone shall not be required to obtain a permit to operate a pharmacy or a controlled substances registration and allows a person who dispenses naloxone to charge a fee for dispensing of naloxone provided the fee is no greater than the cost to the organization of obtaining the naloxone dispensed. (19104132D)

**HB 2528** (Hugo) (HCT) provides that a person is guilty of felony homicide, which constitutes second degree murder and is punishable by confinement of not less than five nor more than 40 years, if the underlying felonious act that resulted in the killing of another involved the manufacture, sale, gift, or distribution of a Schedule I or II controlled substance to another and (i) such other person's death results from his use of the controlled substance and (ii) the controlled substance is the proximate cause of his death. The bill also provides that venue for a prosecution of this crime shall lie in the locality where the underlying felony occurred, where the use of the controlled substance occurred, or where death occurred. This bill serves to overrule the Court of Appeals of Virginia decision in *Woodard v. Commonwealth*, 61 Va. App. 567, 739 S.E.2d 220 (2013), *aff'd*, 287 Va. 276, 754 S.E.2d 309 (2014). (19101005D)

**SB 1349** (McDougle) (SCT) eliminates the requirement to substantially cooperate with law enforcement in any investigation of any criminal offense reasonably related to an overdose in order to qualify for an affirmative defense from prosecution 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. (19103528D)

### **Procurement**

**HB 2475** (Torian) (HGL) requires that competitive negotiation be used for construction projects where the project cost is expected to be more than \$500,000. Under current law, construction may be procured only by competitive sealed bidding, except (i) when procured by a public body on a fixed price design-build basis or construction management basis as permitted by law or (ii) when procured by a public body for the construction of highways and any draining, dredging, excavation, grading, or similar work upon real property under certain circumstances. The bill also exempts contracts for the construction of public works where the project cost is expected to be more than \$500,000 from certain provisions relating to state agency agreements with labor organizations. (19104157D)

### **Public Safety/Criminal Justice**

**HB 1771** (Mullin) (HCT) provides that juveniles who have been screened for needing community-based services using an evidence-based assessment protocol are eligible to receive community-based services as provided by the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.) (the Act). The bill also requires the total number of children who have been screened for needing community diversion or community-based services using an evidence-based assessment protocol to be factored into the funding determination for community diversion services as provided for by the Act. (19100033D)

**HB 1799** (Heretick) (HCT) 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, 2019, shall cease to accrue interest on July 1, 2019, and such accrued interest may be waived by any court. A person who owes fines and costs on which interest has accrued may move any court in which he owes fines and costs to waive the interest that accrued on such fines and costs and shall have such interest waived for any period of incarceration. (19100099D)

**HB 1933** (Hope) (HCT) establishes a process for the sheriff or administrator in charge of a local or regional correctional facility to petition a court to authorize medical or mental health treatment for a prisoner in such facility who is incapable of giving informed consent for such treatment. The process parallels the existing process for the Director of the Department of Corrections to seek authorization to provide involuntary treatment to prisoners in state correctional facilities. The bill provides that the treatment ordered may be provided within a local or regional correctional facility if such facility is licensed to provide such treatment. If statutory procedures are followed, the service provider does not have liability based on lack of consent or lack of capacity to consent unless there is injury or death resulting from gross negligence or willful and wanton misconduct. (19104834D)

**HB 2412** (Adams) (HCT) requires the owner of fleet vehicles to obtain consent of the vehicle operator before installing or placing an electronic device on the fleet vehicle to track it. (19100048D)

**SB 997** (Ebbin) (SCT) decriminalizes simple marijuana possession and provides a civil penalty of no more than \$50 for a first violation, \$100 for a second violation, and \$250 for a third or subsequent violation. 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 the suspended sentence/substance abuse screening provisions and driver's license suspension provisions apply only to criminal violations or to civil violations by a juvenile. The bill provides that a court may suspend a driver's license for a civil violation committed by an adult. A civil violation will be treated as a conviction for prohibitions on the purchase or transport of a handgun and disqualification for a concealed handgun permit. (19100110D)

**SB 1207** (Stuart) (SCT) defines a school protection officer as a retired law-enforcement officer hired on a part-time basis by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools. The bill exempts school protection officers from the minimum training standards for law-enforcement officers. (19102807D)

**SB 1230** (Ebbin) (SCT) adds to the existing definition of "family or household member" the person's aunt, aunt-in-law, step-aunt, uncle, uncle-in-law, step-uncle, niece, nephew, and first and second cousin who reside in the same home as the person, and any individual who is in, or 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.

Technical changes are made to change descriptions of family relationships to gender-neutral terms. (19103582D)

*Body-Worn Cameras*

**HB 2424** (Levine) (HMP) requires localities to adopt and establish a written policy for the operation of a body-worn camera system, as defined in the bill, that conforms to the model policy established by the Department of Criminal Justice Services (the Department) prior to purchasing or deploying a body-worn camera system. 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. (19100257D)

**SB 1033** (Stanley) (SCT) provides a procedure for a defendant to request the inspection and the copying or photographing of any body-worn camera recordings that are within the possession, custody, or control of the Commonwealth. The bill provides that the Commonwealth may designate any body-worn camera recording subject to disclosure as Counsel Only Material and that any unlawful reproduction or dissemination of such designated recordings is punishable as a Class 1 misdemeanor. The bill provides a retention schedule for such recordings and provides that such recordings shall not be considered a public record for the purpose of the Virginia Public Records Act (§ 42.1-76 et seq.). The bill requires all such requests for body-worn camera recordings to comply with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). (19100220D)

*Driver's License Suspension*

**HB 2059** (Carr) (HCT)/**SB 1667** (Dance) (SCT) provides that an individual who is delinquent in child support payments or has failed to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings is entitled to a judicial hearing if he makes a written request within 30 days from service of a notice of intent to suspend or renew his driver's license. Current law provides such an entitlement if such request is made within 10 days from such notice. The bill further allows the Department of Motor Vehicles to renew a driver's license or terminate a license suspension imposed on an individual if such individual has reached an agreement with the Department of Social Services to satisfy the child support payment delinquency within a 15-year period, an increase of five years over the period allowed under current law, and has made at least one payment of at least five percent of the total delinquency or \$600, whichever is less, as opposed to whichever is greater under current law, under such agreement. The bill further provides that, where such a repayment agreement has been entered into and such an individual has failed to comply with such agreement, the Department of Motor Vehicles shall suspend or refuse to renew such individual's driver's license until it has received certification from the Department of Social Services that such individual has entered into a subsequent agreement to pay within a period of 10 years, an increase of three years over the period allowed under current law, and has paid the lesser amount, as opposed to greater amount under current law, of at least one payment of \$1,200 or seven percent, as opposed to five percent under current law, of the current delinquency. The bill provides that an individual who fails to comply with such a subsequent agreement may enter into a new agreement if such individual has made a payment in

the lesser amount, as opposed to the greater amount under current law, of \$1,800 or 10 percent, as opposed to five percent under current law, and agrees to a repayment schedule of not more than seven years, which is consistent with the timeframe provided by the current law. (19101815D, 19103983D)

**SB 1013** (Stanley) (SFIN) 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, provided that such person has paid the applicable reinstatement fee. (19104813D-S1)

**SB 1613** (Ebbin) (SFIN) 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 and (ii) for violations not pertaining to the operator or operation of a motor vehicle. (19103734D)

#### *Firearms*

**SB 1012** (Chase) (Reported from SCT) provides that any firefighter or person employed as emergency medical services personnel who was previously employed as a law-enforcement officer or as a member of the Virginia National Guard, Armed Forces of the United States, or Armed Forces Reserves of the United States may carry a concealed weapon throughout the Commonwealth without a permit, provided that such firefighter or person employed as emergency medical services personnel has been approved to carry a concealed handgun by his fire chief or emergency medical services chief. (19105018D-S1)

#### *Unmanned Aircraft Systems*

**SB 1507** (Carrico) (SCT) provides that a law-enforcement officer may deploy an unmanned aircraft system (i) to aerially survey a primary residence to formulate a plan to execute an arrest warrant for a felony offense or (ii) to locate a person sought for arrest when such person has fled from a law-enforcement officer and a law-enforcement officer remains in hot pursuit of such person. (19101909D)

#### **Taxation**

**HJ 676** (Filler-Corn) (HPE)/**SJ 278** (Reeves) (SPE) provides that one motor vehicle of a veteran who has a 100 percent service-connected, permanent, and total disability shall be exempt from state and local taxes. The amendment provides that only automobiles and pickup trucks qualify for the exemption. (19103340D, 19101842D)

*Internet Sales Tax*

**HB 1722** (Bloxom) (HRUL) directs the Department of Taxation (the Department) to require a remote seller to collect sales and use tax if the seller has more than \$100,000 in annual gross revenue from sales in Virginia or at least 200 sales transactions in Virginia and requires a marketplace facilitator, which enables marketplace sellers to sell in Virginia through its marketplace, to collect sales and use tax if its annual gross revenue from facilitated sales in Virginia exceeds \$100,000 or it facilitates at least 200 sales transactions in Virginia. The bill provides that the obligation of remote sellers and marketplace facilitators to collect sales and use tax shall not apply to transactions occurring before July 1, 2019. The bill provides that in administering remote sales and use tax collection, the Department shall provide information to remote sellers to allow them to identify state and local tax rates and exemptions. For auditing purposes, the Department is directed to allow a remote seller to complete a single audit covering all localities. The bill requires the Department to give remote sellers at least 30 days' notice of any change in tax rate. The bill provides that if a remote seller or marketplace facilitator collects an incorrect amount of tax, it shall be relieved of liability for failure to collect the correct amount if the error is the result of its reliance on information provided by Virginia. The bill also relieves a marketplace facilitator of liability if it collects an incorrect amount of tax based on certain incorrect information provided by a seller or purchaser. The bill repeals several contingent provisions of previous related bills that would take effect if the United States Congress enacted legislation related to remote sales and use tax collection. The bill contains technical corrections. (19102020D)

**SB 1083** (Ruff) (SFIN) directs the Department of Taxation (the Department) to require a remote seller to collect sales and use tax if the seller has more than \$100,000 in annual gross revenue from sales in Virginia or at least 200 sales transactions in Virginia and requires a marketplace facilitator, which enables marketplace sellers to sell in Virginia through its marketplace, to collect sales and use tax if its annual gross revenue from facilitated sales in Virginia exceeds \$100,000 or it facilitates at least 200 sales transactions in Virginia. The bill provides that the obligation of remote sellers and marketplace facilitators to collect sales and use tax shall not apply to transactions occurring before July 1, 2019. The bill provides that in administering remote sales and use tax collection, the Department shall provide information to remote sellers to allow them to identify state and local tax rates and exemptions. For auditing purposes, the Department is directed to allow a remote seller to complete a single audit covering all localities. The bill requires the Department to give remote sellers at least 30 days' notice of any change in tax rate. The bill provides that if a remote seller or marketplace facilitator collects an incorrect amount of tax, it shall be relieved of liability for failure to collect the correct amount if the error is the result of its reliance on information provided by Virginia. The bill also relieves a marketplace facilitator of liability if it collects an incorrect amount of tax based on certain incorrect information provided by a seller or purchaser. The bill repeals several contingent provisions of previous related bills that would take effect if the United States Congress enacted legislation related to remote sales and use tax collection. The bill contains technical corrections. (19101890D)

**SB 1294** (Howell) (SFIN) directs the Department of Taxation (the Department) to require a remote seller to collect sales and use tax if the seller has more than \$100,000 in annual gross revenue from sales in Virginia or at least 200 sales transactions in Virginia and requires a marketplace facilitator, which enables marketplace sellers to sell in Virginia through its marketplace, to collect sales and use tax if its annual gross revenue from facilitated sales in Virginia exceeds \$100,000 or it facilitates at least 200 sales transactions in Virginia. The bill provides that the obligation of remote sellers and marketplace facilitators to collect sales and use tax shall not apply to transactions occurring before July 1, 2019. The bill provides that in administering remote sales and use tax collection, the Department shall provide information to remote sellers to allow them to identify state and local tax rates and exemptions. For auditing purposes, the Department is directed to allow a remote seller to complete a single audit covering all localities. The bill requires the Department to give remote sellers at least 30 days' notice of any change in tax rate. The bill provides that if a remote seller or marketplace facilitator collects an incorrect amount of tax, it shall be relieved of liability for failure to collect the correct amount if the error is the result of its reliance on information provided by Virginia. The bill also relieves a marketplace facilitator of liability if it collects an incorrect amount of tax based on certain incorrect information provided by a seller or purchaser. The bill repeals several contingent provisions of previous related bills that would take effect if the United States Congress enacted legislation related to remote sales and use tax collection. The bill contains technical corrections. (19103666D)

### **Transportation**

**HB 2269** (Poindexter) (HAG) prohibits the Governor or any state agency from adopting any regulation establishing or bringing about the participation by the Commonwealth in the Transportation and Climate Initiative or any other regional transportation sector emissions program. The bill provides that the Commonwealth shall be allowed to participate in such a regional transportation sector emission program if the House of Delegates and the Senate of Virginia each adopt a resolution by two-thirds vote that specifically references and approves the regulatory text proposed for adoption by a state agency. (19102723D)

**HB 2275** (Webert) (HCT) provides that a local ordinance prohibiting passing a stopped school bus adopted by a county applies to infractions that occur in a town located within the county for which the county provides the public school system. (19104223D)

**HB 2313** (Hodges) (HTRAN) requires the Commissioner of Highways to (i) require any official who approves a highway access project to certify such project's consistency with the comprehensive highway access management standards and such official's due diligence in reviewing the project and (ii) establish an appeals process whereby an approved or denied highway access project can be reviewed by a different official. (19100395D)

**HB 2315** (Hodges) (HRUL) directs the Department of Transportation, in collaboration with the Commonwealth Center for Recurrent Flooding Resiliency, to identify public transportation infrastructure at risk of flooding or deterioration due to flooding and to develop a plan for managing such assets. (19102325D)

**HB 2489** (Jones, J.C.) (HTRAN) requires the Commissioner of Highways to temporarily suspend toll collection operations in affected evacuation zones and affected areas during any mandatory evacuation. Current law authorizes the Commissioner, in his discretion, to temporarily suspend toll collection operations in cases of emergency and concern for public safety. (19101335D)

**HJ 683** (LaRock) (HPE) requires the General Assembly to maintain permanent and separate Transportation Funds to include the Commonwealth Transportation Fund, Transportation Trust Fund, Highway Maintenance and Operating Fund, and other funds established by general law for transportation. The amendment directs that revenues dedicated to Transportation Funds on January 1, 2020, by general law, other than a general appropriation law, shall be deposited to the Transportation Funds, unless the General Assembly by general law, other than a general appropriation law, alters the revenues dedicated to the Transportation Funds. The amendment limits the use of Transportation Funds moneys to transportation and related purposes. The amendment specifies that the General Assembly may borrow from the Transportation Funds for other purposes only by a vote of two-thirds of the members elected to each house and that the loan must be repaid with reasonable interest within four years. (19100216D)

**SB 1382** (McDougle) (STRAN) moves the criminal offenses related to registration, licensing, and certificates of title included within § 46.2-613 to § 46.2-612. The bill reorganizes these statutes so that § 46.2-612 contains only criminal offenses and § 46.2-613 contains only traffic infractions. Removes the authority of the court to dismiss a summons for a criminal offense related to the registration, licensing, and certificates of title when proof of compliance with the law is provided to the court on or before the court date. The bill otherwise retains the elements of and penalties for the offenses and infractions. This bill is a recommendation of the Committee on District Courts. (19101088D)

**SB 1425** (Dunnivant) (Senate Floor) provides that when the owner of a mobile food unit, defined as a restaurant mounted on wheels and readily moveable at any time during its operation, pays any license tax in the county or city in which the mobile food unit is registered and in which property taxes are paid, no other license shall be required in any other county, city, or town in the Commonwealth. (19102489D)

**SB 1510** (Carrico) (STRAN) provides that only towing requests made by local law-enforcement officers are subject to local ordinances regulating towing services for unattended, abandoned, or immobile vehicles. (19101888D)

**SB 1641** (Boysko) (STRAN) driver privilege cards; penalty. (19104529D)

#### *Regional Transportation Funding*

**HB 2085** (Watts) (HRUL) raises the existing regional transportation fee, a grantor's tax, from \$0.15 per \$100 to \$0.20 per \$100 for localities in the Northern Virginia Transportation Authority that are also members of the Northern Virginia Transportation District. The bill requires half of the revenues to be deposited in the Northern Virginia Transportation Authority Fund and half to

be deposited in the Washington Metropolitan Area Transit Authority (WMATA) Capital Fund. The rate of tax in the other localities will remain at \$0.15 per \$100, with one-third of the revenues to be retained by the locality to be used for transportation purposes and the other two-thirds to be deposited in the Northern Virginia Transportation District Fund. The bill also raises the existing transient occupancy tax in the localities located in the Northern Virginia Transportation District from \$2 to \$3, with all of the revenues from the tax being used to support WMATA. (19101608D)

**HB 2718** (Landes) (HRUL) authorizes the Commonwealth Transportation Board (the Board) to impose tolls on Interstate 81, subject to conditions and limitations set forth in the bill. If the Board implements the tolls, it would also be required to offer annual toll passes for passenger vehicles. Revenues from such tolls would be deposited in the Interstate 81 Corridor Improvement Fund, established by the bill, and be used for capital, operating, and improvement costs along the Interstate 81 corridor. In allocating such revenues, the Board would develop and update, in consultation with an Interstate 81 Committee established by the bill, an Interstate 81 Corridor Improvement Program. (19102260D)

**SB 1322** (Hanger) (SFIN) imposes an additional 2.1 percent tax on motor fuels sold at wholesale to a retail dealer for sale in a locality along the Interstate 81 Corridor. The revenues from the tax would be deposited into an Interstate 81 Corridor Improvement Fund, to be used by the Commonwealth Transportation Board to fund improvements along the corridor or to support debt to fund such improvements. (19103063D)

**SB 1470** (Edwards) (SFIN) imposes an additional motor fuels tax equal to five percent of the average wholesale price of gasoline on the sale of gasoline, gasohol, diesel, and alternative fuels. \$300 million of the new revenues would be reserved for improvements to Interstate 81, and the remainder would be distributed pursuant to existing allocation formulas for statewide transportation needs. (19102496D)

#### *I-66/Tolling*

**HB 2511** (Hugo) (HTRAN) sets the operating hours for HOT lanes on Interstate 66 inside the Beltway from 6:30 a.m. to 9:00 a.m. for eastbound lanes and from 4:00 p.m. to 6:30 p.m. for westbound lanes. (19101594D)

**HB 2527** (Hugo) (HTRAN) prohibits the imposition and collection of tolls on any primary, secondary, or urban highway in Planning District 8 not tolled as of January 1, 2019, without prior approval by the General Assembly. (19102826D)

**SB 1716** (Obenshain) (STRAN) authorizes the Commonwealth Transportation Board (the Board) to impose tolls on Interstate 81, subject to conditions and limitations set forth in the bill. If the Board implements the tolls, it would also be required to offer annual toll passes for passenger vehicles. Revenues from such tolls would be deposited in the Interstate 81 Corridor Improvement Fund, established by the bill, and be used for capital, operating, and improvement costs along the Interstate 81 corridor. In allocating such revenues, the Board would develop and

update, in consultation with an Interstate 81 Committee established by the bill, an Interstate 81 Corridor Improvement Program. (19102261D)

*Motorized Skateboards and Scooters*

**HB 2214** (Jones, J.C.) (HTRAN) authorizes localities to prohibit or regulate the operation of companies providing motorized skateboards or foot-scooters for hire. The bill authorizes localities to regulate certain aspects of the operation of motorized skateboards and foot-scooters. The bill changes the definition of motorized skateboard or foot-scooter by (i) removing the requirement that such device have no manufacturer-issued vehicle identification number, (ii) removing the requirement that the motor or engine be of a certain maximum power, (iii) providing that such device weighs less than 100 pounds, and (iv) providing that such device may be powered in whole or in part by the motor or engine. The bill makes consistent the operational requirements for motorized skateboards or foot-scooters and similar devices, including (a) allowing motorized skateboards and foot-scooters to be driven on sidewalks, (b) requiring motorized skateboards and foot-scooters driven on a roadway to be driven as close to the right curb as is safely practicable, (c) prohibiting the operation of motorized skateboards or foot-scooters on any Interstate Highway System component, and (d) requiring operators of motorized skateboards and foot-scooters to give hand signals and have lights on such vehicle. The bill prohibits operating a motorized skateboard or foot-scooter at a speed faster than 20 miles per hour. (19103661D)

**HB 2232** (Bagby) (HTRAN) authorizes localities to prohibit or regulate the operation of companies providing motorized skateboards or foot-scooters for hire. The bill authorizes localities to regulate certain aspects of the operation of motorized skateboards and foot-scooters. The bill changes the definition of motorized skateboard or foot-scooter by (i) removing the requirement that such device have no manufacturer-issued vehicle identification number, (ii) removing the requirement that the motor or engine be of a certain maximum power, (iii) providing that such device weighs less than 100 pounds and has a maximum speed of no more than 20 miles per hour, and (iv) providing that such device may be powered in whole or in part by the motor or engine. The bill makes consistent the operational requirements for motorized skateboards or foot-scooters and similar devices, including (a) allowing motorized skateboards and foot-scooters to be driven on sidewalks, (b) requiring motorized skateboards and foot-scooters driven on a roadway to be driven as close to the right curb as is safely practicable, (c) prohibiting the operation of motorized skateboards or foot-scooters on any Interstate Highway System component, and (d) requiring operators of motorized skateboards and foot-scooters to give hand signals and have lights on such vehicle. (19104321D)

**HB 2752** (Pillion) (HTRAN) motorized skateboards or scooters; operation; local authority. (19105160D)

*Parking Ordinances*

**HB 1818** (Delaney) (HTRAN) authorizes any county or town with a population of at least 40,000 to provide by ordinance that law-enforcement officers, other uniformed employees of the

locality, and uniformed personnel under contract with the locality may issue a summons or parking ticket for a violation of the locality's ordinances or regulations regarding the parking, stopping, or standing of vehicles. Current law creates such authority for any city with a population of at least 40,000. (19101337D)

**SB 1044** (Black) (Reported from STRAN) authorizes any county or town with a population of at least 40,000 to provide by ordinance that law-enforcement officers, other uniformed employees of the locality, and uniformed personnel under contract with the locality may issue a summons or parking ticket for a violation of the locality's ordinances or regulations regarding the parking, stopping, or standing of vehicles. Current law creates such authority for any city with a population of at least 40,000. (19105114D-S1)

#### *Seat Belts*

**HB 1710** (Krizek) (HED) requires the Board of Education to make regulations to require each new public school bus purchased for the transportation of students to be equipped with a seat belt consisting of a lap belt and shoulder strap or harness in every seat. The bill requires each school board to ensure that no later than July 1, 2037, each school bus that it uses for the transportation of students is equipped with a seat belt in every seat. (19100952D)

**HB 2264** (Krizek) (HTRAN) 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. (19103663D)

#### *SMART SCALE*

**HB 2326** (Brewer) (HTRAN) adds maintenance of primary evacuation routes to the factors that must be considered by the Commonwealth Transportation Board in the statewide prioritization process, commonly known as SMART SCALE. (19102881D)

**HB 2633** (Delaney) (HTRAN) prohibits the Commonwealth Transportation Board from prioritizing a project that is likely to increase congestion over a project that would not increase congestion during the statewide prioritization process, commonly known as SMART SCALE. (19103554D)

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

#### **Miscellaneous**

**HB 1752** (Krizek) (Reported from HED) prohibits local school boards from requiring students to attend school on the Tuesday after the first Monday in November. (19100995D)

**HB 1829** (Simon) (HPE) authorizes the governing body of a county or city to establish by ordinance a system of public campaign financing for elected local offices. The bill specifies certain requirements for a system of public campaign financing established by a governing body, including the provision of a public election fund to be administered by the treasurer of the county or city. A system of public campaign financing established by a county or city is permitted to more stringently regulate the campaign finance activity of participating candidates and shall be subject to regulation and oversight by the State Board of Elections to ensure its conformity with state law and policy to the extent practicable. (19101346D)

**HB 1764** (Carter) (HRUL) repeals the provisions of the Code of Virginia that, among other things, provide that any employee of the Commonwealth, a locality, or other political subdivision who strikes or willfully refuses to perform the duties of his employment is deemed to have terminated his employment and is thereafter ineligible for employment. (19101574D)

**HB 1806** (Carter) (HRUL) repeals the provisions of the Code of Virginia that, among other things, prohibit any agreement or combination between an employer and a labor union or labor organization whereby (i) nonmembers of the union or organization are denied the right to work for the employer, (ii) membership to the union or organization is made a condition of employment or continuation of employment by such employer, or (iii) the union or organization acquires an employment monopoly in any such enterprise. The measure also authorizes a collective bargaining agreement to provide for an agency shop or a union shop. (19101572D)

**SB 1255** (Ruff) (Senate Floor) creates the Major Headquarters Workforce Grant Fund. A qualified e-commerce company that makes a capital investment of at least \$2 billion in a major headquarters facility in Arlington County and that creates at least 25,000 new full-time jobs with an average annual wage of \$150,000 will be eligible for up to \$550 million in grants from the Fund. A qualified company may also be eligible for an additional \$200 million in grants for creating an additional 12,850 new full-time jobs. (19102500D)

### **Animals**

**HB 1827** (Orrock) (HAG) provides that a tether meets the requirement that an animal be given adequate space if the tether is four times the length of the animal or 15 feet long, whichever is greater, and does not cause injury or pain, contain metal chain links, or weigh more than one-tenth of the animal's body weight. The bill provides that the walking of an animal on a leash by its owner shall not constitute tethering for the purpose of the definition of "adequate space." (19102116D)

**SB 1025** (Spruill) (SACNR) provides that outdoor tethering of a companion animal does not meet the requirement that an animal be given adequate shelter, unless the animal is actively engaged in an agricultural or hunting activity, when tethering is conducted (i) when the temperature is 32 degrees Fahrenheit or lower, or 85 degrees Fahrenheit or higher; (ii) during a heat advisory; or (iii) during a severe weather warning. The bill provides that a tether meets the requirement that an animal be given adequate space if the tether is four times the length of the animal or 15 feet in length, whichever is greater, and does not cause injury or pain, weigh more

than one-tenth of the animal's body weight, or have weights or heavy objects attached to it. Current law provides that the tether be three times the length of the animal. The bill exempts agricultural animals from existing provisions related to tethering. The bill also authorizes any locality to adopt ordinances that parallel and make more stringent the state law regarding the care of companion animals. (19100082D)

### **Courts**

**HB 2096** (Freitas) (HCT) requires that any action for the forfeiture of property used in connection with the commission of a crime be stayed until the person whose property is the subject of the forfeiture action has been found guilty of the crime authorizing the forfeiture, regardless of whether he has been sentenced. The bill provides that property may be forfeited even though no finding of guilt is made if (i) the forfeiture is ordered by the court pursuant to a plea agreement or (ii) the owner has not submitted a written demand for the return of the property within 21 days from the date the stay terminates. (19100369D)

### **Environment**

**SB 1212** (Newman) (SACNR) removes provisions authorizing a water improvement district to levy a tax on owners of land within the district. The bill removes the requirement that owners of land approving a referendum regarding assessment of a service charge also represent two-thirds of the land area in such district. The bill contains an emergency clause. (19101787D)

### *Stormwater*

**HB 1614** (Cole) (HCCT) authorizes any locality to provide by ordinance for the creation of a local Stormwater Management Fund (the Fund) for the purpose of granting funds to an owner of private property or a common interest community for stormwater management and erosion prevention. The bill requires grants from the Fund to be used exclusively for construction, improvement, or repair of a stormwater management facility or for erosion and sediment control. The Fund shall exclusively comprise appropriated local moneys. (19100149D)

**SB 1248** (Reeves) (Reported from SLG) authorizes a locality by ordinance to create a local Stormwater Management Fund consisting of appropriated local moneys for the purpose of granting funds to an owner of private property or a common interest community for stormwater management and erosion prevention. (19102694D)

### **Human Services**

**HB 1986** (Bell, Richard P.) (HED)/**SB 1314** (Hanger) (Passed Senate) requires that any child who is admitted to a state hospital or state mental health facility for inpatient treatment shall, if appropriate, participate in any education and training program in such state hospital or state mental health facility unless such child has been excused from attendance at school attendance due to a bona fide religious training or belief. (19100170D, 19101466D)

**SB 1104** (Peake) (SFIN) provides that the state pool of funds for community policy and management teams may be used for residential or nonresidential services in a public school setting and to provide services to children placed in public residential facilities or public special education day schools in addition to such private facilities and private special education day schools as provided in current law. (19101619D)

### **Land Use**

**HB 1801** (Ware) (HCCT) makes extensive changes to conditional zoning provisions first enacted in 2016. Specific amendments include provisions stating that no locality shall "require" any unreasonable proffer. Under current law, no locality may "request or accept" any unreasonable proffer. Other changes include (i) an expansion of the definitions of "public safety facility improvement" and "public school facility improvement"; (ii) allowing an applicant to submit any offsite proffer that the applicant deems reasonable and appropriate, as conclusively evidenced by the signed proffers; and (iii) provisions stating that nothing in the bill shall be deemed or interpreted to prohibit communications between an applicant or owner and the locality or shall be deemed or interpreted to prohibit presentation, analysis, or discussion of the potential impacts of new residential development or other new residential use on the locality's public facilities either onsite or offsite that are specifically attributable to such development. Final enactments state that (a) the bill shall be effective as to any application for a rezoning or proffer condition amendment filed on or after July 1, 2019, or to certain other pending applications, and (b) an applicant with a pending application for a rezoning or proffer condition amendment that was filed prior to July 1, 2016, may elect to proceed under the law as it existed prior to that date, and an applicant with a pending application for a rezoning or proffer condition amendment filed on or after July 1, 2016, but before July 1, 2019, may elect to proceed under the law as it existed during that period. (19101725D)

**SB 1699** (Peake) (SLG) authorizes a locality, through provisions in a subdivision ordinance or zoning ordinance, subject to certain terms and conditions included in the ordinance, to grant a developer of land the option of either (i) dedicating land for and constructing a sidewalk as may be required by the locality or (ii) contributing funds equivalent to the cost of the dedication of land for and construction of a sidewalk on the property to a sidewalk fund, maintained and administered by the locality. Such sidewalk fund may be used by the governing body for sidewalk improvements in the locality. (19104033D)

### **School Safety**

**HB 1753** (Sickles) (HED) prohibits school boards from installing an electronic room partition in any school building unless such partition includes a contact pressure-sensitive safety edge whereby the partition automatically stops when it senses contact with any object other than the adjoining wall. (19100322D)

**HB 1787** (Ransone) (HCT)/**SB 1381** (McDougle) (SCT) adds (i) threats of death or bodily injury to another person communicated in writing to such person or member of such person's family and (ii) threats to commit serious bodily harm to persons on school property to the listing of

offenses that a juvenile intake officer is required to report to the school division superintendent, when a petition is filed alleging that a juvenile student committed such an offense. (19101060D, 19101051D)

**HB 1873** (VanValkenburg) (HCT) requires (i) each local school board to annually collect and report to the Virginia Center for School and Campus Safety (the Center) and the Department of Education (the Department) data on the use of force against students, arrests of students, student referrals to court, and other disciplinary actions by school resource officers and school security officers and (ii) the Center, in conjunction with the Department, to collect, analyze, and disseminate such data. (19102775D)

#### *Disorderly Conduct in Public Schools*

**HB 1685** (Bourne) (HCT) provides that no enrolled public school student who disrupts the operation of the school at which he is enrolled or any activity conducted or sponsored by the school at which he is enrolled on school grounds during normal school hours is guilty of disorderly conduct. (19100685D)

**HB 1688** (Mullin) (HCT) provides that a student at any elementary or secondary school shall not be guilty of disorderly conduct in public places if the disorderly conduct occurred on school property or a school bus. (19100704D)

**SB 1107** (McClellan) (SCT) eliminates the Class 1 misdemeanor for disrupting willfully or while intoxicated, whether willfully or not, the operation of any school or any school activity conducted or sponsored by any school, if the disruption (i) prevents or interferes with the orderly conduct of the operation or activity or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed. (19101854D)

#### *Medical Marijuana and School Policy*

**HB 1720** (Hurst) (HCT) permits any student who possesses a valid and unexpired written certification to use cannabidiol oil or THC-A oil that is issued by a licensed practitioner of medicine or osteopathy to possess and use cannabidiol oil or THC-A oil on school property, on a school bus, or at a school-sponsored activity. The bill prohibits a school board from suspending or expelling from school attendance any such student who possesses or uses cannabidiol oil or THC-A oil on school property, on a school bus, or at a school-sponsored activity. (19100264D)

#### **Transportation**

**SB 1296** (Barker) (SPE) adds the Harry W. Nice Bridge, Sandy Hook Bridge, Brunswick Bridge, and Point of Rocks Bridge to the Potomac River bridges subject to the Potomac River Bridge Towing Compact to facilitate the prompt and orderly removal of disabled and abandoned vehicles from the bridges by giving the District of Columbia, Maryland, and Virginia appropriate authority anywhere on the bridges. (19102225D)

*Distracted Driving*

**HB 1811** (Collins) (HCT) expands the prohibition on using a handheld personal communications device while operating a motor vehicle to all uses unless the device is specifically designed to allow hands-free and voice operation and the device is being used in that manner. Current law prohibits only the reading of any email or text message and manually entering letters or text in the device as a means of communicating. The bill expands the exemptions to include handheld personal communications devices that are used (i) for navigation or generating audio transmissions when the device is physically mounted to the vehicle; (ii) as an amateur radio or a citizens band radio; (iii) to activate, deactivate, or initiate a factory-installed feature or function on the vehicle; or (iv) for official Department of Transportation or traffic incident management services. (19101202D)

**SB 1154** (Black) (STRAN) requires the driver of a motor vehicle to (i) give full time and attention to the safe operation of the motor vehicle and (ii) exercise due care and decrease speed as necessary to avoid a collision with any person, vehicle, or other conveyance on or entering the highway. These violations, which are not encompassed by the current reckless driving statute, shall constitute traffic infractions. (19101562D)

**SB 1341** (Stuart) (STRAN) expands the prohibition on using a handheld personal communications device while operating a motor vehicle to all uses unless the device is specifically designed to allow hands-free and voice operation and the device is being used in that manner. Current law prohibits only the reading of any email or text message and manually entering letters or text in the device as a means of communicating. The bill expands the exemptions to include handheld personal communications devices that are used (i) for navigation or generating audio transmissions when the device is physically mounted to the vehicle; (ii) as an amateur radio or a citizens band radio; (iii) to activate, deactivate, or initiate a factory-installed feature or function on the vehicle; or (iv) for official Department of Transportation or traffic incident management services. (19104282D)

*Dulles Greenway*

**SB 1133** (Favola) (STRAN) authorizes the operator of the Dulles Greenway to apply annually to the State Corporation Commission, during the period 2020 through 2029, for increases to tolls on the roadway to reflect increases in the Consumer Price Index plus one percent. The measure also requires the operator to complete by January 1, 2023, the construction and installation of improvements required to implement a distance-based pricing program for the roadway. Under the program, users will be charged tolls on the basis of the distance traveled. The operator is required to bear all expenses incurred in implementing the program. The Commission is directed to approve the program, provided that it satisfies conditions that, among other things, set tolls of \$1 per mile at all times other than peak hours. (19103288D)

**SB 1654** (Stanley) (STRAN) amends the powers and responsibilities of the State Corporation Commission (SCC) to regulate toll road operators under the Virginia Highway Corporation Act of 1988. The measure adds requirements that toll rates not materially discourage the public's use

of the toll road, that the cost of operating the toll road be reasonably apportioned across all toll road users based on the relative distance each class of user travels on the toll road such that the toll rates are established in a reasonable and nondiscriminatory manner in relation to the benefit obtained, and that toll rates shall provide the operator with no more than a reasonable return. In addition, the measure (i) requires the SCC, by October 1, 2019, to initiate an investigation into the tolls charged by all operators subject to the Act and to issue a ruling by April 1, 2020, on its investigation as to whether the current tolls charged by the operator comply with such new requirements; (ii) prohibits the SCC from using the fact that any incremental return resulting from increased traffic related to a relative change in potential toll users that is greater than zero on a cumulative basis as the sole basis for finding that the operator's return exceeds a reasonable level as specified in such new requirements, during any future complaint proceeding; (iii) requires the SCC, in its initial investigation, to develop a baseline from which it can measure the relative change in potential toll users and directs how the incremental return shall be computed; (iv) prohibits an operator from seeking a toll increase that attempts to raise its return above the reasonable level; (v) requires the full disclosure, in public financial reports to the SCC, of the details of any related party transactions; and (vi) establishes a presumption that any related party transactions shall be presumed to be imprudent and excluded from costs used for any purpose, including but not limited to costs of lobbyists, excessive compensation, and entertainment expenses, unless the operator provides information showing that at least three separate competitive bids demonstrate that the operator could not have achieved better contract terms from a third party. (19103865D)

**SJ 254** (Black) (SRUL) requests the Department of Transportation to study the feasibility of purchasing all or part of the Dulles Greenway. (19100620D)

#### *Transportation Studies*

**HJ 580** (Cole) (HRUL) establishes a joint subcommittee to study the feasibility of widening Interstate 95 between Exit 118 and the Springfield Interchange. (19100151D)

**HJ 581** (Cole) (HRUL) requests the Commonwealth Transportation Board to study the portion of the Interstate 95 corridor between Exit 118 and the Springfield Interchange and financing options for improvements to the corridor. (19100237D)

**HJ 647** (Carroll Foy) (HRUL) requests that the Department of Rail and Public Transportation (the Department) to identify and recommend potential public transportation services from the Franconia-Springfield Metro Station to Marine Corps Base Quantico in Prince William and Stafford Counties and to study the feasibility of extending the Blue Line and other multimodal options such as bus rapid transit along Interstate 95 and U.S. Route 1. The Department shall report its findings and recommendations for the two-year study no later than the first day of the 2020 and 2021 Regular Sessions of the General Assembly. (19103870D)

**HJ 671** (Roem) (HRUL) requests the Department of Rail and Public Transportation to study and develop best practices for lowering the cost of commuter and light rail projects. (19103230D)

### **Legislation Provided for Information**

**HB 2401** (Roem) (HLC) requires each public service corporation to file with the State Corporation Commission an annual statement of government influence spending that discloses each expenditure made by a public service corporation to influence government actions or public policy, including (i) lobbying expenditures, (ii) industry association dues, and (iii) payments made to any person that seeks to influence public policy. The measure requires the Commission to prepare summaries of the statements and to post the summaries and statements of government influence spending on its website. (19103357D)

**HB 2545** (Byron) (HGL)/**SB 1523** (Ruff) (SGL) creates in the Governor's cabinet the position of Secretary of Workforce Development (the Secretary). The bill removes the position of Chief Workforce Development Advisor and reassigns that position's responsibilities to the Secretary. (19104057D, 19104262D)

**SB 1080** (Edwards) (SGL) creates proposed Title 55.1 (Property and Conveyances) as a revision of existing Title 55 (Property and Conveyances). Proposed Title 55.1 consists of 29 chapters divided into five subtitles: Subtitle I (Property Conveyances), Subtitle II (Real Estate Settlements and Recordation), Subtitle III (Rental Conveyances), Subtitle IV (Common Interest Communities), and Subtitle V (Miscellaneous). The bill organizes the laws in a more logical manner, removes obsolete and duplicative provisions, and improves the structure and clarity of statutes pertaining to real and personal property conveyances, recordation of deeds, rental property, common interest communities, escheats, and unclaimed property. The bill has a delayed effective date of October 1, 2019, and is a recommendation of the Virginia Code Commission. (19100845D)

**HJ 692** (Cole) (HRUL) memorializes the Congress of the United States to submit a new Equal Rights Amendment, with language that addresses the concerns over religious and privacy rights, to the states for ratification. (19103818D)

**SJ 275** (Chase) (Reported from SPE) reaffirms that all persons residing in Virginia are afforded equal protection under the law. The resolution cites numerous guarantees of equality that currently exist in both federal and state law while refuting the necessity, utility, and viability of the Equal Rights Amendment. (19104904D-S1)

**SJ 285** (Chase) (SRUL) directs the Joint Legislative Audit and Review Commission (JLARC) to study the practices, procedures, and accountability of industrial development authorities. In conducting its study, JLARC shall (i) collect information regarding the number sizes, budgets, and locations of industrial development authorities throughout the Commonwealth; (ii) collect information regarding any moneys received industrial development authorities, the source and final disposition of such moneys, and the level of control that local governing bodies have over the use of such moneys; (iii) make recommendations to enhance the level of supervision and accountability that local governing bodies have over industrial development authorities activities; (iv) collect information about opportunities for citizen engagement in pursuing and

approving projects and make recommendations to enhance such engagement; and (vi) make other legislative recommendations as appropriate. (19102758D)

### Courts

**HB 1712** (Herring) (HCT)/**SB 1383** (McDougle) (Passed Senate) authorizes courts to dismiss a summons issued for expiration of vehicle registration if the defendant provides to the court proof of compliance with the law on or before the court date. This bill is a recommendation of the Committee on District Courts. (19101090D, 19101091D)

### Education/Schools

**HB 1724** (Krizek) (HED) establishes the Grow Your Own Teacher Pilot Programs Fund and permits the Department of Education to award grants from such fund to local school boards to establish Grow Your Own Teacher Pilot Programs whereby the local school board provides scholarships not to exceed \$7,500 per academic year for attendance at a baccalaureate institution of higher education in the Commonwealth to any individual who (i) graduated from a public high school in the local school division, (ii) was eligible for free or reduced price lunch throughout the individual's attendance at a public high school in the local school division, and (iii) commits to teach, within three years of graduating from the baccalaureate institution of higher education in the Commonwealth and for a period of at least four years, at a public high school at which at least 50 percent of students qualify for free or reduced price lunch in the school division in which such individual graduated from high school. The bill provides that in the event that any program scholarship recipient fails or refuses to comply with such teaching obligation, the sum of all scholarship funds received by such individual shall be converted to a loan that is subject to repayment with interest. The bill has an expiration date of July 1, 2024. (19101126D)

**HB 1729** (Landes) (HED) requires each school counselor employed by a school board in a public elementary or secondary school to spend at least 80 percent of his staff time during normal school hours in the direct counseling of individual students or groups of students. (19100598D)

**HB 1985** (Bell, Richard P.) (HED) requires the Department of Education to annually collect from each school board and publish on its website various enrollment and achievement data on alternative education programs for students who have been suspended, expelled, or otherwise precluded from attendance at school. The bill requires such data to be published in a manner that protects the identities of individual students and disaggregated by local school division and by student race, ethnicity, gender, and disability. (19101690D)

**SB 1218** (Newman) (SEH) requires the Standards of Learning assessments administered to students in grades nine through twelve to include reading, writing, mathematics, science, and Virginia and U.S. history. The bill requires each such Standards of Learning assessment to consist of a Board-developed end-of-course assessment and prohibits such from being performance-based. The bill requires each school board to annually certify that it has provided instruction and administered an alternative assessment, consistent with Board guidelines, to

students taking other high school courses in reading, writing, mathematics, science, and history and social science. The bill requires such Board guidelines to ensure that such assessments produce quantifiable metrics and performance measures that are comparable across school divisions and years. The bill requires the Department of Education to perform reviews and performance audits on such locally administered alternative assessments for high school courses. The bill requires the Board, in its graduation requirements, to require students to earn a verified unit of credit in reading, writing, mathematics, science, and Virginia and U.S. History. The bill requires each such verified credit to be earned only by (i) the successful completion of a Board-developed end-of-course Standards of Learning assessment; (ii) achievement of a passing score on a Board-approved standardized test administered on a statewide, multistate, or international basis that measures content that incorporates or exceeds the Standards of Learning content in the course for which the verified credit is given; or (iii) achievement of criteria for the receipt of a locally awarded verified credit from the local school board in accordance with criteria established in Board guidelines when the student has not passed the corresponding Standards of Learning assessment. (19102794D)

**SB 1298** (Barker) (Passed Senate) requires the Department of Education to annually collect from each school board and publish on its website various enrollment and achievement data on alternative education programs for students who have been suspended, expelled, or otherwise precluded from attendance at school. The bill requires such data to be published in a manner that protects the identities of individual students and disaggregated by local school division and by student race, ethnicity, gender, and disability. (19102732D)

**SB 1330** (Stanley) (SPE) 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 developing such a commission. The referendum would be held at the November 2019 general election. (19104238D)

**SB 1617** (Ruff) (SEH) creates a grant program to assist qualified public institutions of higher education, defined in the bill, in reaching, by 2039, a goal of increasing, in the aggregate, the number of bachelor's and master's degrees awarded in computer science, computer engineering, and closely related fields by at least 25,000 degrees. To be eligible for an annual grant, a qualified institution is required to enter into a memorandum of understanding setting forth specific criteria for eligible degrees, eligible expenses, and degree production goals. The bill requires qualified institutions that are grant recipients to report annually on progress towards meeting such goals and that grants issued pursuant to the program are subject to appropriation. (19102502D)

#### *School Calendar*

**HB 1652** (Robinson) (HED)/**SB 1005** (Chase) (SEH) makes local school boards responsible for setting the school calendar and determining the opening day of the school year and eliminates the post-Labor Day opening requirement and "good cause" scenarios for which the Board of

Education may grant waivers of this requirement. The bill requires local school boards that set the school calendar with a pre-Labor Day opening date, except those schools that were granted a "good cause" waiver for the 2018-2019 school year, to close all schools in the division from (i) the Thursday immediately preceding Labor Day through Labor Day or (ii) the Friday immediately preceding Labor Day through the Tuesday immediately succeeding Labor Day. (19100409D, 19100072D)

**HB 2140** (Thomas) (HED) permits the Board of Education to waive the requirement to set the school calendar so that the first day students are required to attend school must be after Labor Day for any school board that certifies to the Board of Education that the school division is entirely surrounded by school divisions that each have an opening date prior to Labor Day in the school year for which the waiver is sought. (19102568D)

**SB 1074** (Howell) (SEH)/**SB 1113** (Favola) (SEH) provides that the local school board of a school division located in Planning District 8 shall be responsible for setting the school calendar and determining the opening day of the school year. (19100745D, 19100736D)

### Elections

**HB 1800** (Heretick) (HPE) provides that the Board of Corrections shall make, adopt, and promulgate rules and regulations regarding the provision of information on absentee voting to all persons confined in a local correctional facility who may be eligible to vote and information on the process of applying for a restoration of civil rights and of voting rights for those persons who have been convicted of a felony. (19101475D)

**HB 1984** (Lindsey) (HPE) designates Election Day, the Tuesday after the first Monday in November, as a state holiday and removes Lee-Jackson Day as a state holiday. (19102233D)

**SB 1016** (Chase) (Senate Floor) allows a candidate for a constitutional office who has been nominated by a political party or in a primary election to choose whether to be identified on the ballot by the name of his political party. (19100069D)

**SB 1455** (Vogel) (SPE) continues and reestablishes the Department of Elections as an independent agency that includes a Commissioner of Elections and the State Board of Elections. The State Board is continued as a supervisory board and its membership is increased from three to nine members, with terms of three years after an initial staggering of terms. The Governor, the Speaker of the House of Delegates, and the Senate Committee on Rules each appoint three members; of those three, two members represent the political parties receiving the highest and next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election, and one is a former judge of a court of record. Under the bill, the State Board is responsible for appointing a Commissioner of Elections and has the authority to remove the Commissioner of Elections; such appointment or removal requires an affirmative vote of six of the nine Board members. The bill places restrictions on political activities of State Board members, the Commissioner, and employees of the Department. (19100854D)

*State Board of Elections*

**HB 1620** (Ransone) (HPE) increases the membership of the State Board of Elections (Board) from three members to six members and increases the terms of Board members from four years to six years. Equal representation shall be given to each of the political parties having the highest and next highest number of votes in the Commonwealth at the last preceding gubernatorial election. Appointments shall be made with due consideration of geographical representation, and no two Board members may reside in the same congressional district. Terms are initially staggered. The bill also grants to the Board the authority to appoint, subject to confirmation by the General Assembly, the Commissioner of Elections to head the Department of Elections and to act as the principal administrative officer. Additionally, the Board has the authority to remove the Commissioner. The appointment or removal of the Commissioner shall require an affirmative vote of five of the six Board members. The bill also directs the Department of Elections to employ a Director of Operations, who is to be responsible for managing the day-to-day operations at the Department. The bill requires the Board to submit an annual report to the Governor and the General Assembly. (19100589D)

**SB 1311** (Edwards) (SPE) increases the membership of the State Board of Elections from three members to five members, with representation given to each of the political parties having the highest and next highest number of votes in the Commonwealth at the last preceding gubernatorial election. Three Board members are to be of the party of the Governor. Terms of Board members are initially staggered. The Governor shall designate one member of the Board as the Commissioner of Elections to head the Department of Elections and to act as the principal administrative officer. The Commissioner shall also serve as the chair of the Board. The bill requires the Board to submit an annual report to the Governor and the General Assembly. The bill has a delayed effective date of January 1, 2020. (19102905D)

**Health and Human Services**

**SB 1488** (Hanger) (Reported from SEH) directs the Department of Behavioral Health and Developmental Services to study and develop recommendations for addressing the treatment needs of individuals with complex medical needs who are experiencing a mental health crisis and require mental health treatment. The Department shall report its findings and conclusions to the Joint Subcommittee Studying Mental Health Services in the Commonwealth in the 21st Century by December 1, 2019. (19102676D)

**SB 1498** (Ebbin) (SRSS) requires the Board of Juvenile Justice to promulgate regulations governing the housing of youth who are detained in a juvenile correctional facility pursuant to a contract with the federal government and not committed to such juvenile correctional facility by a court of the Commonwealth. (19103943D)

**SB 1526** (Sturtevant) (SEH) repeals the requirement for a certificate of public need for certain projects involving mental hospitals or psychiatric hospitals and intermediate care facilities established primarily for the medical, psychiatric, or psychological treatment and rehabilitation of individuals with substance abuse. The bill creates a new permitting process for such projects,

exempted from the certificate of public need process, that requires the Commissioner of Health to issue a permit upon the agreement of the applicant to certain charity care conditions and quality of care standards. (19101382D)

**SJ 301** (Deeds) (SRUL) continues the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the Twenty-First Century for two additional years, through December 1, 2021. (19103005D)

### *Financial Exploitation*

**SB 1175** (McPike) (SRSS) requires any employee, agent, qualified individual, or representative of a bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, investment company, investment advisor, securities firm, accounting firm, or insurance company to report a matter giving reason to suspect the financial exploitation by any person of an adult who is a client or customer of the financial institution. The report is required to be made to the local department of social services for the county or city wherein the adult resides or wherein the exploitation is believed to have occurred or to the adult protective services hotline, unless he notifies the person in charge of the financial institution or his designee, who shall report such information in accordance with the financial institution's policies and procedures for reporting such matters. This measure replaces an existing provision that authorizes any financial institution staff who suspects that an adult has been exploited financially to report the suspected exploitation. (19103216D)

**SB 1490** (Obenshain) (SRSS) authorizes financial institution staff to refuse to execute a transaction, to delay a transaction, or to refuse to disburse funds if the financial institution staff (i) believes in good faith that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an aged or incapacitated adult or (ii) makes, or has actual knowledge that another person has made, a report to the local department of social services or adult protective services hotline stating a good faith belief that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial exploitation of an aged or incapacitated adult. (19104181D)

### **Technology**

**HB 1900** (Davis) (HST) establishes the Health Care Provider Credentials Data Solution Fund for the purpose of soliciting proofs of concept to establish or improve a system for the storage and accessing of health care provider credentials data, utilizing blockchain or a similar technology, to be maintained by the Department of Health Professions. The Fund authorizes the Secretary of Health to disburse matching funds on at least a one-to-one basis to any person who demonstrates such proof of concept. This is a recommendation of the Joint Commission on Technology and Science. (19101617D)

**HB 1978** (Sullivan) (HST) requires the Superintendent of Public Instruction to establish and appoint no more than 12 members to the Digital Citizenship, Internet Safety, and Media Literacy Advisory Council (Council), including at least one teacher, librarian, representative of a parent-

teacher organization, school administrator, and individual with expertise in digital citizenship, Internet safety, and media literacy. The bill requires the Council to (i) develop and recommend to the Board of Education for adoption a model policy for local school boards that would enable such school boards to better support the digital citizenship, Internet safety, and media literacy of all students in the local school division; (ii) develop and recommend to the Board for adoption model instructional practices for the safe, ethical, and responsible use of media and technology by students in public elementary and secondary schools; (iii) design and post on the Department of Education's website a page with links to successful instructional practices, curricula, and other teacher resources used in school divisions within and outside of the Commonwealth for the safe, ethical, and responsible use of media and technology by students; and (iv) submit a report of its findings to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health no later than October 31, 2020. The bill has an expiration date of July 1, 2021. (19100531D)

**HB 2031** (McGuire) (HST) requires the Department of Education to establish and appoint members to a task force for the purpose of establishing a program and standards for the designation of any public middle school or high school in the Commonwealth as a cyber center of excellence. The bill requires such program and standards to, at minimum, (i) establish a competitive process by which local school boards may apply to the Department of Education to designate any middle school or high school in the local school division as a cyber center of excellence and (ii) require applicants to demonstrate the ability to (a) provide high-quality programs and curricula for the development of the computer skills of enrolled students, (b) identify enrolled students with an aptitude for such programs and curricula, and (c) assist such students in developing their computer skills in order to be better prepared to meet the Commonwealth's growing demand and unmet need for cybersecurity professionals. The bill requires the task force to create and distribute to each local school board guidelines, procedures, and best practices for applications for the designation of schools as cyber centers of excellence. (19100455D)

### **Transportation**

**HB 1697** (Fariss) (HTRAN) makes discretionary the prohibition on the issuance of a tow truck driver registration to a person who was convicted of a violent crime or a crime involving the driving of a tow truck, including drug or alcohol offenses, when the conviction occurred more than 10 years prior to the date of application. (19101587D)

**HB 1786** (Hurst) (Reported from HTRAN) adds "other power-driven mobility devices," as defined by federal regulations, to the list of vehicles that can legally be ridden or driven on sidewalks. (19103919D-H1)

**HB 1911** (Peace) (HCT) makes a driver's failure to move into a nonadjacent lane on a highway with at least four lanes when approaching a stationary vehicle displaying flashing, blinking, or alternating blue, red, or amber lights, or, if changing lanes would be unreasonable or unsafe, to proceed with due caution and maintain a safe speed, reckless driving, which is punishable as a Class 1 misdemeanor. Under current law, a first such offense is a traffic infraction punishable by

a fine of not more than \$250, and a second such offense is punishable as a Class 1 misdemeanor. (19101248D)

**SB 1120** (Petersen) (SFIN) repeals the enactment clause from Chapter 766 of the Acts of Assembly of 2013 (the transportation funding bill) that would automatically lower the rate of taxation on motor fuels if Congress were to enact legislation granting states the authority to compel remote sellers to collect and remit sales and use tax. (19101652D)

**SB 1505** (Carrico) (STRAN) provides that for highways, bridges, interchanges, and other transportation facilities named after a state official killed during the performance of his official duties, including State Police officers and state highway transportation workers, the Commonwealth shall pay for the costs of producing, placing, and maintaining naming signage. Current law requires the locality in which the highway, bridge, interchange, or other transportation facility is located to pay these costs. (19103031D)

**SB 1550** (Surovell) (STRAN) 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 person riding a bicycle, electric wheelchair, electric bicycle, wheelchair, skateboard, skates, foot-scooter, animal, or animal-drawn vehicle, is guilty of a traffic infraction. The bill prohibits the driver of a motor vehicle from using or crossing into a bicycle lane to pass or attempt to pass another vehicle. (19104047D)

Attachments: Supplementary documents

cc: Joe Mondoro, Chief Financial Officer  
Tisha Deeghan, Deputy County Executive  
Dave Rohrer, Deputy County Executive  
Elizabeth Teare, County Attorney  
Catherine A. Chianese, Assistant County Executive and Clerk to the Board  
Richmond Team  
Tom Biesiadny, Director, Department of Transportation

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SUPPLEMENTARY DOCUMENTS  
GENERAL ASSEMBLY STATUS REPORT NO. 1  
January 22, 2019

1. Fairfax County Legislative Summary	1
2. Overview of Proffer Legislation	49
3. State Budget Analysis	55
4. Decriminalization of Marijuana Presentation	67
5. Body Worn Camera Study Report	101

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**FAIRFAX COUNTY  
LEGISLATIVE SUMMARY**

***2019 GENERAL ASSEMBLY***

January 19, 2019

# Fairfax County Legislative Summary 2019 General Assembly

## Board of Supervisors Report Key

Bill No. – Patron, (District No.)  
Bill Title

Committee/Floor  
Actions

**Bold** = Date Position taken by full Board of Supervisors  
[ ] = Date position taken by BOS Legislative Committee  
*Italics* = Date position recommended by staff

<p><b>HB 589</b> - Watts (39) Blue Star Memorial Highway; designating as portion of Old Keene Mill Road in Fairfax County.</p>	<p>1/10/2006 House: Referred to Committee on Transportation</p>	<p><b>12/5/2005</b></p>
<p><b>Initiate</b> (067916260) <b>Summary:</b> Designates a portion of Old Keene Mill Road in Fairfax County a "Blue Star Memorial Highway."</p>		

**Bold = Board Position**, [ ] = BOS Legislative Committee Position, *Italics=Staff Recommended Position Changes* (LD No. is version of bill on which position was taken)  
**Summary** -- Reflects latest version of summary available on the Legislative Information System Web Site (If not noted otherwise, reflects summary as introduced)

## *Table of Contents*

<b>Bill</b>	<b>Subject</b>
<b><i>Fairfax County Initiatives</i></b>	
<b><i>Pages 9-10</i></b>	
<b><i>(Bills Introduced at County's request):</i></b>	
<a href="#"><u>HB 1913</u></a>	Subdivision ordinance; sidewalks.
Bulova, D	
<a href="#"><u>HB 2578</u></a>	Secondary state highways; six-year plan, public meeting.
Plum, K	
<a href="#"><u>SB 1663</u></a>	Subdivision ordinance; sidewalks.
Barker, G	
<a href="#"><u>SB 1684</u></a>	Secondary state highways; six-year plan, public meeting.
Petersen, J	
<b><i>Fairfax County Positions</i></b>	
<b><i>Pages 11-20</i></b>	
<b><i>(Oppose or Amend):</i></b>	
<a href="#"><u>HB 1655</u></a>	Real property tax exemption for disabled veterans; surviving spouse's ability to change residence.
Miyares, J	
<a href="#"><u>HB 1667</u></a>	Virginia Public Procurement Act; statute of limitations on actions on construction contracts, etc.
Kilgore, T	
<a href="#"><u>HB 1703</u></a>	Aviation jet fuel; taxation, distribution of certain revenue to Metro. Washington Airport Authority.
Guzman, E	
<a href="#"><u>HB 1865</u></a>	Towing fees; sets maximum towing hookup and initial towing fees.
Fowler, Jr., H	
<a href="#"><u>HB 1872</u></a>	Motorcycles and autcycles; protective helmets, organ donor exemption.
Webert, M	
<a href="#"><u>HB 1903</u></a>	Criminal history record information; limitations on dissemination of information.
Head, C	
<a href="#"><u>HB 1907</u></a>	Localities and school divisions; posting of register of funds expended.
VanValkenburg, S	
<a href="#"><u>HB 1966</u></a>	Uniform Statewide Building Code; issuance of building permits.
Yancey, D	
<a href="#"><u>HB 2467</u></a>	State Route 28; Department of Transportation to study.
Roem, D	
<a href="#"><u>HB 2468</u></a>	State Route 28; Department of Transportation to study.
Roem, D	
<a href="#"><u>HB 2495</u></a>	Fall cankerworm; spraying prohibited during certain months.
Tran, K	
<a href="#"><u>HB 2643</u></a>	Interstate 66; limits to \$15 the tolls collected on the tolled portion.
Delaney, K	
<a href="#"><u>HB 2736</u></a>	Local employee grievance procedure; qualifying grievances by local government employees.
Hugo, T	

<a href="#">HJ 643</a> Webert, M	Composite index of local ability to pay; DOE to study effect of local use value assessment.
<a href="#">HJ 657</a> Pogge, B	Constitutional amendment; real property tax exemption, surviving spouse of a disabled veteran.
<a href="#">SB 1038</a> Peake, M	Voter registration; verification of social security numbers, provisional registration status.
<a href="#">SB 1262</a> Sturtevant, Jr., G	Localities and school divisions; posting of register of funds expended.
<a href="#">SB 1270</a> Stuart, R	Real property tax; exemption for disabled veterans, surviving spouse's ability to move.
<a href="#">SB 1369</a> Norment, Jr., T	Virginia Public Procurement Act; statute of limitations on actions on construction contracts, etc.
<a href="#">SB 1421</a> Obenshain, M	Eminent domain; entry upon private property, calculation of just compensation, damages.
<a href="#">SB 1471</a> Hanger, Jr., E	Computation of composite index; land-use assessment value.
<a href="#">SB 1545</a> Sturtevant, Jr., G	Public schools; alternative accountability process.
<a href="#">SB 1567</a> Marsden, D	Towing fees; sets maximum towing hookup and initial towing fees.
<a href="#">SB 1578</a> Suetterlein, D	Reckless driving; exceeding speed limit.
<a href="#">SB 1701</a> Ebbin, A	Short-term rentals; regulation, urban county executive form of government.

### ***Fairfax County Positions***

***(Support):***

***Pages 21-42***

<a href="#">HB 1628</a> Hayes, Jr., C	Absentee voting; persons age 65 or older.
<a href="#">HB 1641</a> Herring, C	Absentee voting; no-excuse absentee.
<a href="#">HB 1645</a> Bourne, J	Virginia Fair Housing Law; unlawful discriminatory housing practices.
<a href="#">HB 1695</a> Fariss, C	Passing a stopped school bus; civil penalty.
<a href="#">HB 1698</a> Fariss, C	Zoning Appeals, Board of; written order, certified mail.
<a href="#">HB 1772</a> Mullin, M	Virginia Freedom of Information Advisory Council; advisory opinions, evidence in civil proceeding.
<a href="#">HB 1822</a> Bulova, D	Virginia Water Quality Improvement Fund; grant for wastewater conveyance facility, etc.
<a href="#">HB 1823</a> Convirs-Fowler, K	Virginia Fair Housing Law; unlawful discriminatory housing practices.

<a href="#"><u>HB 1843</u></a> Bloxxom, Jr., R	Driver privilege cards; penalty.
<a href="#"><u>HB 1870</u></a> Sickles, M	Certificate of public need; nursing homes and hospitals, disaster exemption.
<a href="#"><u>HB 1871</u></a> Jones, J	Virginia Initiative for Employment Not Welfare (VIEW); transitional child care.
<a href="#"><u>HB 1879</u></a> Convirs-Fowler, K	Stormwater management facilities; private residential lots, disclosure.
<a href="#"><u>HB 1891</u></a> James, M	Food stamps; eligibility, drug-related felonies.
<a href="#"><u>HB 1914</u></a> Herring, C	Public health practitioners; requirements for issuing prescriptions, exceptions.
<a href="#"><u>HB 1959</u></a> Toscano, D	Absentee voting; no-excuse in-person available 21 days prior to election.
<a href="#"><u>HB 1977</u></a> Sullivan, Jr., R	Voter identification; accepted forms of identification.
<a href="#"><u>HB 1994</u></a> Price, M	Child care providers; fingerprint background checks.
<a href="#"><u>HB 2017</u></a> Peace, C	Auxiliary grants; supportive housing.
<a href="#"><u>HB 2019</u></a> Murphy, K	Residential real property; required disclosures of stormwater management facilities.
<a href="#"><u>HB 2025</u></a> Tran, K	Driver privilege cards; penalty.
<a href="#"><u>HB 2033</u></a> Murphy, K	Turns into or out of certain residential areas; resident permits.
<a href="#"><u>HB 2067</u></a> Bell, J	Public employment; prohibits discrimination on basis of sexual orientation or gender identity.
<a href="#"><u>HB 2070</u></a> Bell, J	Energy saving products; tax deduction.
<a href="#"><u>HB 2155</u></a> Plum, K	Vehicles stopped at crosswalks; prohibition on passing.
<a href="#"><u>HB 2189</u></a> Kilgore, T	Local government; taxing authority.
<a href="#"><u>HB 2273</u></a> Webert, M	Passing stopped school bus; increases civil penalty.
<a href="#"><u>HB 2329</u></a> Keam, M	Distributed renewable energy; promotes establishment of solar and other renewable energy.
<a href="#"><u>HB 2342</u></a> Thomas, Jr., R	Conditional rezoning proffers; extensive changes to zoning provisions.
<a href="#"><u>HB 2344</u></a> Bell, R	Motor Vehicles, Department of; records released to certain private vendors.
<a href="#"><u>HB 2359</u></a> Jones, S	Capital outlay plan; updates six-year plan for projects.

<a href="#">HB 2421</a> Levine, M	Discrimination; sexual orientation and gender identity.
<a href="#">HB 2451</a> Bell, R	Certificate of public need; nursing homes and hospitals, disaster exemption.
<a href="#">HB 2504</a> Murphy, K	Protective orders; possession of firearms, penalties.
<a href="#">HB 2510</a> Hugo, T	Judges; maximum number in nineteenth judicial district.
<a href="#">HB 2553</a> Thomas, Jr., R	Mass transit providers; loss of certain operating funds.
<a href="#">HJ 577</a> Rasoul, S	United States Constitution; ratifies Equal Rights Amendment.
<a href="#">HJ 579</a> Foy, J	United States Constitution; ratifies Equal Rights Amendment.
<a href="#">HJ 583</a> Ward, J	United States Constitution; ratifies Equal Rights Amendment.
<a href="#">SB 998</a> Ebbin, A	Public employment; prohibits discrimination on basis of sexual orientation or gender identity.
<a href="#">SB 1026</a> Spruill, Sr., L	Absentee voting; no-excuse absentee.
<a href="#">SB 1035</a> Locke, M	Absentee voting; no-excuse absentee.
<a href="#">SB 1058</a> Favola, B	Companion animals; care, local ordinances.
<a href="#">SB 1073</a> Marsden, D	Motor vehicles; removal from roadway when involved in an accident on HOT lane on I-66 .
<a href="#">SB 1075</a> Howell, J	Absentee voting; no-excuse in-person available 21 days prior to election.
<a href="#">SB 1078</a> Howell, J	Protective orders; possession of firearms, penalty.
<a href="#">SB 1121</a> Petersen, J	Judges; maximum number in nineteenth judicial district.
<a href="#">SB 1127</a> Favola, B	Local government taxing authority; equalizes municipal and county taxing authorities.
<a href="#">SB 1129</a> Locke, M	Food stamps; eligibility, drug-related felonies.
<a href="#">SB 1135</a> Favola, B	Community Living Waiver wait list; DBHDS to amend criteria for determining priority status, etc.
<a href="#">SB 1145</a> Favola, B	Virginia Initiative for Employment Not Welfare (VIEW); transitional child care.
<a href="#">SB 1198</a> Dance, R	Absentee voting; no excuse required when voting in person.
<a href="#">SB 1224</a> Chafin, A	Local multidisciplinary elder abuse response teams; establishment of teams.
<a href="#">SB 1277</a> Barker, G	Certificate of public need; nursing homes and hospitals, disaster exemption.

<a href="#">SB 1286</a> Barker, G	Persons with disabilities; auxiliary grants, supportive housing.
<a href="#">SB 1323</a> Hanger, Jr., E	Capital outlay plan; updates six-year plan for projects.
<a href="#">SB 1373</a> Favola, B	Conditional rezoning proffers; extensive changes to conditional zoning provisions.
<a href="#">SB 1407</a> Mason, T	Child care providers; fingerprint background checks.
<a href="#">SB 1456</a> McClellan, J	Distributed renewable energy; promotes establishment of solar and other renewable energy.
<a href="#">SB 1467</a> Saslaw, R	Protective orders; possession of firearms, surrender or transfer of firearms, penalties.
<a href="#">SB 1468</a> Black, R	Northern Virginia Transportation Authority; analysis of projects.
<a href="#">SB 1476</a> Deeds, R	School bus video-monitoring systems; release of information by DMV.
<a href="#">SB 1553</a> Surovell, S	Urban county executive form of government; abandoned personal property.
<a href="#">SB 1575</a> Ebbin, A	Teacher licensure; exemption for certain teachers.
<a href="#">SB 1576</a> Suetterlein, D	DOE; pilot program, placement transition of certain students.
<a href="#">SB 1672</a> Locke, M	Absentee voting; no-excuse absentee.
<a href="#">SB 1680</a> Mason, T	Mass transit providers; loss of certain operating funds.
<a href="#">SJ 284</a> Sturtevant, Jr., G	United States Constitution; ratifies Equal Rights Amendment.
<a href="#">SJ 307</a> Lewis, Jr., L	Study; JLARC; costs of education; report.

### ***Fairfax County Positions***

***(Monitor) :***

***Pages 43-48***

<a href="#">HB 1625</a> Orrock, Sr., R	Animal care; adequate shelter, exposure to heat or cold.
<a href="#">HB 1733</a> Gilbert, C	School boards; local law-enforcement agencies, memorandums of understanding.
<a href="#">HB 1937</a> Krizek, P	Real property tax; exemptions for elderly and handicapped, computation of income limitation.
<a href="#">HB 2051</a> McQuinn, D	Cemeteries; development, local ordinance.
<a href="#">HB 2084</a> Watts, V	Counties, certain; additional powers that include taxation, etc.
<a href="#">HB 2146</a> Turpin, C	Land development; conservation or replacement of trees, local option.

[HB 2291](#) School boards; local law-enforcement agencies,  
VanValkenburg, S memorandums of understanding.

[HB 2458](#) Early childhood care and education; establishment,  
Landes, R licensure.

[HB 2466](#) State Route 28; Department of Transportation to  
Roem, D study.

[HB 2665](#) Specialty dockets; report.  
Stolle, C

[SB 1095](#) Early childhood care and education; establishment,  
Howell, J licensure.

[SB 1404](#) Eminent domain; costs for petition for distribution of  
Petersen, J funds, interest rate.

[SB 1520](#) Passing stopped school bus; release of information  
Carrico, Sr., C by DMV, reporting violation.

[SB 1655](#) Specialty dockets; report.  
Cosgrove, Jr., J

***Fairfax County Initiatives***

***Bills Introduced  
at Fairfax County's Request***

Bills	General Assembly Actions	Date of BOS Position
<a href="#">HB 1913</a> - Bulova (37) Subdivision ordinance; sidewalks.	1/4/2019 House: Referred to Committee on Counties, Cities and Towns	[1/18/2019]
<p>[Initiate] (19103330D) - See also SB 1663 (Barker).  <b>Summary:</b> Allows any locality to include provisions in its subdivision ordinance requiring that where a lot being subdivided or developed fronts on an existing street and the provision of a sidewalk is in accordance with the locality's adopted comprehensive plan, the locality may require the dedication of land for, and construction of, a sidewalk on the property being subdivided or developed.</p>		
<a href="#">HB 2578</a> - Plum (36) Secondary state highways; six-year plan, public meeting.	1/9/2019 House: Referred to Committee on Transportation	[1/18/2019]
<p>[Initiate] (19103260D) - See also SB 1684 (Petersen).  <b>Summary:</b> Six-year plans for secondary state highways; public meeting. Limits the requirement that a governing body with a six-year plan for improving the secondary highway system advertise for and hold a public meeting regarding such plan to only those years in which the county has a proposed new funding allocation greater than \$100,000.</p>		
<a href="#">SB 1663</a> - Barker (39) Subdivision ordinance; sidewalks.	1/10/2019 Senate: Referred to Committee on Local Government	[1/18/2019]
<p>[Initiate] (19104255D) - See also HB 1913 (Bulova).  <b>Summary:</b> Allows any locality to include provisions in its subdivision ordinance requiring that where a lot being subdivided or developed fronts on an existing street and the provision of a sidewalk is in accordance with the locality's adopted comprehensive plan, the locality may require the dedication of land for, and construction of, a sidewalk on the property being subdivided or developed.</p>		
<a href="#">SB 1684</a> - Petersen (34) Secondary state highways; six-year plan, public meeting.	1/14/2019 Senate: Referred to Committee on Transportation	[1/18/2019]
<p>[Initiate] (19104464D) - See also HB 2578 (Plum).  <b>Summary:</b> Six-year plans for secondary state highways; public meeting. Limits the requirement that a governing body with a six-year plan for improving the secondary highway system advertise for and hold a public meeting regarding such plan to only those years in which the county has a proposed new funding allocation greater than \$100,000.</p>		

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# *Fairfax County Positions*

*(Oppose or Amend)*

\* \* \*

Bills	General Assembly Actions	Date of BOS Position
<p><b>HB 1655</b> - Miyares (82) Real property tax exemption for disabled veterans; surviving spouse's ability to change residence.</p>	<p>11/29/2018 House: Referred to Committee on Finance 1/14/2019 House: Reported from Finance with substitute (22-Y 0-N) 1/18/2019 House: Read third time and passed House BLOCK VOTE (94-Y 0-N)</p>	<p>[1/18/2019]</p>
<p>[Amend] (19103726D-H1) - Amend to support as a state tax credit; Board has historically recommended amendment. See also SB 1270 (Stuart). <b>Summary:</b> Real property tax exemption for disabled veterans; surviving spouses; ability to move to a different residence. Enacts as statutory law an amendment to subdivision (a) of Section 6-A of Article X of the Constitution of Virginia that was adopted by the voters on November 6, 2018, which applies the real property tax exemption for the surviving spouse of a disabled veteran to such spouse's principal place of residence regardless of whether such spouse moves to a different residence.</p>		
<p><b>HB 1667</b> - Kilgore (1) Virginia Public Procurement Act; statute of limitations on actions on construction contracts, etc.</p>	<p>12/3/2018 House: Referred to Committee for Courts of Justice 1/11/2019 House: Subcommittee recommends reporting (5-Y 1-N)</p>	<p>[1/18/2019]</p>
<p>[Oppose] (19101460D) - See also SB 1369 (Norment). <b>Summary:</b> Virginia Public Procurement Act; statute of limitations on actions on construction contracts; statute of limitations on actions on performance bonds. Provides that no action may be brought by a public body on any construction contract, including construction management and design-build contracts, unless such action is brought within five years after substantial completion of the work on the project and that no action may be brought by a public body on a warranty or guarantee in such construction contract more than one year from the breach of that warranty, but in no event more than one year after the expiration of such warranty or guarantee. The bill also limits the time frame during which a public body, other than the Department of Transportation, may bring an action against a surety on a performance bond to within one year after substantial completion of the work on the project. Current law allows a public body, other than the Department of Transportation, to bring such an action within one year after (i) completion of the contract, including the expiration of all warranties and guarantees, or (ii) discovery of the defect or breach of warranty that gave rise to the action.</p>		
<p><b>HB 1703</b> - Guzman (31) Aviation jet fuel; taxation, distribution of certain revenue to Metro. Washington Airport Authority.</p>	<p>12/12/2018 House: Referred to Committee on Finance</p>	<p>[1/18/2019]</p>
<p>[Oppose] (19101086D) <b>Summary:</b> Taxation of aviation jet fuel; distribution of certain revenues to Metropolitan Washington Airports Authority. Imposes a tax at a rate of five cents per gallon on aviation jet fuel purchased or used by</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p>an airline licensed by the Federal Aviation Administration with more than eight billion passenger-miles originating at Virginia airports during the calendar year and any regional air carrier contracting with such airline. The bill disburses revenue from the tax to the Metropolitan Washington Airports Authority (the Authority), provided that the Authority enters into an agreement to use the proceeds to finance Phase 2 of the Dulles Corridor Metrorail project and to reduce toll rates on users of the Dulles Toll Road. If the Authority does not enter into such an agreement, the bill prohibits the Department of Aviation from disbursing any revenue from taxes on aviation fuel to the Authority.</p>		
<p><b>HB 1865</b> - Fowler, Jr. (55) Towing fees; sets maximum towing hookup and initial towing fees.</p>	<p>1/3/2019 House: Referred to Committee on Transportation 1/15/2019 House: Subcommittee recommends reporting with substitute (6-Y 1-N)</p>	<p>[1/18/2019]</p>
<p>[Oppose Unless Amended] (19104945D) - Oppose unless amended to limit fee increases. <b>Summary:</b> Towing fees. Sets maximum towing hookup and initial towing fees at \$150 for all localities. Current law authorizes local governing bodies to set towing fee limits different from the maximums retained by the bill.</p>		
<p><b>HB 1872</b> - Webert (18) Motorcycles and autocycles; protective helmets, organ donor exemption.</p>	<p>1/3/2019 House: Referred to Committee on Transportation</p>	<p>[1/18/2019]</p>
<p>[Oppose] (19100466D) - Board has historically opposed. <b>Summary:</b> Protective helmets on motorcycles and autocycles; organ donor exemption. Exempts any operator of and passenger on a motorcycle or autocycle who is 21 years of age or older and a registered organ donor from the requirement to wear a protective helmet when on a motorcycle or autocycle. The bill reduces operating or riding on a motorcycle or autocycle without a protective helmet from a primary offense to a secondary offense, which can be charged only when the offender is stopped for another, separate offense.</p>		
<p><b>HB 1903</b> - Head (17) Criminal history record information; limitations on dissemination of information.</p>	<p>1/4/2019 House: Referred to Committee for Courts of Justice</p>	<p>[1/18/2019]</p>
<p>[Amend] (19100543D) - Amend to allow public employers to receive criminal history information older than seven years from the date of the request. <b>Summary:</b> Dissemination of criminal history record information; limitations. Limits the criminal history information that the Central Criminal Records Exchange, or the criminal justice agency in cases of offenses not required to be reported to the Exchange, may provide to a requesting employer or prospective employer to convictions occurring within seven years prior to the request, except for any information related to a felony act of violence or a barrier crime.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><a href="#">HB 1907</a> - VanValkenburg (72) Localities and school divisions; posting of register of funds expended.</p>	<p>1/4/2019 House: Referred to Committee on Counties, Cities and Towns</p>	<p>[1/18/2019]</p>
<p>[Amend] (19103212D) - Amend to allow flexibility to exclude personally identifiable information of constituents and employees; Board has historically recommended amendment. See also SB 1262 (Sturtevant). <b>Summary:</b> Requires every locality with a population greater than 25,000 and each school division with greater than 5,000 students to post quarterly on the public government website of such locality or school division a register of all funds expended, showing vendor name, date of payment, amount, and a description of the type of expense, including credit card purchases with the same information. The bill allows any locality or school division to exclude from such posting any information that is exempt from mandatory disclosure under the Virginia Freedom of Information Act, any personal identifying information related to a court-ordered payment, and any information related to undercover law-enforcement officers. The bill has a delayed effective date of July 1, 2020.</p>		
<p><a href="#">HB 1966</a> - Yancey (94) Uniform Statewide Building Code; issuance of building permits.</p>	<p>1/7/2019 House: Referred to Committee on General Laws 1/17/2019 House: Subcommittee recommends reporting with substitute (6-Y 1-N)</p>	<p>[1/18/2019]</p>
<p>[Oppose] (19101136D) <b>Summary:</b> Requires local building departments, when denying an application for the issuance of a building permit, to provide to the applicant a written explanation detailing the reasons for which the application was denied. The bill provides that the applicant may submit a revised application addressing the reasons for which the application was previously denied and that, if the applicant does so, the local building department shall limit its review of the revised application to only those portions of the application that were previously deemed inadequate and that the applicant has revised.</p>		
<p><a href="#">HB 2467</a> - Roem (13) State Route 28; Department of Transportation to study.</p>	<p>1/9/2019 House: Referred to Committee on Rules</p>	<p>[1/18/2019]</p>
<p>[Amend] (19102882D) - Amend limits of study to remove segments in Fairfax County. <b>Summary:</b> Department of Transportation to study State Route 28; report. Directs the Department of Transportation to study the feasibility of implementing improvements to State Route 28 between the City of Manassas Park and State Route 29 in Fairfax County.</p>		
<p><a href="#">HB 2468</a> - Roem (13) State Route 28; Department of Transportation to study.</p>	<p>1/9/2019 House: Referred to Committee on Rules</p>	<p>[1/18/2019]</p>

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Bills	General Assembly Actions	Date of BOS Position
<p>[Amend] (19102971D) - Amend limits of study to remove segments in Fairfax County.  <b>Summary:</b> Department of Transportation to study State Route 28; report. Directs the Department of Transportation to study the feasibility of implementing improvements to State Route 28 between U.S. Route 15 in Fauquier County and State Route 29 in Fairfax County.</p>		
<p><b>HB 2495</b> - Tran (42)            Fall cankerworm; spraying prohibited during certain months.</p>	<p>1/9/2019 House: Referred to Committee on Counties, Cities and Towns</p>	<p>[1/18/2019]</p>
<p>[Oppose] (19104098D)  <b>Summary:</b> Prohibits localities from spraying pesticides intended to suppress an infestation of the fall cankerworm during the period between March 1 and August 1.</p>		
<p><b>HB 2643</b> - Delaney (67)            Interstate 66; limits to \$15 the tolls collected on the tolled portion.</p>	<p>1/10/2019 House: Referred to Committee on Transportation</p>	<p>[1/18/2019]</p>
<p>[Oppose] (19103674D) - Including a maximum fee would impact the traffic flow on I-66 Inside the Beltway and may impact the Concessionaire contract on I-66 Outside the Beltway.  <b>Summary:</b> Tolling on Interstate 66. Limits to \$15 the tolls collected on the tolled portion of Interstate 66 east of mile marker 67. The bill expands the limitation to the tolled portion of Interstate 66 east of mile marker 43 upon completion of the Transform 66 Outside the Beltway project.</p>		
<p><b>HB 2736</b> - Hugo (40)            Local employee grievance procedure; qualifying grievances by local government employees.</p>	<p>1/16/2019 House: Referred to Committee on Counties, Cities and Towns</p>	<p>[1/18/2019]</p>
<p>[Oppose] (19104660D) - Board has historically opposed.  <b>Summary:</b> Local employee grievance procedure. Provides that qualifying grievances by local government employees shall advance to a final step as agreed upon by the aggrieved and the local government; however, if an agreement cannot be reached on whether to use a panel hearing or hearing officer, a three-person panel shall be used. The bill contains technical amendments.</p>		
<p><b>HJ 643</b> - Webert (18)            Composite index of local ability to pay; DOE to study effect of local use value assessment.</p>	<p>1/7/2019 House: Referred to Committee on Rules</p>	<p>[1/18/2019]</p>
<p>[Oppose] (19100976D) - Board has historically opposed. Rather than modifying individual components of the LCI formula, a comprehensive approach should be taken, including addressing factors relating to cost of living.  <b>Summary:</b> Study; Department of Education; effect of local use value assessment of certain real estate on the composite index of local ability to pay; report. Requests the Department of Education to (i) determine, for</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p>each of the 95 localities that have adopted ordinances to provide for the use value assessment and taxation of certain real estate, the use value of all applicable real estate devoted to (a) agricultural use, (b) horticultural use, (c) forest use, and (d) open-space use, as those terms are defined in the Code of Virginia, and (ii) recalculate the composite index of local ability to pay for each such locality after taking into consideration such use values.</p>		
<p><b>HJ 657</b> - Pogge (96) Constitutional amendment; real property tax exemption, surviving spouse of a disabled veteran.</p>	<p>1/8/2019 House: Referred to Committee on Privileges and Elections</p>	<p>[1/18/2019]</p>
<p>[Amend] (19101855D) - Amend to support as a state tax credit. For similar constitutional amendments, the Board has historically sought to amend to support as a state tax credit. <b>Summary:</b> Constitutional amendment (first resolution); real property tax exemption; surviving spouse of a disabled veteran; date of veteran's disability and death. Provides that, as of January 1, 2021, the real property tax exemption for the surviving spouse of a 100 percent disabled veteran shall apply regardless of whether the disabled veteran died prior to January 1, 2011. Under the current constitutional real property tax exemption, if a veteran received a 100 percent disability rating and died prior to January 1, 2011, his surviving spouse is not eligible for the exemption pursuant to state statutory law.</p>		
<p><b>SB 1038</b> - Peake (22) Voter registration; verification of social security numbers, provisional registration status.</p>	<p>11/15/2018 Senate: Referred to Committee on Privileges and Elections 1/15/2019 Senate: Reported from Privileges and Elections (9-Y 5-N) 1/15/2019 Senate: Re-referred to Finance</p>	<p>[1/18/2019]</p>
<p>[Oppose] (19100267D) - Board has historically opposed. <b>Summary:</b> Voter registration; verification of social security numbers; provisional registration status. Requires the general registrars to verify that the name, date of birth, and social security number provided by an applicant on the voter registration application match the information on file in the Social Security Administration database or other database approved by the State Board of Elections (State Board) before registering such applicant. If the information provided by the applicant does not match the information in such a database, the applicant (i) is provisionally registered to vote and notified as to what steps are needed to be fully registered to vote and (ii) is permitted to vote by provisional ballot, but such ballot shall not be counted until the voter presents certain information. The bill also requires the general registrars to verify annually no later than August 1 that the name, date of birth, and social security number in the registration record of each registered voter in the registrar's jurisdiction match the information on file with the Social Security Administration or other database approved by the State Board and, in accordance with current law, to initiate the cancellation of the registration of any voter whose registration record information does not match the database information. The State Board is authorized to approve the use of any government database to the extent required to enable each general registrar to carry out the provisions of this measure and to promulgate rules for the use of such database. The Department of Elections is required to provide to the general registrars access to the Social Security Administration database and any other database approved by the State Board. The Department of Elections is further required to enter into any agreement with any federal or state agency to facilitate such access.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><b><u>SB 1262</u></b> - Sturtevant, Jr. (10) Localities and school divisions; posting of register of funds expended.</p>	<p>1/6/2019 Senate: Referred to Committee on Local Government</p>	<p>[1/18/2019]</p>
<p>[Amend] (19103271D) - Amend to allow flexibility to exclude personally identifiable information of constituents and employees; Board has historically recommended amendment. See also HB 1907 (VanValkenburg). <b>Summary:</b> Requires every locality with a population greater than 25,000 and each school division with greater than 5,000 students to post quarterly on the public government website of such locality or school division a register of all funds expended, showing vendor name, date of payment, amount, and a description of the type of expense, including credit card purchases with the same information. The bill allows any locality or school division to exclude from such posting any information that is exempt from mandatory disclosure under the Virginia Freedom of Information Act, any personal identifying information related to a court-ordered payment, and any information related to undercover law-enforcement officers. The bill has a delayed effective date of July 1, 2020.</p>		
<p><b><u>SB 1270</u></b> - Stuart (28) Real property tax; exemption for disabled veterans, surviving spouse's ability to move.</p>	<p>1/7/2019 Senate: Referred to Committee on Finance 1/15/2019 Senate: Reported from Finance (16-Y 0-N) 1/18/2019 Senate: Read third time and passed Senate (40-Y 0-N)</p>	<p>[1/18/2019]</p>
<p>[Amend] (19101186D) - Amend to support as a state tax credit; Board has historically recommended amendment. See also HB 1655 (Miyares). <b>Summary:</b> Real property tax exemption for disabled veterans; surviving spouses; ability to move to a different residence. Enacts as statutory law an amendment to subdivision (a) of Section 6-A of Article X of the Constitution of Virginia that was adopted by the voters on November 6, 2018, which applies the real property tax exemption for the surviving spouse of a disabled veteran to such spouse's principal place of residence regardless of whether such spouse moves to a different residence. The provisions of the bill would apply to taxable years beginning on and after January 1, 2019. The bill makes technical corrections related to the real property tax exemptions for surviving spouses of members of the armed forces killed in action and surviving spouses of certain persons killed in the line of duty.</p>		
<p><b><u>SB 1369</u></b> - Norment, Jr. (3) Virginia Public Procurement Act; statute of limitations on actions on construction contracts, etc.</p>	<p>1/8/2019 Senate: Referred to Committee on General Laws and Technology</p>	<p>[1/18/2019]</p>

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Bills	General Assembly Actions	Date of BOS Position
<p>[Oppose] (19101482D) - See also HB 1667 (Kilgore).  <b>Summary:</b> Virginia Public Procurement Act; statute of limitations on actions on construction contracts; statute of limitations on actions on performance bonds. Provides that no action may be brought by a public body on any construction contract, including construction management and design-build contracts, unless such action is brought within five years after substantial completion of the work on the project and that no action may be brought by a public body on a warranty or guarantee in such construction contract more than one year from the breach of that warranty, but in no event more than one year after the expiration of such warranty or guarantee. The bill also limits the time frame during which a public body, other than the Department of Transportation, may bring an action against a surety on a performance bond to within one year after substantial completion of the work on the project. Current law allows a public body, other than the Department of Transportation, to bring such an action within one year after (i) completion of the contract, including the expiration of all warranties and guarantees, or (ii) discovery of the defect or breach of warranty that gave rise to the action.</p>		
<p><b>SB 1421</b> - Obenshain (26)                      Eminent domain; entry upon private property, calculation of just compensation, damages.</p>	<p>1/8/2019 Senate: Referred to Committee for Courts of Justice                      1/14/2019 Senate: Reported from Courts of Justice (13-Y 0-N)                      1/17/2019 Senate: Read third time and passed Senate (40-Y 0-N)                      1/21/2019 House: Referred to Committee for Courts of Justice</p>	<p>[1/18/2019]</p>
<p>[Oppose] (19103612D)  <b>Summary:</b> Eminent domain; entry upon private property; calculation of just compensation; damages. Makes various changes to provisions related to entry upon private property in an eminent domain proceeding, including (i) requiring that the number of persons for whom permission to inspect the premises is sought be included in a request for permission to inspect private property for the purposes of a project wherein the power of eminent domain may be exercised; (ii) requiring the notice of intent to enter the property to include all of the information contained in the request for permission to inspect the property; (iii) requiring the court to award fees for at least three expert witnesses if the petitioner damages the property during its entry; (iv) removing the requirement that the damage must be done maliciously, willfully, or recklessly for the owner to be reimbursed for his costs; and (v) removing the option that the owner may be reimbursed for his costs if the court awards the owner actual damages in an amount 30 percent or more greater than the petitioner's final written offer made no later than 30 days after the filing of an answer in circuit court or the return date in general district court. The bill also provides the method by which just compensation for the taking of property in an eminent domain proceeding is calculated. The bill provides that the body determining just compensation shall ascertain the value of the property to be taken and the damages, if any, that may accrue to the residue beyond the specific enhancement in value, if any. The bill further outlines the considerations that may be used to determine the market value of the property before the taking and the residue after the taking. Finally, the bill allows a person to recover damages resulting from reformation, alteration, revision, amendment, or invalidation of a certificate in an eminent domain proceeding. The bill provides that an owner may recover costs incurred if the taking of land in an eminent domain proceeding is abandoned, in full or in part.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<b>SB 1471</b> - Hanger, Jr. (24) Computation of composite index; land-use assessment value.	1/8/2019 Senate: Referred to Committee on Finance	[1/18/2019]
<p>[Oppose] (19102935D) - Board has historically opposed. Rather than modifying individual components of the LCI formula, a comprehensive approach should be taken, including addressing factors relating to cost of living.</p> <p><b>Summary:</b> Education; computation of composite index; land-use assessment value. Requires the General Assembly to modify the current standards of quality funding formula and the calculation of composite index of local ability to pay to incorporate within the real estate indicator of local wealth the land-use assessment value for those properties located within a land-use plan.</p>		
<b>SB 1545</b> - Sturtevant, Jr. (10) Public schools; alternative accountability process.	1/8/2019 Senate: Referred to Committee on Education and Health	[1/18/2019]
<p>[Amend] (19103322D) - Amend to ensure the bill does not impact the County's existing Alternative Accountability Program.</p> <p><b>Summary:</b> Allows a school board to adopt an alternative accountability process to provide a principal and parties involved in an incident involving assault or assault and battery without bodily injury that occurs on a school bus, on school property, or at a school-sponsored event an option to enter into a mutually agreed upon mediation process between the involved parties as an alternative to reporting such incident to law enforcement. The bill requires a principal in a school division with such a process to attempt to engage the parties involved in such an incident in the alternative accountability process prior to reporting such incident to the local law-enforcement agency. The bill prohibits a principal from reporting such an incident when the parties successfully complete the alternative accountability process.</p>		
<b>SB 1567</b> - Marsden (37) Towing fees; sets maximum towing hookup and initial towing fees.	1/9/2019 Senate: Referred to Committee on Transportation	[1/18/2019]
<p>[Oppose Unless Amended] (19101339D) - Oppose unless amended to limit fee increases.</p> <p><b>Summary:</b> Towing fees. Sets maximum towing hookup and initial towing fees at \$150 for all localities. Current law authorizes local governing bodies to set towing fee limits different from the maximums retained by the bill.</p>		
<b>SB 1578</b> - Suetterlein (19) Reckless driving; exceeding speed limit.	1/9/2019 Senate: Referred to Committee on Transportation	[1/18/2019]
<p>[Oppose] (19101770D) - Board has historically opposed.</p> <p><b>Summary:</b> Raises from 80 to 85 miles per hour the speed above which a person who drives a motor vehicle on the highways in the Commonwealth is guilty of reckless driving regardless of the applicable maximum speed limit.</p>		

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<b>Bills</b>	<b>General Assembly Actions</b>	<b>Date of BOS Position</b>
<b>SB 1701</b> - Ebbin (30) Short-term rentals; regulation, urban county executive form of government.	1/15/2019 Senate: Referred to Committee on Local Government	[1/18/2019]

[Oppose] (19104398D)  
**Summary:** Regulation of short-term rentals; urban county executive form of government. Requires any ordinance adopted by the governing body of any county that operates under the urban county executive form of government (Fairfax County) relating to regulation of short-term rentals to comply with various provisions related to the short-term rental of property, including limits on (i) the total number of nights permitted for short-term rental on the short-term rental operator's property and (ii) the number of short-term rental properties owned by any one person or entity. The bill also requires such ordinance to comply with various Code of Virginia provisions related to zoning enforcement, the Virginia Uniform Statewide Building Code, real estate licensing, common interest communities, and covered entities otherwise regulated by localities.

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# *Fairfax County Positions*

*(Support)*

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<b>Bills</b>	<b>General Assembly Actions</b>	<b>Date of BOS Position</b>
<a href="#"><b>HB 1628</b></a> - Hayes, Jr. (77) Absentee voting; persons age 65 or older.	10/23/2018 House: Referred to Committee on Privileges and Elections	[1/18/2019]
<p>[Support] (19100383D) - Board has historically supported.  <b>Summary:</b> Absentee voting; eligibility of persons age 65 or older. Entitles a person who will be age 65 or older on the day of an election to vote by absentee ballot in that election.</p>		
<a href="#"><b>HB 1641</b></a> - Herring (46) Absentee voting; no-excuse absentee.	11/26/2018 House: Referred to Committee on Privileges and Elections	[1/18/2019]
<p>[Support] (19100922D) - Board has historically supported. See also SB 1026 (Spruill), SB 1035 (Locke), and SB 1672 (Locke).  <b>Summary:</b> Permits any registered voter to vote by absentee ballot in any election in which he is qualified to vote. The bill removes the current list of statutory reasons under which a person may be entitled to vote by absentee ballot and removes references to those reasons from other sections of the Code.</p>		
<a href="#"><b>HB 1645</b></a> - Bourne (71) Virginia Fair Housing Law; unlawful discriminatory housing practices.	11/27/2018 House: Referred to Committee on Rules 1/18/2019 House: Referred from Rules by voice vote 1/18/2019 House: Referred to Committee on General Laws	[1/18/2019]
<p>[Support] (19100302D) - Board has historically supported.  <b>Summary:</b> Adds discrimination on the basis of a person's source of income to the list of unlawful discriminatory housing practices. The bill defines "source of income" as any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity.</p>		
<a href="#"><b>HB 1695</b></a> - Fariss (59) Passing a stopped school bus; civil penalty.	12/11/2018 House: Referred to Committee on Transportation 1/17/2019 House: Referred from Transportation by voice vote 1/17/2019 House: Referred to Committee for Courts of Justice	[1/18/2019]
<p>[Support] (19101584D)  <b>Summary:</b> Increases from \$250 to \$500 the civil penalty for passing a stopped school bus.</p>		
<a href="#"><b>HB 1698</b></a> - Fariss (59) Zoning Appeals, Board of; written order, certified mail.	12/11/2018 House: Referred to Committee on Counties, Cities and Towns 1/16/2019 House: Subcommittee recommends reporting (6-Y 0-N) 1/18/2019 House: Reported from Counties, Cities and Towns (20-Y 0-N)	[1/18/2019]

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Bills	General Assembly Actions	Date of BOS Position
<p>[Support] (19102389D)  <b>Summary:</b> Board of Zoning Appeals; written order; certified mail. Authorizes a locality to send a zoning administrator's appeal order using certified mail. Current law allows such an order to be sent only by registered mail.</p>		
<p><b>HB 1772</b> - Mullin (93)            Virginia Freedom of Information Advisory Council; advisory opinions, evidence in civil proceeding.</p>	<p>12/26/2018 House: Referred to Committee on General Laws            1/15/2019 House: Subcommittee recommends reporting (8-Y 0-N)            1/17/2019 House: Reported from General Laws (22-Y 0-N)            1/17/2019 House: Referred to Committee for Courts of Justice</p>	<p>[1/18/2019]</p>
<p>[Support] (19100432D)  <b>Summary:</b> Virginia Freedom of Information Advisory Council; advisory opinions; evidence in civil proceeding. Provides that any officer, employee, or member of a public body alleged to have willfully and knowingly violated the Virginia Freedom of Information Act who acted in good faith reliance upon an advisory opinion issued by the Virginia Freedom of Information Advisory Council may introduce such advisory opinion as evidence that the alleged violation was not made willfully and knowingly. The bill contains technical amendments. This bill is a recommendation of the Virginia Freedom of Information Advisory Council.</p>		
<p><b>HB 1822</b> - Bulova (37)            Virginia Water Quality Improvement Fund; grant for wastewater conveyance facility, etc.</p>	<p>1/1/2019 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources            1/16/2019 House: Subcommittee recommends reporting with amendment (9-Y 1-N)            1/16/2019 House: Subcommittee recommends referring to Committee on Appropriations            1/16/2019 House: Reported from Agriculture, Chesapeake and Natural Resources with amendment (22-Y 0-N)            1/16/2019 House: Referred to Committee on Appropriations</p>	<p>[1/18/2019]</p>
<p>[Support] (19103598D)  <b>Summary:</b> Virginia Water Quality Improvement Fund; grant for wastewater conveyance facility; estimates of future funding requests; Stormwater Local Assistance Fund. Authorizes the Director of the Department of Environmental Quality (the Department) to authorize grants from the Virginia Water Quality Improvement Fund (the Fund) for the installation of certain wastewater conveyance infrastructure. Any such infrastructure shall divert wastewater from one publicly owned treatment works that is eligible for grant funding to another such eligible treatment works and shall result in no more expense to the Fund than would otherwise be incurred to install eligible nutrient removal technology or other treatment technology at the treatment works from which the wastewater will be diverted.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<b>HB 1823</b> - Convirs-Fowler (21) Virginia Fair Housing Law; unlawful discriminatory housing practices.	1/1/2019 House: Referred to Committee on Rules	[1/18/2019]
<p>[Support] (19102102D) - Board has historically supported.  <b>Summary:</b> Virginia Fair Housing Law; unlawful discriminatory housing practices; sexual orientation and gender identity. Adds discrimination on the basis of an individual's sexual orientation or gender identity as an unlawful housing practice. The bill defines "sexual orientation" and "gender identity."</p>		
<b>HB 1843</b> - Bloxom, Jr. (100) Driver privilege cards; penalty.	1/2/2019 House: Referred to Committee on Transportation	[1/18/2019]
<p>[Support] (19101370D)  <b>Summary:</b> Driver privilege cards; penalty. Authorizes the issuance of new driver privilege cards by the Department of Motor Vehicles to an applicant who (i) has reported income from Virginia sources on an individual tax return filed with the Commonwealth in the preceding 12 months; (ii) is not in violation of the insurance requirements for the registration of an uninsured motor vehicle; and (iii) provides an unexpired passport as proof of identity. The bill provides that driver privilege cards shall confer the same privileges and shall be subject to the same provisions as driver's licenses and permits; however, driver privilege cards shall not (a) confer voting privileges, (b) permit an individual to waive any part of the driver examination, or (c) have their issuance be contingent upon the applicant's ability to produce proof of legal presence in the United States. The bill provides for the term "driver's license" to consistently refer to all driver's licenses, permits, driver privilege cards, and special identification cards issued by the Commonwealth or the comparable law of another jurisdiction. The bill allows the issuance of a limited-duration driver's license and special identification card to an applicant presenting valid documentary evidence that a federal court or federal agency having jurisdiction over immigration has authorized the applicant to be in the United States for a period of at least 30 days from the date of application. The bill authorizes the Tax Commissioner to provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit reported income from Virginia sources on an individual tax return filed with the Commonwealth in the preceding 12 months. The bill has a delayed effective date of January 1, 2020.</p>		
<b>HB 1870</b> - Sickles (43) Certificate of public need; nursing homes and hospitals, disaster exemption.	1/3/2019 House: Referred to Committee on Health, Welfare and Institutions	[1/18/2019]
<p>[Support] (19101516D) - See also HB 2451 (Bell, Richard P.) and SB 1277 (Barker).  <b>Summary:</b> Certificate of public need; nursing homes and hospitals; disaster exemption. Provides for a 30-day exemption from the requirement to obtain a certificate of public need for an increase in the total number of beds in nursing homes or hospitals if the State Health Commissioner has determined that a natural or man-made disaster has caused the evacuation of nursing homes or hospitals and that a public health emergency exists due to a shortage of nursing home or hospital beds.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><b>HB 1871</b> - Jones (89) Virginia Initiative for Employment Not Welfare (VIEW); transitional child care.</p>	<p>1/3/2019 House: Referred to Committee on Health, Welfare and Institutions 1/17/2019 House: Subcommittee recommends reporting (10-Y 0-N) 1/17/2019 House: Subcommittee recommends referring to Committee on Appropriations</p>	<p>[1/18/2019]</p>
<p>[Support] (19101902D) <b>Summary:</b> Allows VIEW participants whose Temporary Assistance for Needy Families financial assistance is terminated to receive child care assistance for up to 12 months after termination if the individual is enrolled in an accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia and is taking courses as part of a curriculum that leads to a postsecondary credential, such as a degree or an industry-recognized credential, certification, or license. Under current law, such child care assistance is only available if it enables the individual to work.</p>		
<p><b>HB 1879</b> - Convirs-Fowler (21) Stormwater management facilities; private residential lots, disclosure.</p>	<p>1/3/2019 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources 1/16/2019 House: Referred from Agriculture, Chesapeake and Natural Resources by voice vote 1/16/2019 House: Referred to Committee on General Laws</p>	<p>[1/18/2019]</p>
<p>[Support] (19101519D) <b>Summary:</b> Stormwater management facilities; private residential lots; disclosure. Directs the State Water Control Board to adopt regulations requiring any local stormwater management authority that requires a residential landowner to maintain a stormwater management facility on his property to record with the deed for the property a statement of the specifications and requirements and a schedule of audits of the facility. The bill requires the seller of any property with such a facility to disclose the specifications, requirements, and schedule of audits to a purchaser of the property.</p>		
<p><b>HB 1891</b> - James (80) Food stamps; eligibility, drug-related felonies.</p>	<p>1/4/2019 House: Referred to Committee on Health, Welfare and Institutions</p>	<p>[1/18/2019]</p>
<p>[Support] (19101723D) - Board has historically supported. See also SB 1129 (Locke). <b>Summary:</b> Eligibility for food stamps; drug-related felonies. Provides that a person who is otherwise eligible to receive food stamp benefits shall not be denied such assistance solely because he has been convicted of a drug-related felony. Under current law, such individuals may not be denied food stamp benefits based on a felony conviction of possession of a controlled substance, provided that such person is complying with, or has already complied with, all obligations imposed by the criminal court, is actively engaged in or has completed a substance abuse treatment program, participates in periodic drug screenings, and fulfills any other obligations as determined by the Department of Social Services.</p>		

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<b>Bills</b>	<b>General Assembly Actions</b>	<b>Date of BOS Position</b>
<p><b>HB 1914</b> - Herring (46) Public health practitioners; requirements for issuing prescriptions, exceptions.</p>	<p>1/4/2019 House: Referred to Committee on Health, Welfare and Institutions 1/17/2019 House: Subcommittee recommends reporting (10-Y 0-N)</p>	<p>[1/18/2019]</p>
<p>[Support] (19101794D) <b>Summary:</b> Requirements for issuing prescriptions; exceptions for public health practitioners. Authorizes practitioners contracted by the Department of Health and practitioners employed or contracted by a local health department to prescribe antibiotic therapy to the sexual partner of a patient diagnosed with a sexually transmitted disease without the physical examination normally required. Under current law, only employees of the Department of Health are so authorized. Additionally, the bill authorizes a practitioner, who is an employee of or contracted by the Department of Health or a local health department, to prescribe Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient without a bona-fide practitioner-patient relationship with the diagnosed patient when emergency treatment is necessary to prevent imminent risk of death, life-threatening illness, or serious disability.</p>		
<p><b>HB 1959</b> - Toscano (57) Absentee voting; no-excuse in-person available 21 days prior to election.</p>	<p>1/6/2019 House: Referred to Committee on Privileges and Elections</p>	<p>[1/18/2019]</p>
<p>[Support with Amendment] (19102642D) - Support with amendments to facilitate implementation. Board has historically supported with amendments. <b>Summary:</b> Allows for any registered voter to vote by absentee ballot in person beginning on the twenty-first day prior to any election in which he is qualified to vote without providing a reason or making prior application for an absentee ballot. The bill makes absentee voting in person available beginning on the forty-fifth day prior to the election and ending at 5:00 p.m. on the Saturday immediately preceding the election. The bill retains the current provisions for voting an absentee ballot by mail or in person prior to the twenty-first day before the election, including the application requirement and the list of statutory reasons for absentee voting.</p>		
<p><b>HB 1977</b> - Sullivan, Jr. (48) Voter identification; accepted forms of identification.</p>	<p>1/7/2019 House: Referred to Committee on Privileges and Elections</p>	<p>[1/18/2019]</p>
<p>[Support] (19100529D) - Board has historically supported. <b>Summary:</b> Adds to the list of acceptable forms of voter identification a valid student photo identification card issued by any institution of higher education located in any other state or territory of the United States. Current law allows students from any institution of higher education located in the Commonwealth to use their student photo identification cards for purposes of voting.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><b>HB 1994</b> - Price (95) Child care providers; fingerprint background checks.</p>	<p>1/7/2019 House: Referred to Committee on Health, Welfare and Institutions 1/17/2019 House: Reported from Health, Welfare and Institutions with amendment (22-Y 0-N) 1/17/2019 House: Referred to Committee on Appropriations</p>	<p>[1/18/2019]</p>
<p>[Support] (19102000D) - See also SB 1407 (Mason). <b>Summary:</b> Allows local law-enforcement agencies to process and submit requests for national fingerprint background checks required for (i) applicants for licensure as a child day center, family day home, or family day system, registration as a family day home, or approval as a family day home by a family day system; (ii) agents of an applicant for licensure as a child day center, family day home, or family day system, registration as a family day home, or approval as a family day home by a family day system at the time of application who is or will be involved in the day-to-day operations of the child day center, family day home, or family day system, or who is or will be alone with, in control of, or supervising one or more of the children; (iii) adults living in such child day center or family day home; and (iv) employees and volunteers of any child day center, family day home, or family day system licensed in accordance with the provisions of this chapter, child day center exempt from licensure, registered family day home, family day home approved by a family day system, or child day center, family day home, or child day program that enters into a contract with the Department or a local department to provide child care services funded by the Child Care and Development Block Grant.</p>		
<p><b>HB 2017</b> - Peace (97) Auxiliary grants; supportive housing.</p>	<p>1/7/2019 House: Referred to Committee on Health, Welfare and Institutions 1/15/2019 House: Subcommittee recommends reporting (10-Y 0-N) 1/17/2019 House: Reported from Health, Welfare and Institutions (22-Y 0-N)</p>	<p>[1/18/2019]</p>
<p>[Support] (19102319D) <b>Summary:</b> Allows individuals receiving auxiliary grants to select supportive housing without any requirement that such individuals wait until their first or any subsequent annual reassessment to make such a selection. The bill directs the Commissioner for Aging and Rehabilitative Services to (i) promulgate regulations to implement the provisions of the bill within 180 days of its enactment and (ii) develop guidance documents for implementation of the provisions of the bill no later than February 1, 2020.</p>		
<p><b>HB 2019</b> - Murphy (34) Residential real property; required disclosures of stormwater management facilities.</p>	<p>1/7/2019 House: Referred to Committee on General Laws</p>	<p>[1/18/2019]</p>
<p>[Support] (19101112D) <b>Summary:</b> Residential real property; required disclosures; stormwater management facilities. Requires (i) residential real property owners to disclose the presence of any stormwater management facilities located on the owner's property and any maintenance agreement for such facilities and (ii) residential real property</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p>owners subject to the declaration of a property owners' association to disclose the presence of any stormwater management facilities that the association has the obligation to repair, replace, or restore and any maintenance agreements for such facilities. The bill requires property owners' associations to disclose in the required association disclosure packet the presence of any stormwater management facilities that the association has the obligation to repair, replace, or restore and any maintenance agreement for such facilities.</p>		
<p><b>HB 2025</b> - Tran (42) Driver privilege cards; penalty.</p>	<p>1/7/2019 House: Referred to Committee on Transportation</p>	<p>[1/18/2019]</p>
<p>[Support] (19103137D) <b>Summary:</b> Authorizes the issuance of new driver privilege cards by the Department of Motor Vehicles to an applicant who (i) has reported income from Virginia sources on an individual tax return filed with the Commonwealth in the preceding 12 months and (ii) is not in violation of the insurance requirements for the registration of an uninsured motor vehicle. The bill provides that driver privilege cards shall confer the same privileges and shall be subject to the same provisions as driver's licenses and permits; however, driver privilege cards shall not (a) confer voting privileges, (b) permit an individual to waive any part of the driver examination, or (c) have their issuance be contingent upon the applicant's ability to produce proof of legal presence in the United States. The bill provides for the term "driver's license" to consistently refer to all driver's licenses, permits, driver privilege cards, and special identification cards issued by the Commonwealth or the comparable law of another jurisdiction. The bill allows the issuance of a limited-duration driver's license and special identification card to an applicant presenting valid documentary evidence that a federal court or federal agency having jurisdiction over immigration has authorized the applicant to be in the United States for a period of at least 30 days from the date of application. The bill authorizes the Tax Commissioner to provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit reported income from Virginia sources on an individual tax return filed with the Commonwealth in the preceding 12 months. The bill has a delayed effective date of January 1, 2020.</p>		
<p><b>HB 2033</b> - Murphy (34) Turns into or out of certain residential areas; resident permits.</p>	<p>1/7/2019 House: Referred to Committee on Counties, Cities and Towns</p>	<p>[1/18/2019]</p>
<p>[Support] (19101114D) - Board has historically supported. <b>Summary:</b> Allows counties that operate under the urban county executive form of government (Fairfax County) by ordinance to develop a program to issue permits or stickers to residents of a designated area that will allow such residents to make turns into or out of the designated area during certain times of day where such turns would otherwise be restricted.</p>		
<p><b>HB 2067</b> - Bell (87) Public employment; prohibits discrimination on basis of sexual orientation or gender identity.</p>	<p>1/7/2019 House: Referred to Committee on Rules</p>	<p>[1/18/2019]</p>

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Bills	General Assembly Actions	Date of BOS Position
<p>[Support] (19102588D) - Board has historically supported.  <b>Summary:</b> Nondiscrimination in public employment. Prohibits discrimination in public employment on the basis of sexual orientation or gender identity, as defined in the bill. The bill also codifies for state and local government employment the current prohibitions on discrimination in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, or status as a veteran.</p>		
<p><b>HB 2070</b> - Bell (87)            Energy saving products;            tax deduction.</p>	<p>1/7/2019 House: Referred to Committee on Finance</p>	<p>[1/18/2019]</p>
<p>[Support] (19102583D)  <b>Summary:</b> Tax deduction for energy saving products. Establishes a tax deduction for the amount a taxpayer pays for energy saving products, not to exceed \$10,000. Energy saving products are defined as being either (i) solar panels or (ii) products that meet the requirements of the Energy Star program established by the U.S. Environmental Protection Agency and the U.S. Department of Energy. To qualify for the deduction, the taxpayer must spend at least \$1,000 on energy saving products. The bill also provides that a person may not claim both this deduction and the existing deduction for certain energy efficient products during the same taxable year.</p>		
<p><b>HB 2155</b> - Plum (36)            Vehicles stopped at            crosswalks; prohibition            on passing.</p>	<p>1/8/2019 House: Referred to Committee on Transportation</p>	<p>[1/18/2019]</p>
<p>[Support] (19101728D)  <b>Summary:</b> Prohibits the driver of a vehicle from overtaking and passing a vehicle stopped at a marked crosswalk to permit a pedestrian to cross the highway.</p>		
<p><b>HB 2189</b> - Kilgore (1)            Local government; taxing            authority.</p>	<p>1/8/2019 House: Referred to Committee on Counties, Cities            and Towns</p>	<p>[1/18/2019]</p>
<p>[Support] (19101905D) - Board has historically supported. See also SB 1127 (Favola).  <b>Summary:</b> Local government taxing authority. Equalizes municipal taxing authority and county taxing authority by granting a county the same authority available to a municipality through the uniform charter powers. The bill has a delayed effective date of July 1, 2020, prior to which the Joint Subcommittee on Local Government Fiscal Stress shall review the bill and develop recommended legislation to make any other amendments necessary to the Code of Virginia to effectuate its provisions.</p>		
<p><b>HB 2273</b> - Webert (18)            Passing stopped school            bus; increases civil            penalty.</p>	<p>1/8/2019 House: Referred to Committee for Courts of            Justice</p>	<p>[1/18/2019]</p>
<p>[Support] (19100523D)  <b>Summary:</b> Passing stopped school bus; civil penalty. Increases the civil penalty for passing a stopped school bus from \$250 to \$300. The bill creates an increased penalty of \$600 for any driver who passes a stopped school bus while holding or manually manipulating a handheld personal communications device.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><b>HB 2329</b> - Keam (35) Distributed renewable energy; promotes establishment of solar and other renewable energy.</p>	<p>1/8/2019 House: Referred to Committee on Commerce and Labor</p>	<p>[1/18/2019]</p>
<p>[Support] (19103955D)  <b>Summary:</b> Distributed renewable energy. Promotes the establishment of distributed renewable solar and other renewable energy. The measure (i) removes the one percent cap on the total amount of renewable energy that can be net metered in a utility's service territory, (ii) authorizes third-party power purchase agreements for all customer classes throughout the Commonwealth, (iii) allows local governments and certain other public bodies to install solar or wind facilities of up to five megawatts on government-owned property and use the electricity for government-owned buildings, (iv) allows all net metering customers to attribute output from a single solar array to multiple meters, (v) allows the owner of a multi-family residential building or the common areas of a condominium to install a renewable energy generation facility and sell the electricity to tenants or condominium unit owners, (vi) removes the restriction on customers installing a net-metered generation facility larger than that required to meet their previous 12 months' demand, (vii) raises the cap for net-metered nonresidential generation facilities from one megawatt to two megawatts, and (viii) removes the ability of utilities to assess standby charges. The measure also amends the Commonwealth Energy Policy to include provisions supporting distributed generation of renewable energy.</p>		
<p><b>HB 2342</b> - Thomas, Jr. (28) Conditional rezoning proffers; extensive changes to zoning provisions.</p>	<p>1/8/2019 House: Referred to Committee on Counties, Cities and Towns                      1/16/2019 House: Subcommittee recommends reporting with substitute (6-Y 1-N)                      1/18/2019 House: Reported from Counties, Cities and Towns with substitute (18-Y 2-N)</p>	<p>[1/18/2019]</p>
<p>[Support] (19104992D-H1) - See also SB 1373 (Favola).  <b>Summary:</b> Conditional rezoning proffers. Makes extensive changes to conditional zoning provisions first enacted in 2016. Specific amendments include provisions stating that no locality shall "require" any unreasonable proffer. Under current law, no locality may "request or accept" any unreasonable proffer. Other changes include (i) allowing an applicant to submit any offsite proffer that the applicant deems reasonable and appropriate, as conclusively evidenced by the signed proffers, and (ii) provisions stating that nothing in the bill shall be deemed or interpreted to prohibit communications between an applicant or owner and the locality or shall be deemed or interpreted to prohibit presentation, analysis, or discussion of the potential impacts of new residential development or other new residential use on the locality's public facilities. Subsequent enactment clauses state that (a) the bill shall be effective as to any application for a rezoning filed on or after July 1, 2019, or for a proffer condition amendment amending a rezoning which was filed on or after July 1, 2019, or to any then pending rezoning application in which the applicant elects to proceed hereunder, by amendment of that pending application, and (b) an applicant with a pending application for a rezoning or proffer condition amendment that was filed prior to July 1, 2016, may continue to proceed under the law as it existed prior to that date, and an applicant with a pending rezoning application filed after July 1, 2016, but before July 1, 2019, or proffer condition amendment application amending a rezoning for which the application was filed after July 1, 2016, but before July 1, 2019, may continue to proceed under the law as it existed during that period.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<a href="#">HB 2344</a> - Bell (58) Motor Vehicles, Department of; records released to certain private vendors.	1/8/2019 House: Referred to Committee for Courts of Justice	[1/18/2019]
[Support] (19102619D) <b>Summary:</b> Department of Motor Vehicle records; certain private vendors; penalty. Requires the Department of Motor Vehicles to release certain vehicle owner data, upon request, to a private vendor operating a video-monitoring system on or in a school bus. The bill limits how such data can be used and stored and provides that it is a Class 1 misdemeanor to violate such limitations.		
<a href="#">HB 2359</a> - Jones (76) Capital outlay plan; updates six-year plan for projects.	1/8/2019 House: Referred to Committee on Appropriations	[1/18/2019]
[Support] (19103644D) - The County supports funding for a Northern Virginia regional science center which is included in the capital outlay plan. <b>Summary:</b> Capital outlay plan. Updates the six-year capital outlay plan for projects to be funded entirely or partially from general fund-supported resources.		
<a href="#">HB 2421</a> - Levine (45) Discrimination; sexual orientation and gender identity.	1/8/2019 House: Referred to Committee on Rules	[1/18/2019]
[Support] (19100256D) - Board has historically supported. <b>Summary:</b> 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 codifies existing prohibited discrimination in public employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, or status as a veteran and adds discrimination based on sexual orientation or gender identity to the list of unlawful discriminatory housing practices. The bill contains technical amendments.		
<a href="#">HB 2451</a> - Bell (20) Certificate of public need; nursing homes and hospitals, disaster exemption.	1/9/2019 House: Referred to Committee on Health, Welfare and Institutions	[1/18/2019]
[Support] (19101416D) - See also HB 1870 (Sickles) and SB 1277 (Barker). <b>Summary:</b> Certificate of public need; nursing homes and hospitals; disaster exemption. Provides for a 30-day exemption from the requirement to obtain a certificate of public need for an increase in the total number of beds in nursing homes or hospitals if the State Health Commissioner has determined that a natural or man-made disaster has caused the evacuation of nursing homes or hospitals and that a public health emergency exists due to a shortage of nursing home or hospital beds.		

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Bills	General Assembly Actions	Date of BOS Position
<a href="#">HB 2504</a> - Murphy (34) Protective orders; possession of firearms, penalties.	1/9/2019 House: Referred to Committee for Courts of Justice	[1/18/2019]
<p>[Support] (19103833D)</p> <p><b>Summary:</b> Protective orders; possession of firearms; penalties. Provides that it is a Class 6 felony for a person who is subject to a permanent protective order (i.e., a protective order with a maximum duration of two years) for subjecting another person to an act of violence, force, or threat to possess a firearm while the order is in effect. This penalty is equivalent to the existing penalty for possession of a firearm by a person subject to a permanent protective order for family abuse. The bill also provides that such person may continue to possess and transport a firearm for 24 hours after being served with the order for the purposes of selling or transferring the firearm to another person. The bill requires that any person who is prohibited from possessing a firearm because he is subject to a permanent protective order certify in writing to the clerk of the court that issued the order within 48 hours after being served with the order that any firearm in his possession has been sold or transferred. The bill provides that failure to file such certification is a Class 1 misdemeanor.</p>		
<a href="#">HB 2510</a> - Hugo (40) Judges; maximum number in nineteenth judicial district.	1/9/2019 House: Referred to Committee for Courts of Justice	[1/18/2019]
<p>[Support] (19101667D) - See also SB 1121 (Petersen).</p> <p><b>Summary:</b> 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. This bill is a recommendation of the Committee on District Courts.</p>		
<a href="#">HB 2553</a> - Thomas, Jr. (28) Mass transit providers; loss of certain operating funds.	1/9/2019 House: Referred to Committee on Rules 1/18/2019 House: Referred from Rules by voice vote 1/18/2019 House: Referred to Committee on Appropriations	[1/18/2019]
<p>[Support] (19104021D) - See also SB 1680 (Mason).</p> <p><b>Summary:</b> Provides that any mass transit provider that incurs a loss in operating funds as a direct result of the performance-based allocation process set forth in Chapter 854 of the Acts of Assembly of 2018 shall be eligible for supplemental funds commensurate with operating funds in 2019. The total amount of supplemental funds available shall not exceed \$5 million.</p>		
<a href="#">HJ 577</a> - Rasoul (11) United States Constitution; ratifies Equal Rights Amendment.	7/20/2018 House: Referred to Committee on Privileges and Elections	[1/18/2019]
<p>[Support] (19100132D) - Board has historically supported. See also HJ 583 (Ward).</p> <p><b>Summary:</b> Constitution of the United States; Equal Rights Amendment. Ratifies the Equal Rights Amendment to the Constitution of the United States that was proposed by Congress in 1972. The joint resolution advocates the position that the 1972 Equal Rights Amendment remains viable and may be ratified notwithstanding the expiration of the 10-year ratification period set out in the resolving clause, as amended, in the proposal adopted by Congress.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<b>HJ 579</b> - Foy (2) United States Constitution; ratifies Equal Rights Amendment.	8/13/2018 House: Referred to Committee on Privileges and Elections	[1/18/2019]
[Support] (19100231D) - Board has historically supported. <b>Summary:</b> Constitution of the United States; Equal Rights Amendment. Ratifies the Equal Rights Amendment to the Constitution of the United States that was proposed by Congress in 1972. The joint resolution advocates the position that the 1972 Equal Rights Amendment remains viable and may be ratified notwithstanding the expiration of the 10-year ratification period set out in the resolving clause, as amended, in the proposal adopted by Congress.		
<b>HJ 583</b> - Ward (92) United States Constitution; ratifies Equal Rights Amendment.	10/8/2018 House: Referred to Committee on Privileges and Elections	[1/18/2019]
[Support] (19100546D) - Board has historically supported. See also HJ 577 (Rasoul). <b>Summary:</b> Constitution of the United States; Equal Rights Amendment. Ratifies the Equal Rights Amendment to the Constitution of the United States that was proposed by Congress in 1972. The joint resolution advocates the position that the 1972 Equal Rights Amendment remains viable and may be ratified notwithstanding the expiration of the 10-year ratification period set out in the resolving clause, as amended, in the proposal adopted by Congress.		
<b>SB 998</b> - Ebbin (30) Public employment; prohibits discrimination on basis of sexual orientation or gender identity.	7/16/2018 Senate: Referred to Committee on General Laws and Technology 1/14/2019 Senate: Reported from General Laws and Technology (11-Y 3-N) 1/18/2019 Senate: Read third time and passed Senate (28-Y 12-N)	[1/18/2019]
[Support] (19100117D) - Board has historically supported. <b>Summary:</b> Nondiscrimination in public employment. Prohibits discrimination in public employment on the basis of sexual orientation or gender identity, as defined in the bill. The bill also codifies for state and local government employment the current prohibitions on discrimination in employment on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, or status as a veteran.		
<b>SB 1026</b> - Spruill, Sr. (5) Absentee voting; no- excuse absentee.	10/17/2018 Senate: Referred to Committee on Privileges and Elections	[1/18/2019]
[Support] (19100137D) - Board has historically supported. See also HB 1641 (Herring), SB 1035 (Locke), and SB 1672 (Locke). <b>Summary:</b> Permits any registered voter to vote by absentee ballot in any election in which he is qualified to vote. The bill removes the current list of statutory reasons under which a person may be entitled to vote by absentee ballot and removes references to those reasons from other sections of the Code.		

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Bills	General Assembly Actions	Date of BOS Position
<p><b>SB 1035</b> - Locke (2) Absentee voting; no-excuse absentee.</p>	<p>10/30/2018 Senate: Referred to Committee on Privileges and Elections</p>	<p>[1/18/2019]</p>
<p>[Support] (19100414D) - Board has historically supported. See also HB 1641 (Herring), SB 1026 (Spruill), and SB 1672 (Locke).  <b>Summary:</b> Permits any registered voter to vote by absentee ballot in any election in which he is qualified to vote. The bill removes the current list of statutory reasons under which a person may be entitled to vote by absentee ballot and removes references to those reasons from other sections of the Code.</p>		
<p><b>SB 1058</b> - Favola (31) Companion animals; care, local ordinances.</p>	<p>12/6/2018 Senate: Referred to Committee on Agriculture, Conservation and Natural Resources</p>	<p>[1/18/2019]</p>
<p>[Support] (19100755D)  <b>Summary:</b> Companion animals; care; local ordinances. Authorizes any locality to adopt an ordinance that parallels and makes more stringent the state law regarding the care of companion animals.</p>		
<p><b>SB 1073</b> - Marsden (37) Motor vehicles; removal from roadway when involved in an accident on HOT lane on I-66 .</p>	<p>12/13/2018 Senate: Referred to Committee on Transportation                      1/16/2019 Senate: Reported from Transportation (9-Y 0-N 1-A)</p>	<p>[1/18/2019]</p>
<p>[Support] (19101626D)  <b>Summary:</b> Removing motor vehicles from roadway. Requires the driver of a motor vehicle involved in an accident on a high occupancy toll (HOT) lane that is under construction on Interstate 66 to move such motor vehicle to the nearest pull-off area if the driver can safely do so, the vehicle is movable, and there are no injuries or deaths resulting from the accident. The bill provides that such requirement will expire upon the certification by the Secretary of Transportation that the HOT lane construction on I-66 is complete.</p>		
<p><b>SB 1075</b> - Howell (32) Absentee voting; no-excuse in-person available 21 days prior to election.</p>	<p>12/13/2018 Senate: Referred to Committee on Privileges and Elections</p>	<p>[1/18/2019]</p>
<p>[Support with Amendment] (19100722D) - Support with amendments to facilitate implementation. Board has historically supported with amendments.  <b>Summary:</b> Allows for any registered voter to vote by absentee ballot in person beginning on the twenty-first day prior to any election in which he is qualified to vote without providing a reason or making prior application for an absentee ballot. The bill makes absentee voting in person available beginning on the forty-fifth day prior to the election and ending at 5:00 p.m. on the Saturday immediately preceding the election. The bill retains the current provisions for voting an absentee ballot by mail or in person prior to the twenty-first day before the election, including the application requirement and the list of statutory reasons for absentee voting.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<b>SB 1078</b> - Howell (32) Protective orders; possession of firearms, penalty.	12/13/2018 Senate: Referred to Committee for Courts of Justice	[1/18/2019]
<p>[Support] (19100829D)  <b>Summary:</b> Protective orders; possession of firearms; penalty. Provides that it is a Class 6 felony for a person who is subject to a permanent protective order (i.e., a protective order with a maximum duration of two years) for subjecting another person to an act of violence, force, or threat to possess a firearm while the order is in effect, which is equivalent to the existing penalty for possession of a firearm by a person subject to a permanent protective order for family abuse. The bill also provides that such person may continue to possess and transport a firearm for 24 hours after being served with the order for the purposes of selling or transferring the firearm to another person.</p>		
<b>SB 1121</b> - Petersen (34) Judges; maximum number in nineteenth judicial district.	12/26/2018 Senate: Referred to Committee for Courts of Justice (SCT) 1/14/2019 Senate: Reported from SCT (13-Y 0-N) 1/17/2019 Senate: Read third time and passed Senate (40-Y 0-N) 1/21/2019 House: Referred to Committee for Courts of Justice	[1/18/2019]
<p>[Support] (19102862D) - See also HB 2510 (Hugo).  <b>Summary:</b> 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. This bill is a recommendation of the Committee on District Courts.</p>		
<b>SB 1127</b> - Favola (31) Local government taxing authority; equalizes municipal and county taxing authorities.	12/28/2018 Senate: Referred to Committee on Local Government 1/15/2019 Senate: Re-referred to Finance	[1/18/2019]
<p>[Support] (19103307D) - Board has historically supported. See also HB 2189 (Kilgore).  <b>Summary:</b> Local government taxing authority. Equalizes municipal taxing authority and county taxing authority by granting a county the same authority available to a municipality through the uniform charter powers. The bill has a delayed effective date of July 1, 2020, prior to which the Division of Legislative Services is directed to convene a working group to develop recommendations as to what additional legislative changes are needed to effectuate the provisions of the bill.</p>		
<b>SB 1129</b> - Locke (2) Food stamps; eligibility, drug-related felonies.	12/29/2019 Senate: Referred to Committee on Rehabilitation and Social Services	[1/18/2019]
<p>[Support] (19102418D) - Board has historically supported. See also HB 1891 (James).  <b>Summary:</b> Eligibility for food stamps; drug-related felonies. Provides that a person who is otherwise eligible to receive food stamp benefits shall not be denied such assistance solely because he has been</p>		

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<p>convicted of a drug-related felony. Under current law, such individuals may not be denied food stamp benefits based on a felony conviction of possession of a controlled substance, provided that such person is complying with, or has already complied with, all obligations imposed by the criminal court, is actively engaged in or has completed a substance abuse treatment program, participates in periodic drug screenings, and fulfills any other obligations as determined by the Department of Social Services.</p>		
<p><b>SB 1135</b> - Favola (31) Community Living Waiver wait list; DBHDS to amend criteria for determining priority status, etc.</p>	<p>12/30/2018 Senate: Referred to Committee on Rehabilitation and Social Services</p>	<p>[1/18/2019]</p>
<p>[Support] (19102930D) <b>Summary:</b> DBHDS; Community Living Waiver wait list; Priority One status; individuals leaving foster care. Directs the Department of Behavioral Health and Developmental Services to amend the criteria for determining the priority status of individuals on the waiting list for services under the Community Living Waiver to include individuals with developmental disabilities who will exit foster care and require waiver services within one year in the Priority One status.</p>		
<p><b>SB 1145</b> - Favola (31) Virginia Initiative for Employment Not Welfare (VIEW); transitional child care.</p>	<p>12/31/2018 Senate: Referred to Committee on Rehabilitation and Social Services</p>	<p>[1/18/2019]</p>
<p>[Support] (19101901D) <b>Summary:</b> Allows VIEW participants whose Temporary Assistance for Needy Families financial assistance is terminated to receive child care assistance for up to 12 months after termination if the individual is enrolled in an accredited public institution of higher education or other postsecondary school licensed or certified by the Board of Education or the State Council of Higher Education for Virginia and is taking courses as part of a curriculum that leads to a postsecondary credential, such as a degree or an industry-recognized credential, certification, or license. Under current law, such child care assistance is only available if it enables the individual to work.</p>		
<p><b>SB 1198</b> - Dance (16) Absentee voting; no excuse required when voting in person.</p>	<p>1/3/2019 Senate: Referred to Committee on Privileges and Elections</p>	<p>[1/18/2019]</p>
<p>[Support] (19101559D) - Board has historically supported. <b>Summary:</b> Provides that any registered voter may vote by absentee ballot in person in any election in which he is qualified to vote without providing a reason for being unable to vote in person on election day. The bill retains the statutory list of reasons allowing a voter to cast an absentee ballot by mail.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<b>SB 1224</b> - Chafin (38) Local multidisciplinary elder abuse response teams; establishment of teams.	1/4/2019 Senate: Referred to Committee on Rehabilitation and Social Services	[1/18/2019]
<p>[Support] (19103368D)  <b>Summary:</b> Local multidisciplinary elder abuse response teams. Allows the attorney for the Commonwealth in each political subdivision to coordinate the establishment of a multidisciplinary response to elder abuse, neglect, and financial exploitation of incapacitated adults to (i) conduct regular reviews of new and ongoing reports of elder abuse, neglect, and financial exploitation of incapacitated adults and, at the request of any member of the team, conduct reviews of any other reports of elder abuse, neglect, or financial exploitation in the jurisdiction involving an incapacitated or older adult and (ii) establish and review guidelines for the community's response to elder abuse, neglect, and financial exploitation of incapacitated adults.</p>		
<b>SB 1277</b> - Barker (39) Certificate of public need; nursing homes and hospitals, disaster exemption.	1/7/2019 Senate: Referred to Committee on Education and Health	[1/18/2019]
<p>[Support] (19101545D) - See also HB 1870 (Sickles) and HB 2451 (Bell, Richard P.).  <b>Summary:</b> Certificate of public need; nursing homes and hospitals; disaster exemption. Provides for a 30-day exemption from the requirement to obtain a certificate of public need for an increase in the total number of beds in nursing homes or hospitals if the State Health Commissioner has determined that a natural or man-made disaster has caused the evacuation of nursing homes or hospitals and that a public health emergency exists due to a shortage of nursing home or hospital beds.</p>		
<b>SB 1286</b> - Barker (39) Persons with disabilities; auxiliary grants, supportive housing.	1/7/2019 Senate: Referred to Committee on Rehabilitation and Social Services	[1/18/2019]
<p>[Support] (19102021D)  <b>Summary:</b> Persons with disabilities; auxiliary grants; supportive housing. Clarifies language surrounding receipt of auxiliary grants by individuals living in supportive housing and increases the maximum number of auxiliary grant recipients in supportive housing from 60 to 120.</p>		
<b>SB 1323</b> - Hanger, Jr. (24) Capital outlay plan; updates six-year plan for projects.	1/7/2019 Senate: Referred to Committee on Finance (SFIN) 1/15/2019 Senate: Reported from SFIN with amendments (15-Y 1-N) 1/18/2019 Senate: Read third time and passed Senate (40-Y 0-N)	[1/18/2019]
<p>[Support] (19103643D-E) - The County supports funding for a Northern Virginia regional science center which is included in the capital outlay plan.  <b>Summary:</b> Capital outlay plan. Updates the six-year capital outlay plan for projects to be funded entirely or partially from general fund-supported resources.</p>		

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<b>Bills</b>	<b>General Assembly Actions</b>	<b>Date of BOS Position</b>
<p><b>SB 1373</b> - Favola (31) Conditional rezoning proffers; extensive changes to conditional zoning provisions.</p>	<p>1/8/2019 Senate: Referred to Committee on Local Government 1/15/2019 Senate: Incorporates SB 1524 (Black) 1/15/2019 Senate: Reported from Local Government with substitute (11-Y 2-N)</p>	<p>[1/18/2019]</p>
<p>[Support] (19104977D-S1) - See also HB 2342 (Thomas). <b>Summary:</b> Conditional rezoning proffers. Makes extensive changes to conditional zoning provisions first enacted in 2016. Specific amendments include the addition of provisions stating that no local governing body shall require any unreasonable proffer. Under current law, no locality may request or accept any unreasonable proffer. Other changes (i) allow an applicant to submit any proffer that the applicant deems reasonable and appropriate, as conclusively evidenced by the signed proffers, (ii) rewrite provisions related to certain revitalization areas and floor area density standards that are excluded from the statute's requirements, and (iii) state that nothing in the bill shall be deemed or interpreted to prohibit communications between an applicant or owner and the locality or to prohibit presentation, analysis, or discussion of the potential impacts of new residential development or other new residential use on the locality's public facilities. The provisions of the bill are effective as to any application for a rezoning or proffer condition amendment filed on or after July 1, 2019, or to certain other pending applications. The bill also provides that an applicant with a pending application for are zoning or proffer condition amendment that was filed prior to July 1, 2016, may elect to proceed under the law as it existed prior to that date, and an applicant with a pending rezoning or proffer condition amendment application filed after July 1, 2016, but before July 1, 2019, may elect to proceed under the law as it existed during that period.</p>		
<p><b>SB 1407</b> - Mason (1) Child care providers; fingerprint background checks.</p>	<p>1/8/2019 Senate: Referred to Committee on Rehabilitation and Social Services</p>	<p>[1/18/2019]</p>
<p>[Support] (19101950D) - See also HB 1994 (Price). <b>Summary:</b> Allows local law-enforcement agencies to process and submit requests for national fingerprint background checks required for (i) applicants for licensure as a child day center, family day home, or family day system, registration as a family day home, or approval as a family day home by a family day system; (ii) agents of an applicant for licensure as a child day center, family day home, or family day system, registration as a family day home, or approval as a family day home by a family day system at the time of application who is or will be involved in the day-to-day operations of the child day center, family day home, or family day system, or who is or will be alone with, in control of, or supervising one or more of the children; (iii) adults living in such child day center or family day home; and (iv) employees and volunteers of any child day center, family day home, or family day system licensed in accordance with the provisions of this chapter, child day center exempt from licensure, registered family day home, family day home approved by a family day system, or child day center, family day home, or child day program that enters into a contract with the Department or a local department to provide child care services funded by the Child Care and Development Block Grant.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><b>SB 1456</b> - McClellan (9) Distributed renewable energy; promotes establishment of solar and other renewable energy.</p>	<p>1/8/2019 Senate: Referred to Committee on Commerce and Labor</p>	<p>[1/18/2019]</p>
<p>[Support] (19103827D)  <b>Summary:</b> Distributed renewable energy. Promotes the establishment of distributed renewable solar and other renewable energy. The measure (i) removes the one percent cap on the total amount of renewable energy that can be net metered in a utility's service territory, (ii) authorizes third-party power purchase agreements for all customer classes throughout the Commonwealth, (iii) allows local governments and certain other public bodies to install solar or wind facilities of up to five megawatts on government-owned property and use the electricity for government-owned buildings, (iv) allows all net metering customers to attribute output from a single solar array to multiple meters, (v) allows the owner of a multi-family residential building or the common areas of a condominium to install a renewable energy generation facility and sell the electricity to tenants or condominium unit owners, (vi) removes the restriction on customers installing a net-metered generation facility larger than that required to meet their previous 12 months' demand, (vii) raises the cap for net-metered nonresidential generation facilities from one megawatt to two megawatts, and (viii) removes the ability of utilities to assess standby charges. The measure also amends the Commonwealth Energy Policy to include provisions supporting distributed generation of renewable energy.</p>		
<p><b>SB 1467</b> - Saslaw (35) Protective orders; possession of firearms, surrender or transfer of firearms, penalties.</p>	<p>1/8/2019 Senate: Referred to Committee for Courts of Justice</p>	<p>[1/18/2019]</p>
<p>[Support] (19103735D)  <b>Summary:</b> Protective orders; possession of firearms; surrender or transfer of firearms; penalties. Provides that a court shall order a person subject to a permanent protective order (i.e., a protective order with a maximum duration of two years) to (i) within 24 hours, surrender any firearm possessed by such person to a designated local law-enforcement agency, sell or transfer any firearm possessed by such person to a dealer, or sell or transfer any firearm possessed by such person to any person who is not otherwise prohibited by law from possessing such firearm, provided that such person will not allow the person subject to a protective order to exert any influence or control over the sold or transferred firearm, or (ii) certify in writing that such person does not possess any firearms and file such certification with the clerk of the court that entered the protective order within 48 hours after being served with a protective order. The bill provides that within 48 hours after surrendering or selling or transferring all firearms, such person must certify in writing that all firearms possessed by such person have either been surrendered or sold or transferred and file such certification with the clerk of the court that entered the protective order. The bill also provides that any person subject to a protective order who fails to certify in writing that all firearms possessed by such person have either been surrendered or sold or transferred or that such person does not possess any firearms is guilty of a Class 1 misdemeanor. The bill provides procedures for designating a local law-enforcement agency to receive and store firearms as well as a process to return such surrendered firearms. The bill also provides that any person who buys or has a firearm transferred to him from a person subject to a permanent protective order and allows the person subject to a protective order to exert any influence or control over the sold or transferred firearm is guilty of a Class 1 misdemeanor.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><b>SB 1468</b> - Black (13) Northern Virginia Transportation Authority; analysis of projects.</p>	<p>1/8/2019 Senate: Referred to Committee on Transportation 1/16/2019 Senate: Reported from Transportation with amendments (10-Y 0-N)</p>	<p>[1/18/2019]</p>
<p>[Support] (19104213D) <b>Summary:</b> Shifts responsibility from the Department of Transportation to the Northern Virginia Transportation Authority for the evaluation and rating of significant transportation projects in and near the Northern Virginia Transportation District. The bill also adds administrative and operating expenses to those expenses that can be paid by the Northern Virginia Transportation Authority Fund. Current law provides that administrative expenses be allocated to the component counties and cities of the Authority.</p>		
<p><b>SB 1476</b> - Deeds (25) School bus video- monitoring systems; release of information by DMV.</p>	<p>1/8/2019 Senate: Referred to Committee on Transportation</p>	<p>[1/18/2019]</p>
<p>[Support] (19101967D) - Board has historically supported. <b>Summary:</b> School bus video-monitoring systems; release of information by the Department of Motor Vehicles. Authorizes the Department of Motor Vehicles to release vehicle owner data of a vehicle that failed to stop for a stopped school bus upon request of a video-monitoring system operator or upon request of the authorized agent or employee of a video-monitoring system operator.</p>		
<p><b>SB 1553</b> - Surovell (36) Urban county executive form of government; abandoned personal property.</p>	<p>1/8/2019 Senate: Referred to Committee on Local Government</p>	<p>[1/18/2019]</p>
<p>[Support with Amendment] (19104083D) - Support with amendment to narrow scope of legislation to improve implementation. <b>Summary:</b> Provides that any county that has adopted the urban county executive form of government (Fairfax County) may, by ordinance, provide that it shall be unlawful for any person to place, leave, or abandon on any real property in the county, or within specified districts within the county, any dilapidated furniture, appliance, machinery, equipment, shopping cart, building material, or other item or personal property, which is either in a wholly or partially rusted, wrecked, junked, dismantled, or inoperative condition and which is not completely enclosed within a building. The ordinance shall provide that any such item which remains on the real property for a period of seven days after a notice of violation is given to the owner of such personal property shall be presumed to be abandoned and subject to being removed from the real property by the county or its agents without further notice. In the event any such item is so removed, the cost of removal, including an administrative fee in the amount of \$150.00, shall be charged to the owner of the personal property. No such ordinance shall apply to any real property used for the purpose of a licensed junk dealer or an establishment engaged in the repair, rebuilding, reconditioning, or salvaging of equipment. The ordinance may provide that a violation of the ordinance shall constitute a Class 1 misdemeanor.</p>		

**Bold** – Indicates BOS formal action  
[ ] Indicates BOS Legislative Committee Action

Bills	General Assembly Actions	Date of BOS Position
<b>SB 1575</b> - Ebbin (30) Teacher licensure; exemption for certain teachers.	1/9/2019 Senate: Referred to Committee on Education and Health	[1/18/2019]
<p>[Support] (19102839D)  <b>Summary:</b> Permits any school board to employ any individual, who is employed by an accredited institution of higher education as an instructor, to teach career and technical education courses or dual enrollment courses in the local school division, regardless of whether such individual holds a license issued by the Board of Education.</p>		
<b>SB 1576</b> - Suetterlein (19) DOE; pilot program, placement transition of certain students.	1/9/2019 Senate: Referred to Committee on Education and Health	[1/18/2019]
<p>[Support] (19100917D)  <b>Summary:</b> Department of Education; pilot program; feasibility of educational placement transition of certain students with disabilities. Requires the Department of Education and relevant local school boards to develop and implement a pilot program for up to four years in two to eight local school divisions in the Commonwealth. In developing the pilot, the Department is required to partner with the appropriate school board employees in each such local school division to (i) identify the resources, services, and supports required by each student who resides in each such local school division and who is educated in a private school setting pursuant to his Individualized Education Program; (ii) study the feasibility of transitioning each such student from his private school setting to an appropriate public school setting in the local school division and providing the identified resources, services, and supports in such public school setting; and (iii) recommend a process for redirecting federal, state, and local funds, including funds provided pursuant to the Children's Services Act, provided for the education of each such student to the local school division for the purpose of providing the identified resources, services, and supports in the appropriate public school setting. The bill requires the Department of Education to make a report to the Governor, the Senate Committees on Education and Health and Finance, and the House Committees on Education and Appropriations on the findings of each pilot program after two and four years.</p>		
<b>SB 1672</b> - Locke (2) Absentee voting; no-excuse absentee.	1/11/2019 Senate: Referred to Committee on Privileges and Elections	[1/18/2019]
<p>[Support] (19102230D) - Board has historically supported. See also HB 1641 (Herring), SB 1026 (Spruill), and SB 1035 (Locke).  <b>Summary:</b> Permits any registered voter to vote by absentee ballot in any election in which he is qualified to vote. The bill removes the current list of statutory reasons under which a person may be entitled to vote by absentee ballot and removes references to those reasons from other sections of the Code.</p>		
<b>SB 1680</b> - Mason (1) Mass transit providers; loss of certain operating funds.	1/11/2019 Senate: Referred to Committee on Transportation	[1/18/2019]

**Bold** – Indicates BOS formal action  
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Bills	General Assembly Actions	Date of BOS Position
<p>[Support] (19104336D) - See also HB 2553 (Thomas).  <b>Summary:</b> Provides that any mass transit provider that incurs a loss in operating funds as a direct result of the performance-based allocation process set forth in Chapter 854 of the Acts of Assembly of 2018 shall be eligible for supplemental funds commensurate with operating funds in 2019. The total amount of supplemental funds available shall not exceed \$5 million annually.</p>		
<p><b>SJ 284</b> - Sturtevant, Jr. (10)                      United States Constitution; ratifies Equal Rights Amendment.</p>	<p>1/7/2019 Senate: Referred to Committee on Privileges and Elections                      1/9/2019 Senate: Incorporates SJ 270 (Saslaw)                      1/9/2019 Senate: Reported from Privileges and Elections with substitute (8-Y 6-N)                      1/15/2019 Senate: Agreed to by Senate (26-Y 14-N)                      1/18/2019 House: Referred to Committee on Privileges and Elections</p>	<p>[1/18/2019]</p>
<p>[Support] (19104385D-S1) - Board has historically supported.  <b>Summary:</b> Constitution of the United States; Equal Rights Amendment. Ratifies the Equal Rights Amendment to the Constitution of the United States that was proposed by Congress in 1972. The joint resolution advocates the position that the 1972 Equal Rights Amendment remains viable and may be ratified notwithstanding the expiration of the 10-year ratification period set out in the resolving clause, as amended, in the proposal adopted by Congress.</p>		
<p><b>SJ 307</b> - Lewis, Jr. (6)                      Study; JLARC; costs of education; report.</p>	<p>1/9/2019 Senate: Referred to Committee on Rules</p>	<p>[1/18/2019]</p>
<p>[Support] (19103131D) - Board has historically supported. Fairfax County's Legislative Program includes support for adequate K-12 education funding.  <b>Summary:</b> Directs the Joint Legislative Audit and Review Commission to study the true cost of education in the Commonwealth and provide an accurate assessment of the costs to implement the Standards of Quality.</p>		

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# *Fairfax County Positions*

*(Monitor)*

\* \* \*

Bills	General Assembly Actions	Date of BOS Position
<p><b>HB 1625</b> - Orrock, Sr. (54) Animal care; adequate shelter, exposure to heat or cold.</p>	<p>10/23/2018 House: Referred to Committee on Agriculture, Chesapeake and Natural Resources 1/14/2019 House: Subcommittee recommends reporting (8-Y 0-N) 1/16/2019 House: Reported from Agriculture, Chesapeake and Natural Resources (21-Y 1-N)</p>	<p>[1/18/2019]</p>
<p>[Monitor] (19100436D) <b>Summary:</b> Animal care; adequate shelter; exposure to heat or cold. Provides that the definition of "adequate shelter" includes the provision of shelter that protects the animal from exposure to heat or cold. Current law requires such shelter to protect the animal from the adverse effects of heat or cold.</p>		
<p><b>HB 1733</b> - Gilbert (15) School boards; local law-enforcement agencies, memorandums of understanding.</p>	<p>12/19/2018 House: Referred to Committee on Education 1/16/2019 House: Reported from Education with amendment (22-Y 0-N)</p>	<p>[1/18/2019]</p>
<p>[Monitor] (19100602D) <b>Summary:</b> School boards; local law-enforcement agencies; memorandums of understanding. Requires the school board in each school division in which the local law-enforcement agency employs school resource officers to enter into a memorandum of understanding with such local law-enforcement agency that sets forth the powers and duties of the school resource officers. The bill requires each such school board and local law-enforcement agency to review and amend or affirm the memorandum at least once every five years.</p>		
<p><b>HB 1937</b> - Krizek (44) Real property tax; exemptions for elderly and handicapped, computation of income limitation.</p>	<p>1/6/2019 House: Referred to Committee on Finance 1/14/2019 House: Reported from Finance with amendment (22-Y 0-N) 1/18/2019 House: Read third time and passed House BLOCK VOTE (94-Y 0-N)</p>	<p>[1/18/2019]</p>
<p>[Monitor] (19100954D-E) <b>Summary:</b> Real property tax; exemptions for elderly and handicapped; computation of income limitation. Provides that, if a locality has established a real estate tax exemption for the elderly and handicapped and enacted an income limitation related to the exemption, the locality may exclude, for purposes of the limitation, any income received by a family member or nonrelative who lives in the dwelling and who is permanently and totally disabled.</p>		
<p><b>HB 2051</b> - McQuinn (70) Cemeteries; development, local ordinance.</p>	<p>1/7/2019 House: Referred to Committee on Counties, Cities and Towns</p>	<p>[1/18/2019]</p>
<p>[Monitor] (19102310D) <b>Summary:</b> Cemeteries; development; local ordinance. Provides that local subdivision ordinances may include certain requirements to govern the private development of land containing an existing cemetery. The bill also authorizes localities to adopt ordinances requiring that certain research in local property records be conducted prior to development to identify any cemeteries on the property.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<b>HB 2084</b> - Watts (39) Counties, certain; additional powers that include taxation, etc.	1/7/2019 House: Referred to Committee on Counties, Cities and Towns	[1/18/2019]
<p>[Monitor] (19101523D) - Board has historically monitored.  <b>Summary:</b> Additional powers of certain counties. Grants counties with a population greater than 100,000 certain powers of cities and towns, including taxation, borrowing, and eligibility for highway maintenance funds. Currently, such powers are generally granted only to cities and towns.</p>		
<b>HB 2146</b> - Turpin (85) Land development; conservation or replacement of trees, local option.	1/8/2019 House: Referred to Committee on Counties, Cities and Towns	[1/18/2019]
<p>[Monitor] (19101980D)  <b>Summary:</b> Land development; conservation or replacement of trees; local option. Authorizes any locality to adopt an ordinance providing for either the conservation of or the planting and replacement of trees during the land development process. Currently, only a locality within Planning District 8 with a population density of 75 persons per square mile and which is classified as an eight-hour nonattainment area for ozone under the federal Clean Air Act and Amendments of 1990, in effect as of July 1, 2008, may adopt such an ordinance for the conservation of trees and only a locality with a population density of 75 persons per square mile or within the Chesapeake Bay watershed may adopt such an ordinance for the planting and replacement of trees during the land development process.</p>		
<b>HB 2291</b> - VanValkenburg (72) School boards; local law-enforcement agencies, memorandums of understanding.	1/8/2019 House: Referred to Committee on Education	[1/18/2019]
<p>[Monitor] (19104117D)  <b>Summary:</b> School boards; local law-enforcement agencies; memorandums of understanding. Requires the school board in each school division in which the local law-enforcement agency employs school resource officers to enter into a memorandum of understanding with such local law-enforcement agency that sets forth the respective roles and responsibilities of the school board and the law-enforcement agency and the roles and responsibilities of such school resource officers. The bill requires each such school board and local law-enforcement agency to (i) review the memorandum of understanding every two years or at any time upon the request of either party and may revise such memorandum at any time as agreed by the parties and (ii) ensure that all relevant personnel employed by either party are informed of and review the provisions of the memorandum of understanding, including any revisions to the memorandum of understanding. The bill also requires the Virginia Center for School and Campus Safety to develop a model memorandum of understanding that may be used by local school boards and local law-enforcement agencies to satisfy the new requirements put forth in the bill.</p>		

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<b>Bills</b>	<b>General Assembly Actions</b>	<b>Date of BOS Position</b>
<p><b>HB 2458</b> - Landes (25) Early childhood care and education; establishment, licensure.</p>	<p>1/9/2019 House: Referred to Committee on Education</p>	<p>[1/18/2019]</p>
<p>[Monitor] (19102705D) - See also SB 1095 (Howell).  <b>Summary:</b> Early childhood care and education; licensing. Requires the Board of Education to establish a statewide unified public-private system for early childhood care and education in the Commonwealth to be administered by the Board of Education, the Superintendent of Public Instruction, and the Department of Education. The bill transfers the authority to license and regulate child day programs and other early child care agencies from the Board of Social Services and Department of Social Services to the Board of Education and the Department of Education. The bill maintains current licensure, background check, and other requirements of such programs. The bill establishes the Early Childhood Innovation Fund for the purpose of facilitating regional public-private collaboration and to field test innovative strategies and evidence-based practices that support a robust system of comprehensive early childhood care and education services to deliver measurable school readiness outcomes and meet regional workforce support needs. Such provisions of the bill have a delayed effective date of July 1, 2021. The bill requires the Superintendent of Public Instruction to establish a plan for implementing the statewide unified early childhood care and education system and requires the Department of Social Services and the Department of Education to enter into a cooperative agreement to coordinate the transition. The bill provides that, beginning July 1, 2021, the Department of Education will be the lead agency for the administration of the Child Care and Development Block Grant and the Head Start Collaboration Office. Finally, the bill requires the Board of Education and the Board of Social Services to promulgate regulations to implement the provisions of the bill to become effective on July 1, 2021.</p>		
<p><b>HB 2466</b> - Roem (13) State Route 28; Department of Transportation to study.</p>	<p>1/9/2019 House: Referred to Committee on Rules</p>	<p>[1/18/2019]</p>
<p>[Monitor] (19102854D)  <b>Summary:</b> Department of Transportation to study State Route 28; report. Directs the Department of Transportation to study the feasibility of implementing improvements to State Route 28 in Prince William County between the City of Manassas Park and Fairfax County.</p>		
<p><b>HB 2665</b> - Stolle (83) Specialty dockets; report.</p>	<p>1/11/2019 House: Referred to Committee for Courts of Justice 1/16/2019 House: Subcommittee recommends reporting (8-Y 0-N)</p>	<p>[1/18/2019]</p>
<p>[Monitor] (19103681D) - See also SB 1655 (Cosgrove).  <b>Summary:</b> Requires the Office of the Executive Secretary of the Supreme Court to develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of all local specialty dockets established in accordance with the Rules of Supreme Court of Virginia and submit a report of these evaluations to the General Assembly by December 1 of each year.</p>		

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Bills	General Assembly Actions	Date of BOS Position
<p><b>SB 1095</b> - Howell (32) Early childhood care and education; establishment, licensure.</p>	<p>12/20/2018 Senate: Referred to Committee for Courts of Justice 1/7/2019 Senate: Referred to Committee on Education and Health 1/17/2019 Senate: Incorporates SB 1313 (Dunnavant) 1/17/2019 Senate: Reported from Education and Health with substitute (10-Y 2-N 1-A) 1/17/2019 Senate: Re-referred to Finance</p>	<p>[1/18/2019]</p>
<p>[Monitor] (19102558D) - See also HB 2458 (Landes). <b>Summary:</b> Early childhood care and education; licensing. Requires the Board of Education to establish a statewide unified public-private system for early childhood care and education in the Commonwealth to be administered by the Board of Education, the Superintendent of Public Instruction, and the Department of Education. The bill transfers the authority to license and regulate child day programs and other early child care agencies from the Board of Social Services and Department of Social Services to the Board of Education and the Department of Education. The bill maintains current licensure, background check, and other requirements of such programs. The bill establishes the Early Childhood Innovation Fund for the purpose of facilitating regional public-private collaboration and to field test innovative strategies and evidence-based practices that support a robust system of comprehensive early childhood care and education services to deliver measurable school readiness outcomes and meet regional workforce support needs. Such provisions of the bill have a delayed effective date of July 1, 2021. The bill requires the Superintendent of Public Instruction to establish a plan for implementing the statewide unified early childhood care and education system and requires the Department of Social Services and the Department of Education to enter into a cooperative agreement to coordinate the transition. The bill provides that, beginning July 1, 2021, the Department of Education will be the lead agency for the administration of the Child Care and Development Block Grant and the Head Start Collaboration Office. Finally, the bill requires the Board of Education and the Board of Social Services to promulgate regulations to implement the provisions of the bill to become effective on July 1, 2021.</p>		
<p><b>SB 1404</b> - Petersen (34) Eminent domain; costs for petition for distribution of funds, interest rate.</p>	<p>1/8/2019 Senate: Referred to Committee for Courts of Justice 1/14/2019 Senate: Reported from Courts of Justice with amendments (10-Y 2-N 1-A) 1/17/2019 Senate: Read third time and passed Senate (39-Y 1-N) 1/21/2019 House: Referred to Committee for Courts of Justice</p>	<p>[1/18/2019]</p>
<p>[Monitor] (19102876D-E) <b>Summary:</b> Eminent domain; costs for petition for distribution of funds; interest rate; recordation of certificate. Provides that the costs of filing a petition with the court for the distribution of the funds due pursuant to an eminent domain proceeding shall be taxed against the condemnor. The bill also provides that the interest rate on the funds represented by a certificate of deposit from the date of filing of the certificate until the funds are paid into the court shall not be less than the judgment rate of interest. Finally, the bill reorganizes for clarity the provisions governing what happens upon recordation of a certificate by the Commissioner of Highways in a condemnation proceeding.</p>		

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<b>Bills</b>	<b>General Assembly Actions</b>	<b>Date of BOS Position</b>
<p><b>SB 1520</b> - Carrico, Sr. (40)                      Passing stopped school bus; release of information by DMV, reporting violation.</p>	<p>1/8/2019 Senate: Referred to Committee on Transportation</p>	<p>[1/18/2019]</p>
<p>[Monitor] (19103029D)  <b>Summary:</b> Passing stopped school bus; release of information by the Department of Motor Vehicles; reporting violation. Authorizes the Department of Motor Vehicles (the Department) to release vehicle owner data of a vehicle that failed to stop for a stopped school bus upon request of a video-monitoring system operator or upon request of the authorized agent or employee of a video-monitoring system operator. The bill expands the length of time for which a driver of a motor vehicle must remain stopped for a stopped school bus from when all persons are clear of the roadway to when the bus is back in motion. The bill provides that any conviction for passing a stopped school bus imposed by mailing a summons will not be reported to the Department or made part of the operator's driving record. However, the bill provides that if the conviction is imposed as a result of a law-enforcement officer personally issuing a summons at the time of violation the conviction shall be reported to the Department and shall result in the assessment of four demerit points to that person's driving record. The bill provides that an ordinance enacted by a county regarding a video-monitoring system applies to infractions that occur within any town located within the county for which the county provides the public school system.</p>		
<p><b>SB 1655</b> - Cosgrove, Jr. (14)                      Specialty dockets; report.</p>	<p>1/9/2019 Senate: Referred to Committee for Courts of Justice</p>	<p>[1/18/2019]</p>
<p>[Monitor] (19101131D) - See also HB 2665 (Stolle).  <b>Summary:</b> Requires the Office of the Executive Secretary of the Supreme Court to develop a statewide evaluation model and conduct ongoing evaluations of the effectiveness and efficiency of all local specialty dockets established in accordance with the Rules of Supreme Court of Virginia and submit a report of these evaluations to the General Assembly by December 1 of each year.</p>		

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## Overview of Proffer Legislation 2019 General Assembly (GA)

### HB 2342 (Thomas)/SB 1373 (Favola)

These bills were introduced at the request of the Home Builders Association of Virginia (HBAV), and contain numerous amendments resulting from negotiations between HBAV and local governments (including Fairfax County) throughout the state. **SB 1373** was reported from the Senate Local Government Committee (11-2) on January 15, 2019. **HB 2342** was reported from a House Counties, Cities and Towns subcommittee (6-1) on January 16, 2019.

### Summary of HB 2342/SB 1373

*(The summary includes all amendments made to both bills to date.)*

- **HB 2342/SB 1373** substantially amend the proffer law enacted by the 2016 GA.
- The 2016 law prevents localities from suggesting, requesting or accepting an unreasonable proffer. **HB 2342/SB 1373** instead prevent a local governing body from requiring in writing an unreasonable proffer.
- The 2016 law imposed new restrictions on proffers generally, but especially offsite proffers, which are limited to four categories of public facilities: transportation, public safety, public schools, and parks. Conversely, **HB 2342/SB 1373** allow an applicant to submit any onsite or offsite proffer that the applicant deems reasonable and appropriate. This election can be made at the time of the filing of the application or during the development review process — the applicant's signed proffers provide conclusive evidence that the proffers are reasonable. Failure to submit signed proffers cannot be the basis for the denial of any application.
- Under the 2016 law, an applicant whose application was approved can still sue to challenge any proffer as unreasonable. If challenging the denial of an application, the applicant need only prove by a preponderance of the evidence the locality suggested or requested an unreasonable proffer that the applicant failed or refused to submit; the court must presume that the denial was based on the absence of the unreasonable proffer, unless the locality proves otherwise by clear and convincing evidence. **HB 2342/SB 1373** maintain that requirement, but they also require the applicant to prove that the local governing body requested the unreasonable proffer in writing.

- Additionally, under **HB 2342/SB 1373** an applicant can contest the approval or denial of an application under the statute, but only if the applicant objected in writing before the local governing body took action on the application.
- **HB 2342/SB 1373** state that “verbal discussions” during the application process cannot be used as the basis for determining that an unreasonable proffer or proffer condition amendment was required by the locality.
- The 2016 law requires that, if an applicant is successful in court, the court would then direct the locality to approve the application without the unreasonable proffer. **HB 2342/SB 1373** give the court the additional option of amending an unreasonable proffer to bring it into compliance.
- The provisions of the bills are effective on any rezoning application filed on or after July 1, 2019; to any application for a proffer condition amendment amending such a rezoning; or to any then-pending rezoning application that the applicant amends and elects to have processed under the new law. Otherwise, applications filed before July 1, 2016, proceed under the law as it existed prior to that date, and applications filed on or after July 1, 2016, but before July 1, 2019, proceed under the law as it existed during that period.
- **HB 2342/SB 1373** do not alter any of the exemptions in the 2016 law – the County has several areas that are exempt from the 2016 law, including Tysons, Merrifield, and portions of Reston and Richmond Highway.

### **Additional Proffer Bills**

Several additional proffer bills were introduced in the 2019 GA, including **SB 1143** (Peake), **SB 1524** (Black), **HB 2276** (Murphy), and **HB 1801** (Ware). The only one that remains under consideration is **HB 1801** (Ware). **HB 1801** was a request by Goochland County, and it incorporates all of the changes included **HB 2342** and **SB 1373**, but makes one additional change – **HB 1801** eliminates the requirement that a public facility improvement be in excess of existing public facility at the time of the rezoning or proffer condition amendment.

2019 SESSION

SENATE SUBSTITUTE

19104977D

SENATE BILL NO. 1373

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Local Government  
on January 15, 2019)

(Patrons Prior to Substitute—Senators Favola and Black [SB 1524])

A BILL to amend and reenact § 15.2-2303.4 of the Code of Virginia and to repeal the third enactment of Chapter 322 of the Acts of Assembly of 2016, relating to conditional rezoning proffers.

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2303.4 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2303.4. Provisions applicable to certain conditional rezoning proffers.

A. For purposes of this section, unless the context requires a different meaning:

"New residential development" means any construction or building expansion on residentially zoned property, including a residential component of a mixed-use development, that results in either one or more additional residential dwelling units or, otherwise, fewer residential dwelling units, beyond what may be permitted by right under the then-existing zoning of the property, when such new residential development requires a rezoning or proffer condition amendment.

"New residential use" means any use of residentially zoned property that requires a rezoning or that requires a proffer condition amendment to allow for new residential development.

"Offsite proffer" means a proffer addressing an impact outside the boundaries of the property to be developed and shall include all cash proffers.

"Onsite proffer" means a proffer addressing an impact within the boundaries of the property to be developed and shall not include any cash proffers.

"Proffer condition amendment" means an amendment to an existing proffer statement applicable to a property or properties.

"Public facilities" means public transportation facilities, public safety facilities, public school facilities, or public parks.

"Public facility improvement" means an offsite public transportation facility improvement, a public safety facility improvement, a public school facility improvement, or an improvement to or construction of a public park. No public facility improvement shall include any operating expense of an existing public facility, such as ordinary maintenance or repair, or any capital improvement to an existing public facility, such as a renovation or technology upgrade, that does not expand the capacity of such facility. For purposes of this section, the term "public park" shall include playgrounds and other recreational facilities.

"Public safety facility improvement" means construction of new law-enforcement, fire, emergency medical, and rescue facilities or expansion of existing public safety facilities, to include all buildings, structures, parking, and other costs directly related thereto.

"Public school facility improvement" means construction of new primary and secondary public schools or expansion of existing primary and secondary public schools, to include all buildings, structures, parking, and other costs directly related thereto.

"Public transportation facility improvement" means (i) construction of new roads; (ii) improvement or expansion of existing roads and related appurtenances as required by applicable standards of the Virginia Department of Transportation, or the applicable standards of a locality; and (iii) construction, improvement, or expansion of buildings, structures, parking, and other facilities directly related to transit.

"Residentially zoned property" means property zoned or proposed to be zoned for either single-family or multifamily housing.

"Small area comprehensive plan" means that portion of a comprehensive plan adopted pursuant to § 15.2-2223 that is specifically applicable to a delineated area within a locality rather than the locality as a whole.

B. Notwithstanding any other provision of law, general or special, no ~~locality~~ local governing body shall (i) ~~request or accept~~ require any unreasonable proffer, as described in subsection C, in connection with a rezoning or a proffer condition amendment as a condition of approval of a new residential development or new residential use or (ii) deny any rezoning application or proffer condition amendment for a new residential development or new residential use where such denial is based in whole or in part on an applicant's failure or refusal to submit an unreasonable proffer or proffer condition amendment.

C. Notwithstanding any other provision of law, general or special, (†) as used in this chapter, a proffer, or proffer condition amendment, whether onsite or offsite, offered voluntarily pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1, shall be deemed unreasonable unless it:

1. It addresses an impact that is specifically attributable to a proposed new residential development or other new residential use applied for; and (ii) an offsite proffer shall be deemed unreasonable pursuant

SENATE SUBSTITUTE

SB1373S1

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60 to subdivision (i) unless

61 2. If an offsite proffer, it addresses an impact to an offsite public facility, such that ~~(a)~~ (i) the new  
62 residential development or new residential use creates a need, or an identifiable portion of a need, for  
63 one or more public facility improvements in excess of existing public facility capacity at the time of the  
64 rezoning or proffer condition amendment and ~~(b)~~ (ii) each such new residential development or new  
65 residential use applied for receives a direct and material benefit from a proffer made with respect to any  
66 such public facility improvements. For the purposes of this section, a locality may base its assessment  
67 of public facility capacity on the projected impacts specifically attributable to the new residential  
68 development or new residential use.

69 D. Notwithstanding the provisions of subsection C:

70 1. An applicant or owner may, at the time of filing an application pursuant to this section or during  
71 the development review process, submit any onsite or offsite proffer that the owner and applicant deem  
72 reasonable and appropriate, as conclusively evidenced by the signed proffers.

73 2. Failure to submit proffers as set forth in subdivision 1 shall not be a basis for the denial of any  
74 rezoning or proffer condition amendment application.

75 E. Notwithstanding any other provision of law, general or special:

76 1. Actions brought to contest the action of a ~~locality~~ local governing body in violation of this section  
77 shall be brought only by the aggrieved applicant or the owner of the property subject to a rezoning or  
78 proffer condition amendment pursuant to subsection F of § 15.2-2285, provided that the applicant  
79 objected in writing to the governing body regarding a proposed condition prior to the governing body's  
80 grant or denial of the rezoning application.

81 2. In any action in which a ~~locality~~ local governing body has denied a rezoning or an amendment to  
82 an existing proffer and the aggrieved applicant proves by a preponderance of the evidence that it refused  
83 or failed to submit an unreasonable proffer or proffer condition amendment that ~~it has proven~~ was  
84 suggested, requested, or required in writing by the ~~locality~~ local governing body in violation of this  
85 section, the court shall presume, absent clear and convincing evidence to the contrary, that such refusal  
86 or failure was the controlling basis for the denial.

87 3. In any successful action brought pursuant to this section contesting an action of a ~~locality~~ local  
88 governing body in violation of this section, the applicant may be entitled to an award of reasonable  
89 attorney fees and costs and to an order remanding the matter to the governing body with a direction to  
90 approve the rezoning or proffer condition amendment without the inclusion of any unreasonable proffer  
91 or to amend the proffer to bring it into compliance with this section. If the ~~locality~~ local governing body  
92 fails or refuses to approve the rezoning or proffer condition amendment, or fails or refuses to amend the  
93 proffer to bring it into compliance with this section, within a reasonable time not to exceed 90 days  
94 from the date of the court's order to do so, the court shall enjoin the ~~locality~~ local governing body from  
95 interfering with the use of the property as applied for without the unreasonable proffer. Upon remand to  
96 the local governing body pursuant to this subsection, the requirements of § 15.2-2204 shall not apply.

97 E. F. The provisions of this section shall not apply to any new residential development or new  
98 residential use occurring within any of the following areas: (i) an approved small area comprehensive  
99 plan in which the delineated area is designated as a revitalization area, encompasses mass transit as  
100 defined in § 33.2-100, includes mixed use development, and allows a density of at least 3.0 floor area  
101 ratio in a portion thereof; (ii) an approved small area comprehensive plan that encompasses an existing  
102 or planned Metrorail station, or is adjacent to a Metrorail station located in a neighboring locality, and  
103 allows additional density within the vicinity of such existing or planned station; or (iii) an approved  
104 service district created pursuant to § 15.2-2400 that encompasses an existing or planned Metrorail  
105 station.

106 F. G. This section shall be construed as supplementary to any existing provisions limiting or  
107 curtailing proffers or proffer condition amendments for new residential development or new residential  
108 use that are consistent with its terms and shall be construed to supersede any existing statutory provision  
109 with respect to proffers or proffer condition amendments for new residential development or new  
110 residential use that are inconsistent with its terms.

111 H. Notwithstanding any provision in this section to the contrary, nothing contained herein shall be  
112 deemed or interpreted to prohibit or to require communications between an applicant or owner and the  
113 locality. The applicant, owner, and locality may engage in pre-filing and post-filing discussions  
114 regarding the potential impacts of a proposed new residential development or new residential use on  
115 public facilities as defined in subsection A and on other public facilities of the locality, and potential  
116 voluntary onsite or offsite proffers, permitted under subsections C and D, that might address those  
117 impacts. Such verbal discussions shall not be used as the basis that an unreasonable proffer or proffer  
118 condition amendment was required by the locality. Furthermore, notwithstanding any provision in this  
119 section to the contrary, nothing contained herein shall be deemed or interpreted to prohibit or to  
120 require presentation, analysis, or discussion of the potential impacts of new residential development or  
121 new residential use on the locality's public facilities.

- 122 2. That the third enactment of Chapter 322 of the Acts of Assembly of 2016 is repealed.  
123 3. That this act shall be effective as to any application for a rezoning filed on or after July 1,  
124 2019, or for a proffer condition amendment amending a rezoning that was filed on or after July 1,  
125 2019, or to any then-pending rezoning application in which the applicant elects to proceed  
126 hereunder, by amendment of that pending application.  
127 4. That an applicant with a pending application for a rezoning or proffer condition amendment  
128 that was filed prior to July 1, 2016, may continue to proceed under the law as it existed prior to  
129 that date, and an applicant with a pending rezoning application filed on or after July 1, 2016, but  
130 before July 1, 2019, or proffer condition amendment application amending a rezoning for which  
131 the application was filed on or after July 1, 2016, but before July 1, 2019, may continue to  
132 proceed under the law as it existed during that period.

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**BUDGET PROPOSALS FOR FY 2018 - FY 2020 DURING THE 2019  
GENERAL ASSEMBLY SESSION  
as of January 15, 2019**

**Estimated Impact to Fairfax County - Increase/Decrease Over Prior  
Fiscal Year (\$ million)**

	Governor's Budget	
	FY 2019*	FY 2020
<b>Direct County Impact</b>		
Provide a one-time 1% bonus for State Supported Local Employees in FY 2020	\$0.00	\$0.20
<b>TOTAL DIRECT COUNTY IMPACT</b>	<b>\$0.00</b>	<b>\$0.20</b>
<b>TOTAL OVER THE BIENNIUM</b>	<b>\$0.20</b>	

\* Compares to County's FY 2019 Adopted Budget

**Impact to the Fairfax County Public Schools (FCPS) FY 2020  
Operating Fund Budget**

**Governor Northam's Budget:**

Compared to the FCPS' FY 2019 Approved Budget, Governor Northam's Budget includes \$27.2 million more in state aid and \$9.2 million in sales tax revenue for FY 2020.

The impact of Governor Northam's Budget is reflected in the FCPS FY 2020 Proposed Budget released on January 10, 2019.

**BUDGET PROPOSALS FOR FY 2018 - FY 2020  
DURING THE 2019 GENERAL ASSEMBLY SESSION  
as of January 15, 2019**

Budget Bill Item #	Issue	Fairfax County Impact
<b>Compensation</b>		
<u>State-Supported Employee Compensation</u>		
474.AC1	<b>Governor Northam's Budget:</b> Provides a one-time bonus of 1 percent for all Constitutional officers and state-supported local employees effective December 1, 2019 (FY 2020).	Results in a one-time increase of \$190,000 in FY 2020. This is in addition to the 2 percent salary increase effective July 1, 2019, for which Fairfax County will receive an increase of approximately \$640,000.
<b>Public Safety</b>		
<u>State Aid to Localities with Police Departments (HB 599)</u>		
397	<b>Governor Northam's Budget:</b> No change from the adopted budget, which had provided \$6.6 million in FY 2019 and an additional \$7.2 million in FY 2020 based on a projected General Fund (GF) revenue growth rate of 3.7 percent and 3.9 percent, respectively. Statutory policy requires that HB 599 funding increase at the rate of GF revenue growth.	No change from the adopted budget, which had resulted in an increase of \$900,000 for Fairfax County in FY 2019 and \$1 million in FY 2020.
<u>Body-Worn Cameras</u>		
70	<b>Governor Northam's Budget:</b> Provides funding of \$0.7 million in FY 2020 for body-worn camera review in Commonwealth's Attorneys offices.	TBD. It is unclear how these funds will be distributed to localities with body-worn camera programs.
47	<b>Governor Northam's Budget:</b> Provides funding of \$0.6 million for the Indigent Defense Commission in FY 2020 to fund 20 paralegal positions to lessen workload impact from body-worn camera review.	TBD. It is unclear how these funds will be distributed to localities with body-worn camera programs.
<b>Revenue</b>		
<u>Health Department</u>		
292	<b>Governor Northam's Budget:</b> Provides \$0.3 million support for rent increases at local health departments. In addition, provides \$1.5 million to support childhood immunizations.	No impact for Fairfax County from the rent increase funding.  Fairfax County may receive a small amount of funding and/or vaccine from the Virginia Department of Health to support childhood immunizations.
<u>Communications Sales and Use Tax</u>		
3-1.01	<b>Governor Northam's Budget:</b> Eliminates the transfer of Communications Sales and Use Tax revenues to the General Fund in FY 2020; however, still diverts \$2 million in FY 2019.	Diverts a local tax to the state General Fund, which violates the agreement that was reached in 2007 to reform the Communications Sales and Use Tax.  The elimination of the transfer in FY 2020 is a positive development.
<b>Other Items of Interest</b>		
<u>Water Quality Improvement Fund (WQIF)</u>		
362	<b>Governor Northam's Budget:</b> Directs \$73.8 million for the mandatory deposit to the Water Quality Improvement Fund (WQIF) associated with the FY 2018 year-end surplus; provides an additional \$20 million in FY 2019 and \$15 million in FY 2020 for WQIF.	Likely positive. Fairfax County has used WQIF for projects in the past, and likely will have future projects that qualify for WQIF funding.
<u>Stormwater Local Assistance Fund (SLAF)</u>		
368.C1	<b>Governor Northam's Budget:</b> Provides funding of \$50 million for SLAF in FY 2020 in addition to the \$20 million included in FY 2019.	The County's Legislative Program includes support for SLAF, and the County has received SLAF funding for a number of projects.
<u>Virginia Telecommunication Initiative</u>		
106 L1	<b>Governor Northam's Budget:</b> Provides additional \$46 million in FY 2020 (for a total of \$50 million) to extend broadband service to currently unserved areas.	TBD.

BUDGET PROPOSALS FOR FY 2018 - FY 2020  
DURING THE 2019 GENERAL ASSEMBLY SESSION  
as of January 15, 2019

Budget Bill Item #	Issue	Fairfax County Impact
122	<p><b><u>Virginia Economic Development Partnership (VEDP)</u></b>  <b>Governor Northam's Budget:</b> Increases funding by \$20 million in FY 2019 to enhance the Virginia Business Ready Sites Program.</p>	TBD.
105	<p><b><u>Housing Trust Fund</u></b>  <b>Governor Northam's Budget:</b> Provides \$30 million (\$19 million increase compared to the adopted budget) over the biennium to support the Housing Trust Fund.</p>	The County's Legislative Program includes support for additional appropriations to the Virginia Housing Trust Fund.
475 R	<p><b><u>Virginia Complete Count Commission</u></b>  <b>Governor Northam's Budget:</b> Provides \$1.5 million in FY 2019 to support education, outreach, and preparation for community participation in the 2020 Census.</p>	TBD.
475 R	<p><b><u>Elections</u></b>  <b>Governor Northam's Budget:</b> Provides \$5.9 million in FY 2020 to reimburse the Department of Elections and localities for presidential primary expenses. In addition, adds funding and positions to enhance training for local elections officials and to enhance voter list maintenance processes.</p>	Likely positive, as the County's Legislative Program includes support for state funding for election administration (including training for local electoral board members, registrars, and elections officials), although it is unclear how funds will be distributed to localities throughout the state.
C-44.20	<p><b><u>Science Museum of Virginia</u></b>  <b>Governor Northam's Budget:</b> Includes detailed planning funds for the construction of a Regional Science Center in Northern Virginia. Overall, \$29.6 million is included in FY 2019 for a list of projects, including this project.</p>	The County supports funding for the Children's Science Center, and asked the Governor to include funding in his budget.

**BUDGET PROPOSALS FOR FY 2018 - FY 2020  
DURING THE 2019 GENERAL ASSEMBLY SESSION  
as of January 15, 2019**

Budget Bill Item #	Issue	Fairfax County Impact
<b>Human Services</b>		
<b>Medicaid Expansion</b>		
307 341 348	<b>Governor Northam's Budget:</b> Provides approximately \$1.7 million GF and \$1.7 million NGF in FY 2019 and \$11.2 million GF and \$23.7 million NGF in FY 2020 to cover the estimated cost of administering the Medicaid expansion work requirements (also referred to as the 1115 demonstration waiver). Also adjusts appropriations to properly account for the administrative costs associated with Medicaid expansion, and modifies language related to provider coverage and provider payment rate assessments to clarify current policy.	TBD. It is not clear if the Virginia Department of Social Services or local departments of social services will be responsible for administering the work requirements.
310	<b>Governor Northam's Budget:</b> Requires the Department of Behavioral Health and Developmental Services (DBHDS), in consultation with the Department of Medical Assistance Services (DMAS), to monitor the impact of Medicaid expansion on the Community Services Boards (CSBs). If the amount of new revenue generated as a result of expansion is at least 10 percent less than the savings assumed in the budget, the Commissioner of DBHDS may allocate up to \$7 million in NGF to replace lost revenue.	Likely positive, though it is unclear how DBHDS will allocate the \$7 million if it becomes available. Localities, including Fairfax County, have raised concerns about reductions to CSBs being greater than increased Medicaid revenue resulting from Medicaid expansion. DBHDS will be reducing state funding to the Fairfax-Falls Church CSB in FY 2019 by \$1.69 million and in FY 2020 by \$4.36 million, based on the assumption that the CSB will receive increased revenue as a result of newly-eligible Medicaid participants. However, the Fairfax-Falls Church CSB anticipates that the maximum additional billings resulting from newly-eligible Medicaid participants will be only \$915,000 in FY 2019, far short of the \$1.69 million reduction.
307	<b>Governor Northam's Budget:</b> Provides approximately \$400,000 GF and \$1.3 million NGF in FY 2020 to address the increased cost of processing Medicaid and CHIP applications through the Cover Virginia central processing unit. Additional funding will cover higher contract costs associated with an increased number of applications being processed at the Cover Virginia central processing unit, and the expanded scope of the contract to provide administrative services.	Likely no impact.
<b>Medicaid Waivers</b>		
310	<b>Governor Northam's Budget:</b> Provides approximately \$81,000 GF and \$244,000 NGF in FY 2020 for first-time assessments of individuals who will receive services through the 1,067 new DD Medicaid waiver slots scheduled to become available in FY 2020. The cost of the assessments for the slots added in the first year was covered using year-end balances.	TBD. Because it is not clear how the waivers will be distributed throughout the state, it is not clear how the funding for the assessments associated with the waivers will be distributed throughout the state.
310	<b>Governor Northam's Budget:</b> Increases the federal funding appropriation by approximately \$907,000 NGF in each year for the Waiver Management System (WaMS) project, which is an automated system that consolidates waiver processing functions.	TBD. Fairfax County CSB staff use this tool.
303	<b>Governor Northam's Budget:</b> Reduces the time to implement the required use of an Electronic Visit Verification (EVV) system by consumer-directed aides providing personal care, respite care, and companion services in the Medicaid Commonwealth Coordinated Care (CCC) Plus Waiver and Developmental Disability waiver programs and the Early and Periodic Screening Diagnosis and Treatment (EPSDT) program. The new implementation date will be October 1, 2019, three months ahead of the current federal mandate.	Hundreds of Fairfax County residents will be impacted by this change. Details on implementation (including training and outreach to providers, support coordinators, and individuals and families) are unclear at this time.

**BUDGET PROPOSALS FOR FY 2018 - FY 2020  
DURING THE 2019 GENERAL ASSEMBLY SESSION  
as of January 15, 2019**

Budget Bill Item #	Issue	Fairfax County Impact
	<b>Medicaid</b>	
302	<b>Governor Northam's Budget:</b> Increases funding for the Family Access to Medical Insurance Security (FAMIS) program (Virginia's Children's Health Insurance Program (CHIP)) by approximately \$4.25 million GF and \$40.3 million NGF in FY 2019 and \$8.5 million GF and \$42 million NGF in FY 2020 to reflect the latest forecast of expenditures. The costs are primarily a result of higher than expected managed care rates and, to a lesser extent, increased enrollment.	These are required increases due to higher costs and utilization.
307	<b>Governor Northam's Budget:</b> Replaces \$1.7 million NGF with \$1.7 million GF in FY 2020 as a result of a reduction in the federal match rate for administering CHIP. On October 1, 2019, the federal match rate for CHIP is scheduled to be reduced by 11.5 percent points. This reduction will increase the GF share necessary to administer the program from 12 percent to 23.5 percent.	Likely no impact.
303	<b>Governor Northam's Budget:</b> Increases funding for Medicaid utilization and inflation (as estimated in the most recent expenditure forecast) by \$202 million GF and \$270 million NGF in FY 2019 and \$260 million GF and \$1.75 billion NGF in FY 2020. Also increases oversight of Medicaid spending, requiring DMAS to convene a quarterly meeting with executive and legislative branch leadership to explain differences between forecasted and actual Medicaid spending.	These are required increases due to higher costs and utilization. The Commonwealth substantially underestimated the expenditures in the traditional Medicaid program (unrelated to Medicaid expansion) for FY 2019 and FY 2020.
303	<b>Governor Northam's Budget:</b> Provides \$3.5 million GF and \$3.6 million NGF in FY 2020 for coverage of preventive services and vaccines for currently eligible adult populations in fee-for-service, Medallion 4.0, and CCC Plus to ensure equity with the Medicaid expansion population.	Likely positive for the individuals needing these services. It is not clear how the funds will be allocated or administered.
307	<b>Governor Northam's Budget:</b> Provides \$500,000 GF and \$500,000 NGF in each year for training for consumer-directed attendants who provide personal assistance, respite, and companion services.	The inclusion of consumer direction in the new managed care structure is a positive development, but it is not clear how this funding will be distributed throughout the state. The County's Human Services Issue Paper includes support for preserving consumer direction.
	<b>Children's Services Act (CSA)</b>	
282	<b>Governor Northam's Budget:</b> Reduces the appropriation for CSA by \$5.9 million GF in each year to reflect a reduction in anticipated caseload and utilization.	If the anticipated reductions occur, this likely will have no impact on Fairfax County. If the anticipated reductions do not occur, the Commonwealth will need to restore funding, because CSA is a sum sufficient program.
282	<b>Governor Northam's Budget:</b> Removes a \$50,000 cap on the amount of state funding that can be used by localities for administrative costs.	This amendment aligns the budget language with current practice.

**BUDGET PROPOSALS FOR FY 2018 - FY 2020  
DURING THE 2019 GENERAL ASSEMBLY SESSION  
as of January 15, 2019**

Budget Bill Item #	Issue	Fairfax County Impact
	<b>Child Welfare</b>	
348	<b>Governor Northam's Budget:</b> Provides approximately \$1.2 million GF and \$90,000 NGF in each year for 2,500 mobile device management software licenses for the Virginia Department of Social Services for devices that communicate with its child welfare information system, and for local departments of social services for devices used by clients to determine their eligibility for services.	TBD.
344	<b>Governor Northam's Budget:</b> Provides approximately \$336,000 GF and \$258,000 NGF in FY 2019 and \$1.3 million GF and \$1 million NGF in FY 2020 to fund a three percent cost of living adjustment for foster care and adoptions payments. Appropriation Act language requires an automatic adjustment for inflation to be applied to the maximum room and board rates paid to foster parents in the fiscal year following a state employee pay raise. Because state employees received a three percent raise in July 2017, this addendum provides a similar percentage increase to foster care rates. This increase is also assumed for adoption subsidy funding, to ensure that adoption subsidies keep pace with foster family rates and to avoid any disincentives for adoption.	Likely positive for foster and adoptive parents.
	<b>Behavioral Health/Substance Use Disorder</b>	
311	<b>Governor Northam's Budget:</b> Provides \$1.6 million GF in each year for the purchase and distribution of additional REVIVE! Kits and naloxone spray used for the reversal of opioid overdose.	Likely positive, though it is unclear how this funding will be distributed throughout the state. The County's Legislative Program includes support for additional funding to address the opioid crisis.
407	<b>Governor Northam's Budget:</b> Includes \$3.3 million GF in FY 2020 to fund positions and outsourcing costs to address backlogs in the Department of Forensic Science's controlled substances section.	Likely positive. The County's Legislative Program includes support for additional funding to address the opioid crisis.
287	<b>Governor Northam's Budget:</b> Includes approximately \$256,000 GF and three positions in FY 2020 for the Office of the Chief Medical Examiner to establish the State Overdose Fatality Review Team, which will work with local and regional overdose fatality review teams to prevent overdoses resulting from the misuse, overuse, and abuse of prescribed, commercially available, or illicit substances.	Likely positive. The County's Legislative Program includes support for additional funding to address the opioid crisis.  Local participation in the State Overdose Fatality Review Team may require some local resources.
	<b>Mental Health</b>	
316	<b>Governor Northam's Budget:</b> Provides \$7.9 million GF in FY 2020 for 254 clinical positions at state mental health facilities to address staff shortages and reduce the use of overtime systemwide.	Likely positive, as the Northern Virginia Mental Health Institute (NVMHI) has been struggling with staff shortages, but it is unclear how these positions will be distributed throughout the state.
312	<b>Governor Northam's Budget:</b> Provides \$5.2 million GF in FY 2020 for the transition to community settings of approximately 100 individuals currently in state behavioral health facilities who have been determined ready for discharge, but who are not able to be moved due to extraordinary barriers.	TBD. It is not clear how this funding will be distributed throughout the state.
316	<b>Governor Northam's Budget:</b> Provides \$850,000 GF in FY 2020 to fund six beds in alternative settings for children transitioning from the Commonwealth Center for Children and Adolescents (CCCA) who do not need institutionalization but cannot be served in existing programs because they are high-risk with significant issues.	TBD. It is not clear where these beds will be located.

**BUDGET PROPOSALS FOR FY 2018 - FY 2020  
DURING THE 2019 GENERAL ASSEMBLY SESSION  
as of January 15, 2019**

Budget Bill Item #	Issue	Fairfax County Impact
303 316	<b>Governor Northam's Budget:</b> Provides approximately \$19 million GF in FY 2019 to cover anticipated, immediate reductions in federal payments to Piedmont Geriatric and Catawba hospitals. Also provides \$27 million GF in FY 2020 to replace a reduction of the same amount in federal funding for the continued operations of both hospitals. State funding is necessary as the facilities are no longer able to receive Medicaid reimbursement as a result of decertification. This cost is offset by a reduction of \$14.5 million at the DMAS previously appropriated to serve as the GF match for Medicaid-eligible services at these two facilities.	While these facilities are not located in Fairfax County, the federal decertification and loss of funding for these facilities will impact funding available for the mental health system overall, likely leading to a decrease in inpatient beds (further exacerbating the state psychiatric bed crisis). Other DBHDS programs may also be impacted.
312	<b>Governor Northam's Budget:</b> Provides \$9 million GF in FY 2020 to expand crisis services for children and adults, including mobile crisis for children with co-occurring disorders.	Likely positive, although it is unclear how these positions will be distributed throughout the state. The County's Legislative Program includes support for crisis services.
312	<b>Governor Northam's Budget:</b> Appropriates \$2.5 million GF in FY 2020 from the Behavioral Health and Developmental Services Trust Fund (available due to the sale of state facilities) to support employment assistance training efforts, start-up costs for a new children's Crisis Therapeutic Home (CTH), and the construction of a new REACH Crisis Home.	TBD. It is not clear how these funds will be distributed throughout the state.
312	<b>Governor Northam's Budget:</b> Provides \$2 million GF in FY 2020 to create an additional 150 permanent supportive housing units for individuals with serious mental illness.	TBD. It is not clear how these units will be distributed throughout the state or if the funding takes into account the Fair Market Rent values (typically higher in Fairfax than other parts of the state). It also is not clear if this item provides funding for necessary support services for newly housed individuals.
311	<b>Governor Northam's Budget:</b> Provides \$1.2 million GF in FY 2020 to contract with the Virginia Mental Health Access Program to develop integrated mental health services for children.	Positive. This appropriation would likely enable the project to be implemented in Northern Virginia in FY 2020, as Inova and Children's National Hospitals are participating and offering in-kind assistance.
<b><u>Part C/Early Intervention</u></b>		
312	<b>Governor Northam's Budget:</b> Provides \$459,000 GF in FY 2019 and \$661,000 GF in FY 2020 to address continued growth in the number of children served in the state's Part C Early Intervention programs.	These are required increases due to higher costs and utilization (Part C is a mandated service). The additional funding will increase program capacity.
<b><u>Disability Services</u></b>		
355	<b>Governor Northam's Budget:</b> Provides approximately \$626,000 GF in FY 2020 for 50 blind and visually impaired individuals, currently on a waitlist, to receive vocational rehabilitation services.	Likely positive, though it is unclear how this funding will be distributed throughout the state.
<b><u>Safety Net Programs</u></b>		
340	<b>Governor Northam's Budget:</b> Provides approximately \$1.9 million NGF in FY 2020 to fund the anticipated cost of providing mandated Temporary Assistance for Needy Families (TANF) benefits.	This appropriation reflects caseload growth statewide. The TANF caseload in Fairfax County has remained relatively steady.
340	<b>Governor Northam's Budget:</b> Extends TANF eligibility to children up to age 19 who are enrolled full time in secondary school or an equivalent level of career or technical education.	Likely no impact to the County.
291	<b>Governor Northam's Budget:</b> Includes \$3 million NGF from the federal TANF block grant in FY 2020 for the Federation of Virginia Food Banks to strengthen outreach to food-insecure children throughout the Commonwealth.	TBD. It is not clear how this funding will be distributed throughout the state.

**BUDGET PROPOSALS FOR FY 2018 - FY 2020  
DURING THE 2019 GENERAL ASSEMBLY SESSION  
as of January 15, 2019**

Budget Item #	Issue	Fairfax County Impact
	<b>Public Education</b>	<b>Fairfax County Public Schools (FCPS) Impact (School Operating Fund)</b>
	<b>Direct Aid to Public Education</b>	
	<p><b><u>Sales Tax Revenues</u></b>  <b>Governor Northam's Budget:</b> Increases the sales tax revenue estimate for public education by \$13.5 million in FY 2020 to reflect additional estimated revenues from internet sales. In addition, increases the sales tax estimate by \$4.8 million in FY 2019 and \$6.1 million in FY 2020 as a result of the November 2018 education sales tax forecast.</p>	Results in additional funding of \$4.7 million in FY 2020 as compared to the FY 2020 budget forecast presented on November 27, 2018, and an additional \$1.6 million in FY 2019 as compared to the FY 2019 Approved Budget.
	<p><b><u>Salary Increase in FY 2020</u></b>  <b>Governor Northam's Budget:</b> Provides \$87.6 million in FY 2020 for the state's share of an additional 2 percent salary increase for instructional and support positions, effective July 1, 2019. This increase is in addition to the 3 percent increase provided as part of the adopted biennium budget.</p>	<p>Results in additional funding of \$7.9 million in FY 2020 as compared to the FY 2020 budget forecast presented on November 27, 2018. This is in addition to the \$12.2 million for the 3 percent salary increase which was included in the FY 2020 budget forecast presented on November 27, 2018.</p> <p>The net cost to FCPS for the additional 2 percent salary increase is approximately \$38.1 million.</p>
	<p><b><u>School Safety</u></b>  <b>Governor Northam's Budget:</b> Includes approximately \$36 million in FY 2020 to cover the state cost of modifying staffing ratios for school counselors.</p>	<p>This funding is included as part of overall Basic Aid funding. Standards of Quality (SOQ) accounts, including Basic Aid, result in a net decrease of \$6.3 million as compared to the FY 2020 budget forecast presented on November 27, 2018.</p> <p>The state currently includes a flexibility provision allowing school divisions to allocate according to need regardless of individual school level ratio. There is no reference to eliminating this flexibility. As a result, FCPS meets the new ratio requirement systemwide without adding counselors. The ratio is expected to be lowered over a three year period, and FCPS will likely have to add counselors in FY 2021.</p>
	<p><b><u>Update Lottery Proceeds</u></b>  <b>Governor Northam's Budget:</b> Increases by \$39.9 million in FY 2019 and \$30 million in FY 2020 the Virginia Lottery proceeds. Of the increase, \$35 million over the biennium will boost the state's per pupil allocation.</p>	FCPS will receive an additional \$1.2 million for the supplemental lottery per pupil allocation as compared to the FY 2020 budget forecast presented on November 27, 2018.
	<p><b><u>At-Risk Add-on Program</u></b>  <b>Governor Northam's Budget:</b> Provides \$35 million over the biennium to enhance the At-Risk program, which provides funding to support the additional costs of educating at-risk students.</p>	FCPS will receive a net increase of \$0.3 million (an increase of \$2.3 million in Lottery Programs offset by a \$2.0 million decrease in Incentive Programs) as compared to the FY 2020 budget forecast presented on November 27, 2018.

**BUDGET PROPOSALS FOR FY 2018 - FY 2020  
DURING THE 2019 GENERAL ASSEMBLY SESSION  
as of January 15, 2019**

Budget  
Item #

Issue	Fairfax County Impact
<p><b><u>State Special Education Regional Tuition</u></b>  <b>Governor Northam's Budget:</b> Makes technical changes that reduce statewide funding for this program by \$6.1 million in FY 2019 and \$0.7 million in FY 2020.</p>	<p>Due to recent administrative changes, for the first time beginning in FY 2019, FCPS is eligible to receive funds for Special Education Regional Tuition program for students requiring intensive support needs. As a result, FCPS will receive an additional \$4.3 million in FY 2020 as compared to the FY 2020 budget forecast presented on November 27, 2018 and \$2.2 million more in FY 2019 as compared to the FY 2019 Approved Budget.</p>
<p><b><u>State VPI+ Program</u></b>  <b>Governor Northam's Budget:</b> Provides \$9.7 million in FY 2020 in support for the Virginia Preschool Initiative Plus (VPI+) program currently supported by federal Preschool Development Grant funds, which expire after FY 2019.</p>	<p>Results in an additional \$0.6 million for FCPS in FY 2020 as compared to the FY 2020 budget forecast presented on November 27, 2018.</p> <p>The County may receive some of this funding for community classrooms, depending on how the new funds are administered.</p>
<p><b><u>Other Items of Interest</u></b>  <b><u>Other lottery accounts</u></b>  <b>Governor Northam's Budget:</b> Makes technical updates based on program participation.</p>	<p>Due to projected increases in lottery proceeds, FCPS will receive increases of \$1.2 million in Early Reading Intervention and career and technical education offset by various decreases of \$0.2 million including K-3 Class Size and Academic Year Governor's School (funded in incentive program), resulting in a net increase of \$1 million as compared to the FY 2020 budget forecast presented on November 27, 2018.</p>
<p><b><u>School Construction</u></b>  <b>Governor Northam's Budget:</b> Provides one-time deposit of \$80 million in the Literary Fund, which provides aid to local school divisions for school construction.</p>	<p>No impact to FCPS. The Literary Fund loans are tied to the Local Composite Index (LCI), and high LCI localities typically can get better rates through other financing mechanisms.</p>

<p><b><u>Impact to the Fairfax County Public Schools (FCPS) FY 2020 Operating Fund Budget</u></b></p> <p><b>Governor Northam's Budget:</b>  Compared to the FCPS' FY 2019 Approved Budget, Governor Northam's Budget includes \$27.2 million more in state aid and \$9.2 million in sales tax revenue for FY 2020.</p> <p>The impact of Governor Northam's Budget is reflected in the FCPS FY 2020 Proposed Budget released on January 10, 2019.</p>
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**BUDGET PROPOSALS FOR FY 2018 - FY 2020  
DURING THE 2019 GENERAL ASSEMBLY SESSION  
as of January 15, 2019**

Budget Item #	Issue	Fairfax County Impact
<b>Transportation</b>		
<b><u>Regional and Washington Metropolitan Area Transit Authority (WMATA)</u></b>		
453	<b>Governor Northam's Budget:</b> Includes the regional funds provided for in HB 2313 (2013), including \$553 million for distribution of Northern Virginia Transportation Authority (NVTA) Fund Revenues over the biennium. Also includes regional funds provided to WMATA (\$255.6 million) and non-WMATA Northern Virginia jurisdictions (\$19.1 million) per HB 1539/SB 856 (2018). The Commonwealth's revised estimates for NVTA revenues are \$13.6 million above what was projected for the biennium last year.	The amount received by the County is dependent on actual collections of the revenue sources. Through its Six Year Program, NVTA allocates approximately \$387 million (70 percent funding retained by NVTA). This funding has already been approved for projects through the recent adoption of NVTA's FY 2018-2023 Six Year Program. Over the biennium, Fairfax County should receive approximately \$74.65 million to allocate for local projects approved by the Board of Supervisors (30 percent funding returned to localities), minus the respective shares provided to Vienna and Herndon. Approximately \$28 million of this "30 percent funding" will likely be transferred to the Commonwealth's WMATA Capital Fund for the County's share of local funding for state of good repair, as required by HB 1539/SB 856.
<b><u>Regional Transportation Entity Appointments</u></b>		
4-14.	<b>Governor Northam's Budget:</b> Retains language permitting the Speaker to appoint non-legislative members to the NVTA, Northern Virginia Transportation Commission (NVTC), and Potomac and Rappahannock Transportation Commission (PRTC).	The Speaker has appointed three non-legislative members to NVTC (Jim LeMunyon, Raul "Danny" Vargas, and M. David Skiles), and one non-legislative member to NVTA (Randy Minchew).
<b><u>Other WMATA Items</u></b>		
445	<b>Governor Northam's Budget:</b> Includes \$2.4 million from the Mass Transit Account for federally mandated state safety oversight of fixed rail guideway transit agencies, i.e. the Metrorail Safety Commission (MSC). There is no change from the previously approved budget.	The County supported the MSC legislation during the 2017 GA session. Utilizing this funding for the MSC could lead to slightly reduced funding for statewide transit funding (the Northern Virginia region receives a large portion of this funding).
445	<b>Governor Northam's Budget:</b> Retains language directing VDOT to provide a loan of up to \$6.2 million each year to address any shortfall in transit funding due to FTA's withholding of Virginia's transit allocations because the MSC has not been enacted by all of the signatory parties. The amounts would be repaid once FTA releases Virginia's allocations.  The MSC has had several meetings and has submitted the application for certification to FTA. The certification, which is currently under review, must be completed by April 15, 2019.	Should help address funding shortfalls for transit systems related to FTA's decision. The delay could impact approximately \$4 million for Northern Virginia transit systems, including WMATA and Virginia Railway Express (VRE).
<b><u>Mass Transit Funding</u></b>		
445	<b>Governor Northam's Budget:</b> Retains \$840 million for Public Transportation Programs for the biennium, including \$181.9 million for Operating Assistance (no change), \$73.3 million for Capital Assistance (no change), and a separate allocation of \$313.9 million for WMATA operating and capital costs (as provided in HB 1539/SB 856) (no change). Retains language directing the Department of Rail and Public Transportation (DRPT) to investigate options to establish a Master Equipment Leasing Program to serve as a revolving fund for the purchase of equipment.	Impact currently unknown due to recent and proposed changes to capital and operating allocation processes.
<b><u>Regional Gas Tax</u></b>		
443	<b>Governor Northam's Budget:</b> Lists the amounts estimated to be generated by the regional gas tax: \$61.2 million in the first year and \$62 million in the second year for NVTC.	No impact. Makes information easier to find.

**BUDGET PROPOSALS FOR FY 2018 - FY 2020  
DURING THE 2019 GENERAL ASSEMBLY SESSION  
as of January 15, 2019**

Budget Item #	Issue	Fairfax County Impact
	<b>Highway Maintenance</b>	
451	<b>Governor Northam's Budget:</b> Provides \$3.97 billion for Highway System Maintenance and Operations over the biennium, a \$566 million increase over previous projections. This includes \$881.3 million for interstates (\$247.9 million increase); \$1.19 billion for primaries (\$259.6 million increase), \$1.2 billion for secondaries (\$89.6 million decrease), and \$534.8 million for Transportation Operations Services (\$151.9 million increase).	Using historical estimates, approximately \$96 million more may be available for maintenance and operations within Northern Virginia.
	<b>Highway Construction</b>	
450	<b>Governor Northam's Budget:</b> Provides \$5.43 billion for Highway Construction Programs over the biennium, an increase of \$660.9 million over previous projections. This includes: \$128.8 million for State of Good Repair (\$21 million increase); \$258.2 million for the High Priority Projects Program (\$50.9 million decrease); \$266 million for the Construction District Grant Program (\$43 million decrease); \$3.67 billion for Specialized State and Federal Programs (\$697.1 million increase); and, \$1.02 billion for Legacy Construction Formula Programs (\$33.9 million increase). Of the Specialized State and Federal Programs: <ul style="list-style-type: none"> <li>• \$227.4 million is for the Regional Surface Transportation Program (RSTP);</li> <li>• \$106.2 million is for the Highway Safety Improvement Program (HSIP);</li> <li>• \$159.2 million is for the Congestion Mitigation and Air Quality (CMAQ) Program;</li> <li>• \$200 million is for Revenue Sharing;</li> <li>• \$40.4 million is for the Surface Transportation Block Grant Program Set-Aside;</li> <li>• \$81.92 million is for the Virginia Transportation Infrastructure Bank (VTIB), including a \$75 million one-time allocation from the General Fund, which may be used for start up costs associated with the proposed I-81 Road Expansion;</li> <li>• \$3.5 million is for the Transportation Partnership Opportunity Fund (TPOF);</li> <li>• \$689.8 million represents the estimated project participation costs from localities and regional entities; and,</li> <li>• \$150.9 million in the second year represents the bond proceeds to be used for the Route 58 Corridor Development Program.</li> </ul>	<p>Many of these funds are subject to the Smart Scale prioritization process, so the impact to Fairfax County is currently unclear.</p> <p>Retains the current funding levels for Revenue Sharing (\$100 million).</p> <p>An additional \$6.3 million is projected for RSTP and an additional \$3.3 million is projected for CMAQ, which could benefit the County. HSIP and TAP funds are similar to what was allocated in previous years.</p>
450	<b>Governor Northam's Budget:</b> Retains language directing the Commonwealth Transportation Board (CTB) to review and report on the overall condition and funding needs of large and unique bridge and tunnel structures in the Commonwealth, and make recommendations on addressing funding of such projects within the State of Good Repair (SGR) program, including assessing the impact of establishing a set-aside from the State of Good Repair funding pot.	The report, approved by the CTB in December, identifies the 25 structures considered Vital Infrastructure, their conditions, and unconstrained funding needs. Given the magnitude of the identified needs, the report notes that funding those unconstrained needs through the SGR program would severely impact the ability of the program to accomplish its intended purpose, stating that a dedicated program may be needed to support vital infrastructure. VDOT has asked that this initial report serve as an introduction, with a more comprehensive report to be presented in 2019.
	<b>Toll Facilities</b>	
452	<b>Governor Northam's Budget:</b> Provides \$172.1 million for toll facilities over the biennium, including \$6.4 million for Debt Service (no change); \$93.2 million for Maintenance and Operations (\$43.8 million increase) and \$72.6 million for the Revolving Fund (no change).	The increase in funding for Maintenance and Operations appears to reflect the increase in the number of facilities in the Commonwealth.

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## Decriminalization of Marijuana

October 30, 2017



### Overview

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- Background
- Key Findings
- Policy Considerations
- Virginia Data
- Collateral Consequences
- Policy Options



## Background

- Crime Commission received a letter request from Senator Norment, as well as two bill referrals from Senate Courts of Justice during the 2017 Session of the General Assembly, to review the decriminalization of possession of small amounts of personal use marijuana:
  - SB 908 (Senator Lucas); and,
  - SB 1269 (Senator Ebbin).



## Background

- Decriminalization is NOT legalization.
- Decriminalization means the removal of criminal penalties for possessing small amounts of marijuana for personal use.
  - The punishment is amended from a criminal to a civil offense, but marijuana remains a prohibited substance.



## Background

- Marijuana is “any part of a plant of the genus Cannabis...its seeds or resin...and every compound...of such plant...” Va. Code § 18.2-247(D)
- The active component in marijuana is tetrahydrocannabinol (THC), which is classified as a Schedule I substance in Virginia’s Drug Control Act.
- Schedule I substances have a high potential for abuse and no accepted medical use in the U.S. or a lack of safety in supervised medical use.



## Background

- According to the National Institute on Drug Abuse, the possible effects of THC may include, in no specific order:
  - Enhanced sensory perception and euphoria followed by drowsiness/relaxation, slowed reaction time, problems with balance and coordination, increased heart rate and appetite, problems with learning and memory, hallucinations, anxiety, panic attacks, or psychosis.\*

\* Source: NIDA, Retrieved from <https://www.drugabuse.gov/drugs-abuse/commonly-abused-drugs-charts#marijuana>



## Background

- This study did NOT extensively examine:
  - Legalization of marijuana;
  - Medical marijuana;
  - CBD or THC-A oil;
  - The health effects of marijuana; or,
  - Industrial hemp.
- The Joint Commission on Health Care is conducting a study on medical marijuana.



## Background

- Staff utilized the following methodology:
  - Gathered relevant literature and data;
  - Reviewed Virginia law;
  - Examined the marijuana laws of the other 49 states, D.C., and the federal government;
  - Conducted informal surveys of prosecutors and criminal defense attorneys;
  - Consulted with practitioners; and,
  - Requested written public comments.



## Background

- Staff received over 5,665 written comments from the public. Of which:
  - 68% (3,850 of 5,665) were directly related to decriminalization.
    - 3,743 supported decriminalization
    - 107 did not support
  - The remaining 32% (1,815 of 5,665) were either duplicates or related to legalization, medical marijuana, or other topics.



## Background

- The purpose of this presentation is to:
  - Provide a general overview of possession of personal use marijuana laws in the U.S.;
  - Highlight policy matters that will need to be examined in regard to decriminalization;
  - Present arrest, charge, and conviction data for possession of marijuana in Virginia; and,
  - Identify the consequences resulting from a conviction for possession of marijuana.



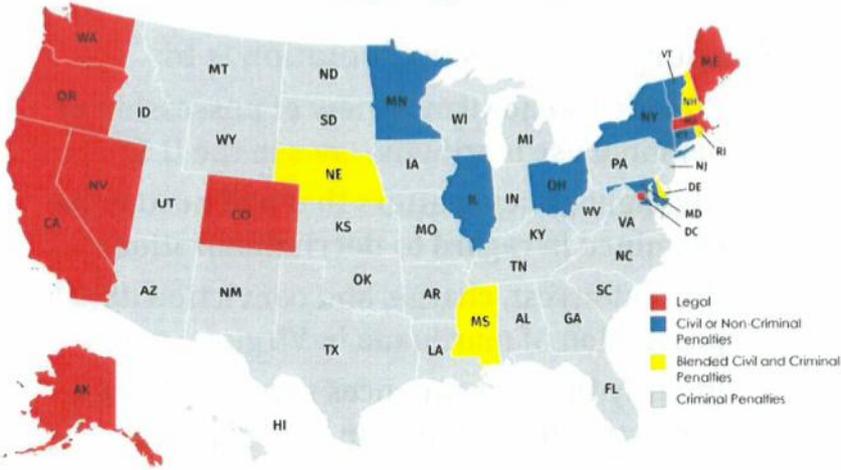
## Background

- The debate over the use of marijuana in the United States has gone on for over a century.
- Based on staff analysis, laws governing possession of marijuana can be grouped into the following categories:
  - Criminal penalties (30 states and federal law);
  - Legal recreational possession (8 states and D.C.);
  - Civil or non-criminal penalties (7 states); and,
  - Blended civil and criminal penalties (5 states).

VIRGINIA STATE CRIME COMMISSION 11



## Background



Source: Map by Crime Commission staff based on legal analysis.

VIRGINIA STATE CRIME COMMISSION 12

72



## Key Findings

- Virginia's current criminal penalty structure for possession of marijuana was enacted in 1979.
- Per Va. Code § 18.2-250.1:
  - First conviction: maximum punishment is up to 30 days in jail and a \$500 fine.
  - Second or subsequent conviction: punished as a class 1 misdemeanor by a maximum of 12 months in jail and up to a \$2,500 fine.
- A defendant's driver's license is revoked for 6 months by DMV for a conviction or deferred disposition of a drug offense.

VIRGINIA STATE CRIME COMMISSION 13



## Key Findings

- First time drug possession offenders may enter into a statutory first offender program to have the charge deferred and dismissed.
- A first time marijuana offender represented by court-appointed counsel can expect to pay approximately \$400 to \$800 in costs and fees depending on the type of probation ordered.
  - Other optional fees can increase these costs.

VIRGINIA STATE CRIME COMMISSION 14



## Key Findings

- An extremely low number of offenders serve jail time solely for possession of marijuana offenses.
- According to the Compensation Board (LIDS), on July 20, 2017, the following number of inmates were in jail solely on a marijuana charge:
  - Pretrial: 96 inmates; and,
  - Post-trial: 31 inmates.
- The average cost to jail an inmate was \$79.28 per day in FY15.



## Key Findings

- The vast majority of arrests for possession of marijuana in Virginia are for first offenses.
- Males, young adults, and Blacks are overrepresented in the total number of arrests for possession as compared to their overall general population in Virginia.
- There is a fairly large attrition rate in the number of charges resulting in convictions for first offense possession.



## Key Findings

- According to informal survey results of prosecutors and defense counsel, first offense marijuana cases are commonly taken under advisement per statute, or may be:
  - Amended to another offense; or,
  - Continued generally with conditions.
- Jail time is frequently waived on a first offense charge.



## Key Findings

- The informal survey also indicated that the punishment for second or subsequent possession commonly varied between fine only, suspended jail time plus fine, or jail time plus fine.
- In FY16, 31.1% (578 of 1,859) of sentencing events for *subsequent* marijuana possession convictions resulted in an active jail term.\*
  - The median *effective* jail sentence was 15 days.

\* Source: Virginia Criminal Sentencing Commission staff analysis of Supreme Court of Virginia - General District Court Case Management System (CMS) data.



## Key Findings

- Virginia law does not include a specific quantity limit in relation to possession of marijuana.
  - No bright line rule or rebuttable presumption exists for what quantity constitutes personal use.
- Research is being conducted to determine whether the potency of marijuana has risen over time.
  - For instance, one nationwide study found that the THC content of cannabis plant material rose from ~4% in 1995 to ~12% in 2014.<sup>1</sup>

<sup>1</sup> Eisohly, M.A., et al. (2016). Changes in cannabis potency over the past 2 decades (1995-2014): Analysis of the current data in the United States. *Biological Psychiatry*, 79, 613-619.

VIRGINIA STATE CRIME COMMISSION 19



## Key Findings

- Research on the specific impacts of marijuana *decriminalization* tends to be outdated.
  - Most current research focuses on legalization and medical usage of marijuana.
- States which have decriminalized possession of marijuana have adopted varying penalty structures, punishments, and quantity limits.

VIRGINIA STATE CRIME COMMISSION 20



## Key Findings

- According to a 2017 National Highway Traffic Safety Administration report, “[t]he scope and magnitude of the marijuana-impaired driving problem in this country cannot be clearly specified at this time.”<sup>1</sup>
- Current research does not support a reliable correlation between THC blood levels and impairment while operating a motor vehicle.<sup>1,2</sup>
- Because field sobriety tests for alcohol may not be indicative of impairment by some other substance, law enforcement may need additional training to recognize signs of drug-impaired driving.<sup>1</sup>

<sup>1</sup> Compton, R. (2017, July). Marijuana-Impaired Driving- A Report to Congress. (DOT HS 812 440). Washington, D.C.: National Highway Traffic Safety Administration, p. 20; 26-27.

<sup>2</sup> AAA (2016, May). An Evaluation of Data from Drivers Arrested for Driving Under the Influence in Relation to Per Se Limits for Cannabis. Retrieved from <https://www.aaafoundation.org/sites/default/files/EvaluationOfDriversInRelationToPerSeReport.pdf>



## Policy Considerations

- Legislation regarding decriminalization is a significant policy change that will impact numerous areas of Virginia law, including:
  - Punishment;
  - Enforcement;
  - Trial Procedures; and,
  - Administrative Procedures.



## Policy Considerations

### Which penalty structure could be enacted?

- Single civil offense
  - Illinois: \$100 to \$200 fine
- Escalating civil offense
  - Maryland: up to \$100 for 1<sup>st</sup> offense, \$250 for 2<sup>nd</sup> offense, and \$500 for 3<sup>rd</sup> or sub. offense
- Escalating civil/criminal offense
  - Nebraska: \$300 civil fine for 1<sup>st</sup> offense; 2<sup>nd</sup> and 3<sup>rd</sup> offenses are criminal with jail and fines

VIRGINIA STATE CRIME COMMISSION 23



## Policy Considerations

### What would be the quantity limit for civil possession?

State	Quantity of Marijuana
Illinois	10 grams (~0.35 ounce)
Maryland	10 grams (~0.35 ounce)
Connecticut	1/2 ounce
New Hampshire	3/4 ounce
New York	25 grams (~0.88 ounce)
Delaware	1 ounce
Nebraska	1 ounce
Rhode Island	1 ounce
Vermont	1 ounce
Mississippi	30 grams (~1.06 ounces)
Minnesota	42.5 grams (~1.5 ounces)
Ohio	100 grams (~3.53 ounces)

Source: Virginia State Crime Commission staff legal analysis.

VIRGINIA STATE CRIME COMMISSION 24

78



## Policy Considerations

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**What would be the punishment for possession above the determined limit?**

- Connecticut: possession of over ½ ounce is punishable by up to 1 year in jail and a \$2,000 fine.
- Delaware: possession of over 1 ounce is punishable by up to 3 months in jail and a \$575 fine.
- Creating weight differentiations within Virginia's marijuana possession statute will require policies and procedures regarding weight measurements.

VIRGINIA STATE CRIME COMMISSION 25



## Policy Considerations

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**Would decriminalization be based on the form of the marijuana?**

- Marijuana can take many forms, such as plant material, hashish, hashish oil, edibles, or synthetic.
  - Note that per Va. Code § 18.2-247(D), marijuana includes any *oily* extract containing less than 12% THC by weight.
- Delaware: decriminalizes leaf marijuana.
- New Hampshire: decriminalizes marijuana and regulated marijuana-infused products.
- Vermont: decriminalizes marijuana and hashish.

VIRGINIA STATE CRIME COMMISSION 26



## Policy Considerations

- Between 12-01-2015 and 7-31-2016, the Department of Forensic Science analyzed 6,387 items which contained marijuana:
  - 6,127 plant material/packaging, residue, cigars/cigarettes, and cigar/cigarette butts;
  - 33 baked goods;
  - 44 candy;
  - 101 solid material; and,
  - 82 miscellaneous other items.

VIRGINIA STATE CRIME COMMISSION 27



## Policy Considerations

**Would law enforcement be able to search a vehicle based on the odor of marijuana?**

- Courts in Maine, Oregon, California, Minnesota, Colorado, and Maryland have upheld such searches on the grounds that:
  - Marijuana remains contraband; or,
  - Several other marijuana-related activities remain illegal.

VIRGINIA STATE CRIME COMMISSION 28



## Policy Considerations

- Conversely, the Supreme Judicial Court of Massachusetts noted that it was “not confident...that a human nose can discern reliably the presence of a criminal amount of marijuana, as distinct from an amount subject only to a civil fine.” 469 Mass. 16 (2014).
- The trial court’s ruling that the smell of unburnt marijuana did not justify the search of the defendant’s back seat was upheld.
  - Case remanded on other grounds.



## Policy Considerations

### **Would possession of marijuana remain criminalized in certain circumstances?**

- Possession inside the passenger compartment of a vehicle;
- Possession in specified areas such as schools, public parks, or government buildings; or,
- Public use or consumption of marijuana.
- Virginia’s drug paraphernalia statutes may also need to be examined.



## Policy Considerations

### How would trial procedures be effected?

- The burden of proof for civil possession.
- Consideration of prior marijuana convictions for purposes of any escalating penalties.
- Prosecution of a civil offense—the Commonwealth’s Attorney, the City/County Attorney, or the law enforcement officer similar to a traffic offense.
- Civil or criminal discovery process.
- Use of a civil violation as grounds for the revocation of probation or a suspended sentence.

VIRGINIA STATE CRIME COMMISSION 31



## Policy Considerations

### How would administrative procedures be impacted?

- If an escalating penalty structure is enacted, which agency would be the repository for the records?
  - The prompt availability of a prior record is paramount to an escalating penalty structure.
  - Consider Va. Code § 18.2-371.2(D) regarding the sale of tobacco or nicotine products to minors.
- Would a civil violation for possession of marijuana be treated as a “conviction” under Virginia law for purposes of purchasing or transporting a handgun or obtaining a concealed handgun permit?

VIRGINIA STATE CRIME COMMISSION 32



## Policy Considerations

### Would any changes need to be made to Virginia's existing DUI laws?

- Virginia's DUI statute prohibits driving while:
  - Blood alcohol concentration is .08% or higher;
  - Under the influence of alcohol;
  - Under the influence of drug(s);
  - Under the influence of alcohol and drugs; or,
  - While having a blood alcohol concentration above a certain limit for specific substances.



## Policy Considerations

- A conviction could be obtained under Virginia's existing DUI statute by proof that the driver was under the influence of THC to the extent that his ability to drive was impaired, which requires:
  - Blood test confirming the presence of THC;
  - Witness testimony as to impairment.
- THC blood levels could be added to the Virginia DUI statutes, but those levels are not supported by science and would create the risk of non-impaired individuals being convicted.



## Policy Considerations

### Would the driver's license be revoked?

- If a person is found guilty of a drug offense or enters into the first offender program, his license is revoked by DMV for 6 months.
  - Subject to change if HB 2051 and SB 1091 from the 2017 Session become effective.
- The court may grant a restricted license to drive for various purposes.

VIRGINIA STATE CRIME COMMISSION 35



## Policy Considerations

### Will highway funding to Virginia be impacted?

- Per VDOT's FY18 budget, the agency expects to receive \$1,057,087,914 from the federal fund.
- Federal law requires that states either:
  - Suspend a person's driver's license for 6 months for a drug "conviction"; or,
  - Opt out of the suspension requirement.
- Failure to follow one of these options could result in an 8% loss of certain federal highway funds.
  - See the fiscal impact for SB 1444 (2015) regarding the potential loss of certain highway funds.

VIRGINIA STATE CRIME COMMISSION 36



## Policy Considerations

### How is marijuana treated at the federal level?

- Marijuana (THC) is classified as a Schedule I drug in the federal Drug Control Act.
  - In August 2016, the DEA denied a petition to reschedule marijuana to a Schedule II drug.
- Measures have been introduced in both chambers of Congress to remove marijuana from the federal controlled substances list.
- The current direction of federal marijuana policy remains uncertain.



## Virginia Data



## Virginia Data- Arrests

- Over the past ten years (CY07-CY16), there were 133,256 arrests for possession of marijuana under Va. Code section 18.2-250.1.\*
  - 84% (112,581 of 133,256) of arrests were for first offense; and,
  - 16% (20,675 of 133,256) of arrests were for subsequent offenses.

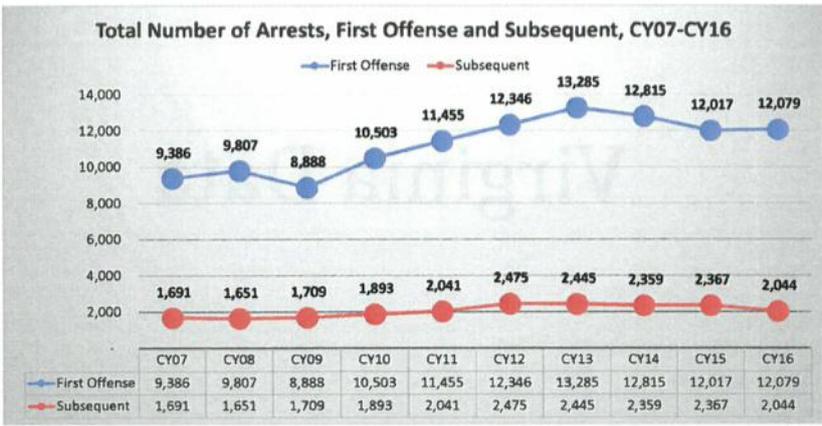
\*Source: Virginia State Police, Computerized Criminal History (CCH) Database. Analysis by Crime Commission staff.

VIRGINIA STATE CRIME COMMISSION 39



## Virginia Data- Arrests

**Total Number of Arrests, First Offense and Subsequent, CY07-CY16**



	CY07	CY08	CY09	CY10	CY11	CY12	CY13	CY14	CY15	CY16
First Offense	9,386	9,807	8,888	10,503	11,455	12,346	13,285	12,815	12,017	12,079
Subsequent	1,691	1,651	1,709	1,893	2,041	2,475	2,445	2,359	2,367	2,044

\*Source: Virginia State Police, Computerized Criminal History (CCH) Database. Analysis by Crime Commission staff.

VIRGINIA STATE CRIME COMMISSION 40

*SLC*



## Virginia Data- Arrests

- The U.S. Census Bureau estimated that as of 2016, Virginia's total population by sex was comprised of 51% female and 49% male.
- However, of the 112,581 first offense possession arrests (CY07-CY16):
  - 81% (90,904) of arrests were of males.
- Of the 20,675 subsequent offense possession arrests (CY07-CY16):
  - 91% (18,772) of arrests were of males.



## Virginia Data- Arrests

- 54% (60,868 of 112,581) of those arrested for first offense possession and 37% (7,628 of 20,675) of those arrested for subsequent possession (CY07-CY16) were between the ages of 18 to 24.

Age at Arrest	First Offense Arrests (N=112,581)	%	Subsequent Offense Arrests (N=20,675)	%
Under 18	1,942	2%	250	1%
<b>18-24</b>	<b>60,868</b>	<b>54%</b>	<b>7,628</b>	<b>37%</b>
25-29	19,362	17%	4,870	24%
30-34	10,749	10%	2,991	14%
35-39	6,438	6%	1,667	8%
40 and over	13,222	12%	3,269	16%

\*Source: Virginia State Police, Computerized Criminal History (CCH) Database. Analysis by Crime Commission staff.



## Virginia Data- Arrests

- The U.S. Census Bureau estimated that as of 2016, Virginia's total population was approximately 8.4 million people. Of which:
  - 70% was White;
  - 19.8% was Black/African American;
  - 6.7% was Asian or Native Hawaiian/Pacific Islander;
  - 2.9% was two or more races or other; and,
  - 0.5% was American Indian/Alaska Native.

VIRGINIA STATE CRIME COMMISSION 43



## Virginia Data- Arrests

- However, the 112,581 first offense possession arrests (CY07-CY16) were of:
  - 53.2% (59,883) White;
  - 45.5% (51,177) Black;
  - 1.0% (1,132) Asian/Pacific Islander;
  - 0.3% (323) American Indian/Alaska Native; and,
  - 0.1% (66) unknown race.

\*Source: Virginia State Police, Computerized Criminal History (CCH) Database. Analysis by Crime Commission staff.

VIRGINIA STATE CRIME COMMISSION 44



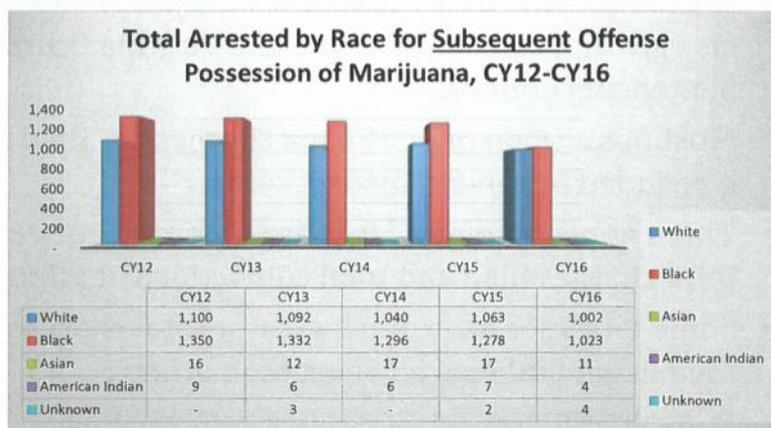
## Virginia Data- Arrests

- Further, the 20,675 subsequent offense possession arrests (CY07-CY16) were of:
  - 52.7% (10,888) Black;
  - 46.4% (9,586) White;
  - 0.6% (120) Asian/Pacific Islander;
  - 0.3% (61) American Indian/Alaska Native; and,
  - 0.1% (20) unknown race.

\*Source: Virginia State Police, Computerized Criminal History (CCH) Database. Analysis by Crime Commission staff.



## Virginia Data- Arrests



\*Source: Virginia State Police, Computerized Criminal History (CCH) Database. Analysis by Crime Commission staff.



## Virginia Data- Arrests

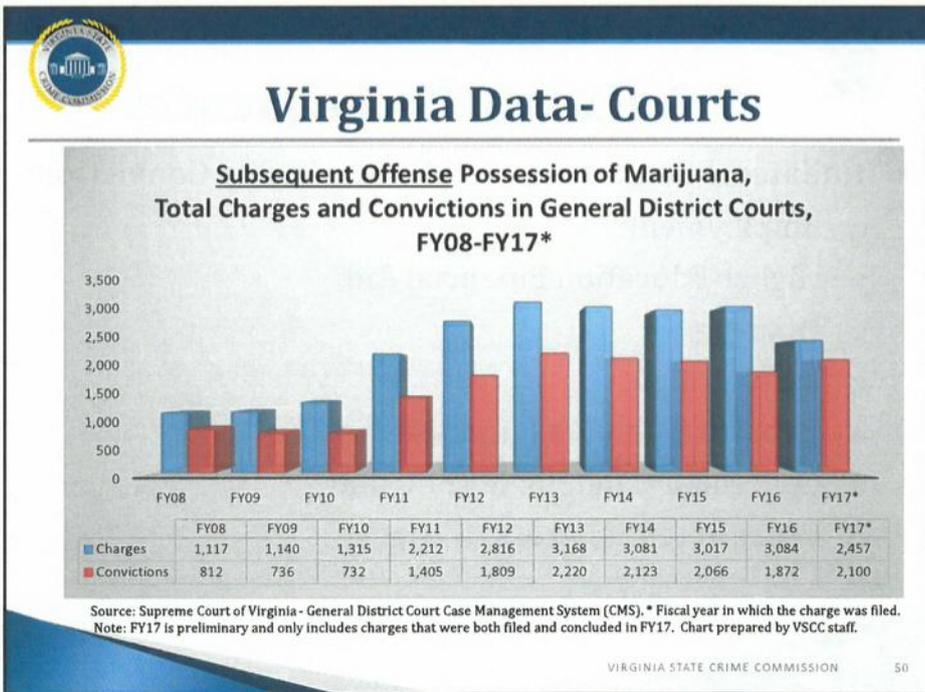
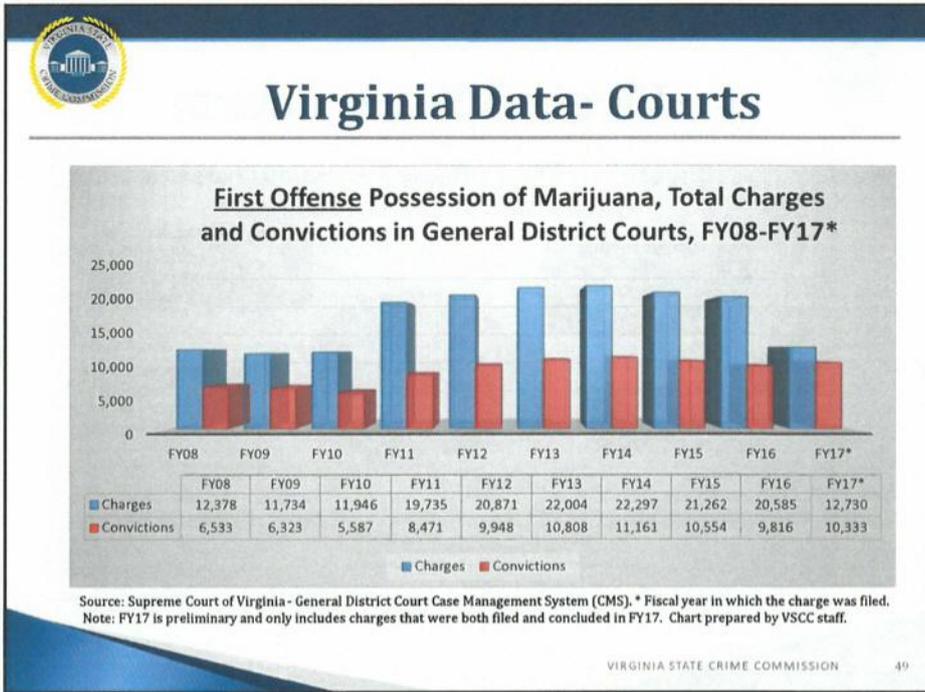
- A number of theories exist that attempt to explain the racial disparity in drug arrests.<sup>1</sup>
  - Theory #1 (Racial Inequality);
  - Theory #2 (Area of Residence); and,
  - Theory #3 (Conscious/subconscious racial bias).

<sup>1</sup> See, for overview, Mitchell, O., & Caudy, M.S. (2013). Examining racial disparities in drug arrests. *Justice Quarterly*, DOI: 10.1080/07418825.2012.761721.

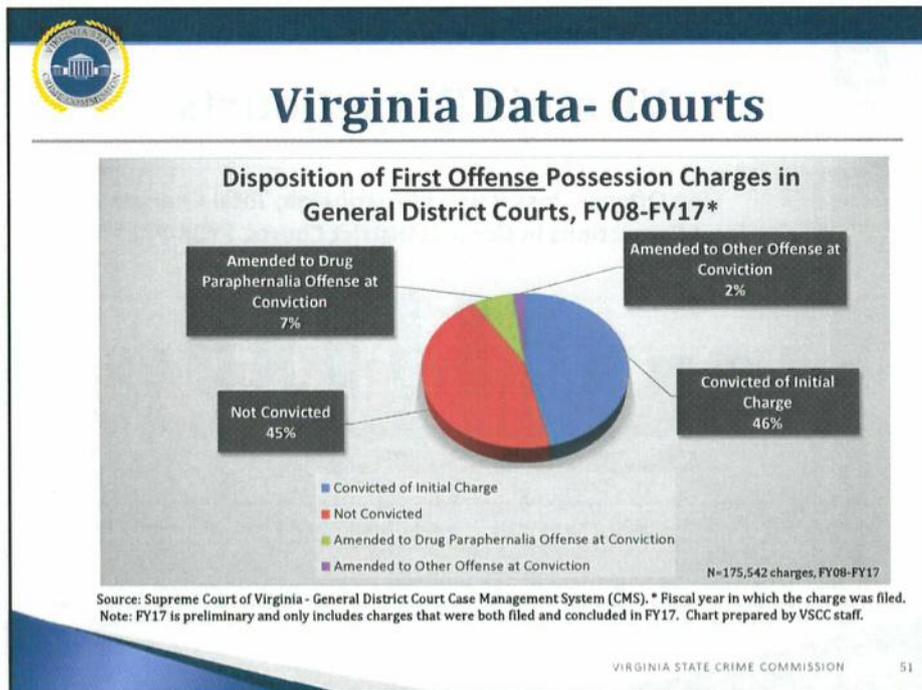


## Virginia Data- Courts

- Staff requested data relating to marijuana-related charges and convictions from the Virginia Criminal Sentencing Commission.
- Most possession of marijuana charges are filed and concluded in general district courts.
- There appears to be a large attrition rate between total charges filed and total convictions obtained.
- Some localities have much greater total charges filed in general district court than others.
  - Numerous localities experienced a large spike in marijuana possession charges in FY11.



91



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- ## Collateral Consequences
- Collateral Consequences of a Marijuana Conviction:
    - Employment;
    - Higher Education Financial Aid;
    - Housing;
    - Immigration;
    - Firearm Sales and Purchases;
    - Concealed Handgun Permit; and,
    - Other Potential Areas of Law.
- VIRGINIA STATE CRIME COMMISSION 52

92



## Collateral Consequences

### Employment:

- Policies will vary by employer.
- Security Clearance: illegal drug possession is a consideration in the adjudication process.

### Higher Education Financial Aid:

- Federal aid is suspended if the student is convicted for a drug offense which occurred while he was receiving federal financial aid.
- No impact to Virginia state financial aid.



## Collateral Consequences

### Housing:

- The Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, disability, familial status or national origin.
  - Criminal conviction is not a protected class.

### Immigration:

- Impact varies based on status, prior criminal record, and quantity of marijuana.



## Collateral Consequences

### Federal Firearm Sales or Purchases:

- Federal law prohibits the sale of firearms to or the purchase or possession of firearms by any person who is an unlawful user of or addicted to any controlled substance.

### Virginia Handgun Purchases or Transportation:

- A person convicted of two misdemeanor drug offenses within 36 months is ineligible to purchase or transport a handgun for 5 years.



## Collateral Consequences

### Virginia Concealed Handgun Permit:

- A person who has been convicted of possession of marijuana or who has had a such a charge deferred is disqualified from obtaining a concealed handgun permit for 3 years.

### Other Potential Areas of Law:

- Professional licenses, child custody matters, and other unknown consequences.



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# Policy Options

VIRGINIA STATE CRIME COMMISSION 57



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## Policy Options

**Policy Option #1:** Maintain the status quo.

**Policy Option #2:** Remove the jail sentence as punishment for possession of marijuana.

**Policy Option #3:** Decriminalize possession of small amounts of personal use marijuana.

- Proposed by SB 908 and SB 1269.

VIRGINIA STATE CRIME COMMISSION 58

95



## Policy Options

### Policy Option #1: Maintain the status quo.

- Possession of marijuana would remain a criminal offense with no changes to the law.
  - First offense: maximum 30 days in jail and a \$500 fine.
  - Second or subsequent offense: maximum 12 months in jail and a \$2,500 fine.
  - Deferred disposition remains an option.



## Policy Options

### Policy Option #2: Remove the jail sentence as punishment for possession of marijuana.

- Possession of marijuana would remain a criminal offense.
- The Virginia Code includes misdemeanor offenses without the possibility of incarceration:
  - Class 3 misdemeanor: maximum \$500 fine; or,
  - Class 4 misdemeanor: maximum \$250 fine.
- *Consider: counsel and collateral consequences.*

96



## Policy Options

**Policy Option #3:** Decriminalize possession of small amounts of personal use marijuana.

- Legislation should address a penalty structure:
  - Civil offense with a single penalty;
  - Civil offense with escalating penalties; or,
  - Civil offense with escalating penalties up to a criminal offense.
- Escalating penalties will require:
  - Central repository for records; and,
  - Determination of repository costs.



## Policy Options

**Policy Option #3:** Additional considerations in regard to decriminalization include:

- Quantity limit for personal use and punishments for possession over that limit;
- Development of weight measurement standards;
- Which forms of marijuana to decriminalize;
- Whether possession in vehicles, other areas, or public use should remain criminal;

97



## Policy Options

**Policy Option #3:** Additional considerations in regard to decriminalization include:

- Trial matters such as the burden and proof and how to count prior marijuana convictions;
- Whether to suspend a person's driver's license as a result of a civil conviction;
- Any amendments to Virginia's first time drug offender statute;



## Policy Options

**Policy Option #3:** Additional considerations in regard to decriminalization include:

- Any changes to Virginia's firearm and concealed handgun permit statutes;
- Any amendments to Virginia's DUI statutes;
- Providing training to law enforcement to recognize signs of drug-impaired driving; and,
- A delayed or emergency enactment.

98



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# Discussion

VIRGINIA STATE CRIME COMMISSION 65

99

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Report to the General Assembly:

Workgroup Study of the  
Impact of Body Worn Cameras on  
Workload in Commonwealth's Attorneys' Offices

*Compensation Board*

102 Governor Street, Richmond, Virginia 23219  
[www.scb.virginia.gov](http://www.scb.virginia.gov)

*December 1, 2018*

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## Contents

Introduction .....	4
Authority .....	6
Background .....	7
Existing Workload Factors and Staffing .....	8
Change Factors Affecting Workload .....	10
New Rules for Pre-Trial Discovery in Criminal Cases .....	10
Body Worn Camera Footage and Viewing Responsibilities .....	12
Research and Data Availability.....	14
Surveys of Commonwealth’s Attorneys.....	14
Research Studies/Reports and Contacts, Other Jurisdictions.....	15
Data Availability and Findings .....	17
Final Considerations and Workgroup Recommendations .....	19
Appendix A – Workgroup Members .....	22
Appendix B – Allocation of State-funded Staffing and Needs under Compensation Board Staffing Standards; Locally-funded Staffing .....	24
Appendix C – Summary of Prosecutors’ Ethical Duties.....	28
Appendix D – Commonwealth’s Attorney Survey Results .....	32
Appendix E – Detailed Data Collected by Henrico County Commonwealth’s Attorney’s Office Related to Body Worn Camera Footage, Comparison with Caseload Data .....	38
Appendix F – Workgroup Agency Representative Comments Regarding Other Impacts on Law Enforcement and the Court System of Body Worn Cameras .....	39
Appendix G – House Appropriations Committee Staff Retreat Presentation on Body Worn Cameras and Commonwealth’s Attorney Workload, November 13, 2018 .....	47
Appendix H – Workgroup Recommended Budget Amendment .....	64
Appendix I – Bureau of Justice Assistance/Body Worn Camera Training and Technical Assistance: “Policy Considerations for Body Worn Cameras in Prosecutor Offices” by Damon Mosler, Deputy District Attorney, San Diego County District Attorney’s Office .....	66

## Introduction

The Compensation Board is pleased to present this report summarizing the review by a workgroup of the impact on the workload of Commonwealth's Attorneys' offices of the use of body worn cameras (BWCs) by law enforcement officers within the jurisdictions they serve, pursuant to Chapter 2 of the 2018 Special Session I Virginia Acts of Assembly. This report presents the findings of the group's review of processes related to body worn camera footage, judicial input and ethical considerations, policies and practices used in other states, fiscal and staffing challenges and other workload-related issues, and presents recommendations of the group having budgetary or legislative impact, as sought in the provisions directing the study.

Workgroup members in this review included representatives of the Virginia Association of Commonwealth's Attorneys, Virginia Association of Counties, and the Virginia Municipal League as well as representatives of the Court of Appeals of Virginia, the Virginia State Bar and the Virginia Sheriffs' Association. Other workgroup participants included staff of multiple state agencies, including the Department of Criminal Justice Services, the Virginia Indigent Defense Commission, Virginia State Police, Commonwealth's Attorneys' Services Council, the administrative office of the courts - Office of the Executive Secretary of the Supreme Court, and staff of the Compensation Board. Staff of the House Appropriations and Senate Finance Committees also attended the meetings.

A great deal of the focus of the workgroup's review and discussion was focused on defining responsibilities of the Commonwealth's Attorney's office where body worn camera (BWC) footage exists in the areas of viewing, redaction and the prosecutor's ethical obligations. Also, discussions focused on law enforcement practices for recording footage that would be considered evidentiary, and how that footage is tagged to specific events and the means by which it is shared with prosecutors. Workgroup members were presented with information obtained from surveys of Commonwealth's Attorneys regarding BWC footage received and viewed, information regarding state-funded staffing and shortfalls that currently exist under staffing standards as well as existing local funding supporting staff, and data that generally defines caseload and overall workload of Commonwealth's Attorneys' offices. Other studies and reports on these issues from across the country were also reviewed.

The workgroup convened in three meetings in the fall of 2018; while significant information was gathered and shared during these meetings and recommendations were developed, the group determined that sufficient information does not exist at this time to fully measure workload in a consistent manner. Consequently, a recommendation is included that the group be continued for a two-year period for the purposes of gathering and analyzing data to develop more comprehensive measures to quantify workload.

The Compensation Board would like to thank the workgroup members for their time and contributions to the study, both in meetings and beyond, including survey data collections, contacts with jurisdictions across the country, and insights and inputs from their various areas of expertise. Questions or comments regarding this report should be directed to Robyn M. de Socio, Executive Secretary for the Compensation Board, at (804) 225-3439 or via e-mail at [robyn.desocio@scb.virginia.gov](mailto:robyn.desocio@scb.virginia.gov).

## **Authority**

### **Chapter 2, Item 73, paragraph U. (2018 Special Session I Virginia Acts of Assembly)**

“U. The Executive Secretary of the Compensation Board shall convene a working group comprised of representatives of the Supreme Court, Department of Criminal Justice Services, Commonwealth's Attorneys, local governments, and other stakeholders deemed appropriate by the Executive Secretary to investigate how body worn cameras have or may continue to impact the workloads experienced by Commonwealth's Attorneys offices. The working group shall examine processes, relevant judicial decisions, practices, and policies used in other states, potential financial and staffing challenges, and other related issues to determine workload impacts, and to develop recommended budgetary and legislative actions for consideration during the 2019 Session of the General Assembly. The Executive Secretary of the Compensation Board shall submit the recommendations of the working group to the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2018. All state agencies and local subdivisions shall provide assistance as requested by the working group.”

## Background

For a number of years, law enforcement agencies have been leveraging technology to improve transparency and accountability, reduce liability, and generally improve trust in daily interactions with the public. Body worn cameras are an example of technology that can aid in reducing use-of-force incidents or provide swift resolution to complaints against law enforcement officers in their behavior or actions.

Across the country, law enforcement agencies have deployed body worn cameras (BWCs) among their law enforcement officers in many jurisdictions with consideration given to the one-time cost of purchasing cameras, and in this implementation have also considered and planned for ongoing costs of footage storage, supervisory review, etc. Studies, best practices, and model policies for the implementation of BWCs among law enforcement abound across the country, and the Department of Criminal Justice Services published its own Model Policy on Body Worn Cameras for law enforcement agencies in Virginia in October, 2015. However, consideration of costs beyond law enforcement implementation and maintenance has been secondary, minimal, or nonexistent. Inclusion of the Commonwealth's Attorney in original planning and discussions for implementation of BWCs has varied across localities in Virginia, but most Commonwealth's Attorneys indicated they were not consulted, or were simply notified of implementation plans.

In recent years, Commonwealth's Attorneys have begun to vocalize concerns regarding increased workload in their offices related to footage that is generated from the implementation of BWCs among their local law enforcement agencies. The Virginia Association of Commonwealth's Attorneys (VACA) has prioritized funding to address workload resulting from BWC footage as one of its high priority needs over the last two legislative sessions. During the 2018 Session of the General Assembly, amendments were reported by subcommittees of both the House Appropriations and Senate Finance Committees in response to this concern. Both amendments required localities that had implemented BWCs among their local law enforcement agencies to provide additional locally-funded staff to support the increased workload in their Commonwealth's Attorney's office. The Senate Finance Committee amendment required a ratio for local funding of one full-time Assistant Commonwealth's Attorney for every 50 BWCs deployed, and the House Appropriations Committee amendment required local funding for staff be provided but did not require a specific ratio.

Local governments expressed opposition to the reported amendments containing local mandates, and the legislature ultimately approved language in Chapter 2, 2018 Special Session I Acts of Assembly that the Executive Secretary of the Compensation Board convene a working group to investigate how BWCs impact the workloads of Commonwealth's Attorneys' offices and to develop recommendations for consideration by the 2019 General Assembly. Participants in the working group may be found in Appendix A of this report.

## Existing Workload Factors and Staffing

Major concerns expressed by localities for a mandate on local governments to provide staffing support resulting from BWC implementation are based upon the matter of existing funding in support of Commonwealth's Attorneys' offices.

In providing state support for Commonwealth's Attorneys, the Compensation Board is responsible for establishing individual budgets for the operation of 120 Commonwealth's Attorneys' offices, which includes primarily salary funding to support the elected Commonwealth's Attorney, Assistant Commonwealth's Attorneys, and paralegal and administrative support staff in these offices. The legislature establishes a fixed dollar appropriation of \$74 million and a fixed number of staff positions to be allocated among the 120 offices. The current allocation of positions includes 120 Commonwealth's Attorneys, 613 Assistant Commonwealth's Attorneys, and 504 paralegal and administrative support staff positions.

The mission of the Compensation Board includes the "fair and reasonable" allocation of the funding appropriated by the General Assembly, and in the allocation of positions and related salary funding, the Board has established staffing standards that provide an objective formula for the determination of position and funding needs payable by the Commonwealth. As the Commonwealth, by statute, obligates the Commonwealth's Attorney to the prosecution of felonies in Circuit Court, this workload provides the foundation for Compensation Board staffing standards for Assistant Commonwealth's Attorney positions. A representation of the workload related to felony case prosecution in circuit court is demonstrated in staffing standards by two workload statistics: the number of felon defendants, as represented in the Supreme Court's annual caseload data; and the number of felon sentencing events, reported to the Virginia Criminal Sentencing Commission. A best fit formula was devised for Assistant Commonwealth's Attorney staffing using these statistics as a comparable representation of felony workload across all offices.

However, it has been a decade since new funding and positions have been appropriated to the Compensation Board for allocation to Commonwealth's Attorneys' offices to support growth in their felony caseloads. The last time additional resources were provided for this purpose was in FY08, and since that time, the number of additional Assistant Commonwealth's Attorney positions needed statewide to support only felony caseload in Circuit Court has grown to 102 positions, with a related need for support staff of 57 positions. As funding to address growth in workload and position needs is not regularly available, the Compensation Board employs a position reallocation policy that provides for the reallocation of positions from offices that exceed standards for felony workload (due to workload declines) to those offices that show a need for additional positions in accordance with the standards. However, reallocations are not regular occurrences, leaving some offices that have seen larger increases in workload to have increased staffing needs that cannot be met.

The Code of Virginia also provides that Commonwealth's Attorneys may, at their discretion, prosecute misdemeanor offenses; the majority of Commonwealth's Attorneys consider it their

obligation to their local citizens that they also prosecute certain traffic cases, such as DUI, etc., and certain classes of misdemeanor cases in the lower courts and in varying circumstances, especially where a defense attorney is representing the defendant or where a term of incarceration could result. In a recent survey of all Commonwealth's Attorneys' offices, all but 2 Commonwealth's Attorneys indicated that they prosecute these other cases in addition to just those felonies they are required to prosecute by statute.

In order to manage the additional workload of prosecuting traffic and other misdemeanor offenses across the courts in their jurisdictions, many Commonwealth's Attorneys have sought and received funding for additional staff beyond what the Compensation Board provides from their local governments. In many localities, local support for additional staff has also been necessary due to insufficient staffing for felony workload where the Compensation Board's staffing standards have not been funded, and where budget reductions impacting positions and salaries over the past decade have necessitated supplanting with local resources. Finally, while efforts to improve state-funded salary levels for Assistant Commonwealth's Attorneys have been made in recent years (FY14-FY15), many localities also provide significant funding to supplement salaries in an attempt to be more competitive and to address variations in cost-of-living in different areas of the Commonwealth (the Compensation Board is not funded to provide a salary differential for Northern Virginia or any other areas of the Commonwealth).

On an annual basis, as a part of each office's budget request to the Compensation Board, Commonwealth's Attorneys report additional staff positions and funding provided by other fund sources (e.g. locality, federal/other grants, asset forfeiture, etc.). In January, 2018, officers reported receiving locality funding to support the equivalent of an estimated 49 additional Assistant Commonwealth's Attorneys and 103 additional paralegal and support staff (not including victim/witness coordinator) positions statewide. Reported funding from local governments to support these positions, and from a combination of "other" sources to support another 60 positions, totals \$9.8 million. Also, Commonwealth's Attorneys statewide report an additional \$19.1 million (plus benefits) in locally funded salary supplements is provided on top of the \$71.3 million in salary and fringe benefit costs funded by the Compensation Board. A portion of these local salary supplements represent full funding for an additional 13 Assistant Commonwealth's Attorney positions and 31 paralegal and support staff positions that are allocated but unfunded by the Compensation Board due to previous budget reductions. Detailed data regarding the allocation of state- and locally-funded staffing, and staff needs according to Compensation Board standards for state funding, can be found in Appendix B.

In addition to the locality funds committed to Commonwealth's Attorneys' offices for local salary supplements and locally funded positions to address non-felony workload or shortages in Commonwealth funding for felony workload, some localities have provided added resources to address workload resulting from the implementation of body worn cameras. In a series of recent surveys of Commonwealth's Attorneys regarding body worn cameras (where 114 of 120 responded), responses indicated that while BWCs have been implemented in 84 localities, 21 localities provided funding in the equivalent of 38.5 attorney and/or administrative positions (13 in the City of Virginia Beach) to support new workload impacts resulting from the implementation of body worn cameras among law enforcement officers within the locality.

## Change Factors Affecting Workload

While existing Compensation Board staffing standards will capture changes in felony caseload and reflect an increased (or decreased) need for state-funded attorney positions, other outside factors are impacting the amount of time required to handle even an unchanged number of felony cases, that will not be reflected under current staffing standards.

Body worn cameras (BWCs) deployed by law enforcement add evidence requiring review by the prosecutor, which is a significant investment of time beyond the previous time necessary to read a law enforcement report regarding events that transpired. However, recent changes to the Supreme Court of Virginia's rules for pre-trial discovery in criminal cases, in conjunction with vast growth of BWC footage, will also add to the workload of prosecutors in Commonwealth's Attorneys offices even where caseload is unchanged, due to further time involved in meeting the requirements of the new Rules.

### New Rules for Pre-Trial Discovery in Criminal Cases

In order to capture the impact of the new Rules on felony caseload in circuit court, the Compensation Board would need to work with the Virginia Association of Commonwealth's Attorneys to identify a methodology change for its staffing standards, that would likely result in increases to the numbers of Assistant Commonwealth's Attorneys and support staff required statewide beyond the current staffing need that is presently not funded. However, the new Rules will add to workload for all case types, including traffic cases and misdemeanor cases in the lower courts, which are not considered in Compensation Board staffing standards for staff funding by the Commonwealth.

Workgroup member James McCauley, Ethics Counsel for the Virginia State Bar, provides the following summary regarding the new Rules of the Supreme Court of Virginia for Pre-Trial Discovery in Criminal Cases:

"On September 5, 2018, the Supreme Court of Virginia approved substantial amendments to Rules 3A:11 and 3A:12, but delayed the implementation of those changes until July 1, 2019, in order to enable the Virginia General Assembly to consider additional funding for prosecutors, both to handle the new discovery rules and to review and process the footage from police body cameras, a task that can be highly time-consuming.

The principal Rule of the Supreme Court governing discovery in criminal matters originating in the Circuit Courts is Rule 3A:11. Discovery in criminal matters in the District Courts is governed by Rule 7C:5, for General District Courts, and Rule 8:15, for the Juvenile and Domestic Relations District Courts. Additional rules which may affect, either directly or tangentially, discovery in criminal matters include Rule 1:16 (governing the form of all pleadings including "requests for discovery"), Rule 1A:4 (governing the conduct of counsel admitted *pro hac vice*), and Rule 3A:12 (governing requests for subpoenas and subpoenas *duces tecum*).

Under current Rule 3A:11, the prosecutor is required, upon motion, to permit inspection and copying any relevant written or recorded statements or confessions made by the accused, or the substance of any oral statements or confessions made by the accused to any law enforcement officer, the existence of which is known to the prosecutor; and written reports of autopsies, ballistic tests, fingerprint analyses, handwriting analyses, blood, urine and breath tests, other scientific reports, and written reports of a physical or mental examination of the accused or the alleged victim made in connection with the particular case, or copies thereof, that are known by the Commonwealth's attorney to be within the possession, custody or control of the Commonwealth. Upon written motion of an accused a court shall order the Commonwealth's attorney to permit the accused to inspect and copy or photograph designated books, papers, documents, tangible objects, buildings or places, or copies or portions thereof, that are within the possession, custody, or control of the Commonwealth, upon a showing that the items sought may be material to the preparation of his defense and that the request is reasonable. Discovery under the new Rule would include the discovery permitted under the current Rule.

The amended rules add to the discovery permitted by the current rules. The amended rules would require prosecutors, upon motion, to allow defense counsel to inspect and review any relevant reports prepared by law enforcement officers, including any written witness statements or written summaries of oral statements contained within such reports. The Commonwealth's attorney may, but is not required, to provide copies of such information to defense counsel. Some Commonwealth's attorneys have an "open file" discovery policy and do not require the filing of a motion by defendant for discovery. The new rules also require the prosecutor to allow the accused to inspect, review and copy any written or recorded statements, or the substance of any oral statements, made by a co-defendant or co-conspirator that the Commonwealth intends to introduce into evidence against the accused at trial. In addition, the amended rules also create mutual obligations on the defense and prosecution relating to the exchange of witness lists and expert witness information. The new rules would allow the prosecutor to redact certain information for the protection of victims and witnesses and designate evidence or material as "Restricted Dissemination Material," either by agreement or by court order if the accused seeks to remove the redaction or "Restricted Dissemination Material" designation. While an accused could view material designated as "Restricted Dissemination Material," the defense counsel may not provide the accused with a copy. The material provided under the new Rule would not normally be available to the public. Any material or evidence disclosed or discovered pursuant to the newly amended Rule and filed with the clerk of court shall be placed under seal until it is either admitted as an exhibit at a trial or hearing or the court enters an order unsealing the specified material or evidence. Upon a sufficient showing, the court may enter a protective order that discovery or inspection be denied, restricted or deferred or such other appropriate relief. Revised Rule 3A:11 would not authorize discovery of prosecutors' work product, including internal reports, memoranda and other internal documents. Names of confidential informants could remain confidential unless the informant is to testify at trial."

### Body Worn Camera Footage and Viewing Responsibilities

With changes to the Rules forthcoming in July, 2019, the need to address position and funding shortfalls under current Compensation Board staffing standards and to determine how staffing needs will be addressed to handle the additional time investment required for viewing footage from BWCs becomes even more significant.

During the 2018 legislative session, Commonwealth's Attorneys presented their concerns regarding growing workload resulting from BWC footage, and localities expressed their concerns regarding a mandate that would require local governments to fund the staffing impacts. Commonwealth's Attorneys presented a recommended formula of one attorney position for every 50 BWCs deployed based upon statistics that considered prosecutor time and hours of footage produced, and localities presented a number of questions regarding where the responsibility should lay for providing funding, how much footage is required to be viewed, and what type of position might be responsible for viewing the footage in preparation for prosecution.

During the workgroup meetings conducted in the fall of 2018, workgroup participants all agreed that the case preparation time where BWC footage exists is now greater than before the introduction of BWCs. However, there was a great deal of discussion regarding whether viewing of video footage was required to be handled by a prosecutor, or whether less costly resources, such as police department employees, or administrative or paralegal employees in the Commonwealth's Attorneys' offices, might be capable of meeting the viewing requirements necessary for case preparation. While it may be possible for certain other employees in the Commonwealth's Attorney's office to log video footage received from law enforcement and attach it to cases under review by prosecutors, and perhaps to handle any technical redaction work that may be necessary for preparation for the defense for discovery purposes or for presentation in court, it was determined that the prosecuting attorney is obligated to review all footage related to the case. Specifically, workgroup members Judge Robert Humphreys of the Virginia Court of Appeals and James McCauley of the Virginia State Bar advised participants that constitutional jurisprudence from the United States Supreme Court, Rule 3A:11 of the Rules of the Supreme Court of Virginia and Rule 3.8 of the Code of Professional Conduct for lawyers in Virginia all require that prosecutors examine all evidence gathered in a criminal case for the purpose of satisfying various constitutional, judicial and ethical requirements. BWC video footage which is generated in connection with any felony or misdemeanor case prosecuted must be examined by a prosecutor to determine evidentiary value, whether it contains exculpatory evidence (that could exonerate the defendant, tends to negate guilt, mitigate the degree of the offense, reduce the sentence of the defendant, or impeach a witness), and to disclose the contents to defense counsel.

There was additional discussion in the workgroup meetings regarding whether it might not be necessary to view video footage where the prosecutor has been told that a defendant is going to plead guilty, and preparation for trial may no longer be necessary. From a practical standpoint, however, defense attorneys may not often give prosecutors notice of an intent to plead guilty until shortly before a scheduled trial, and a defense attorney should only do so

after reviewing all the evidence provided by the prosecutor, including any BWC footage. In most cases, a prosecutor would need to prepare for a case to go to trial and may only be told otherwise at the last minute. Additionally, even if a defendant does plead guilty, issues of non-compliance could arise in an appeal, especially in a situation where footage may have contained exculpatory evidence.

Workgroup member James McCauley, Ethics Counsel for the Virginia State Bar, has provided a detailed analysis regarding prosecutors' ethical duties as it relates to this evidence, which can be found in Appendix C. After lengthy discussions in the workgroup meetings, Mr. McCauley summarized that "(n)o one questions that the increasing usage of BWCs by law enforcement officers will impact greatly the workload of prosecutors charged with responsibility for the content of video footage that must be processed, reviewed and analyzed in order for a prosecutor to discharge his or her legal obligations under the new discovery rules, *Brady* law, and ethical duties under the cited rules. Existing prosecutors' workloads will be significantly increased by the time taken to review footage derived from BWCs. To comply with legal and ethical standards, Commonwealth's Attorneys must staff more lawyers or decline handling cases. Breaching the legal and ethical standards is obviously not an option."

## Research and Data Availability

As a means of identifying the workload impact of body worn cameras (BWCs) on Commonwealth's Attorneys' offices and quantifying that workload, the workgroup reviewed surveys completed by Commonwealth's Attorneys, reviewed a limited number of available reports that have begun to document efforts across the country to address workload on prosecutors from BWCs, and Commonwealth's Attorney members of the workgroup reached out to identified colleagues in other states where such efforts have been documented.

### Surveys of Commonwealth's Attorneys

In February, 2018, when representatives of the Virginia Association of Commonwealth's Attorneys were speaking with members of the 2018 General Assembly regarding their concerns about workload impacts of BWCs, they conducted a survey of their colleagues across Virginia to find out about numbers of cameras deployed and quantity of footage provided by law enforcement agencies for review by prosecutors. As a part of the workgroup study in the fall of 2018, the survey was expanded to gather further information regarding BWCs and video footage, prosecutor duties undertaken beyond felony caseload required by statute, and whether local staffing resources are provided for general office operation and whether new local resources have been provided to address workload resulting from the implementation of BWCs.

As noted previously, 114 of 120 (95%) Commonwealth's Attorneys responded to one or more of the surveys. Of those responding, 84 offices indicated local law enforcement had implemented or was in the process of implementing body worn cameras, with a total of 7,486 cameras deployed; among these offices, 21 (25%) had received additional staff resources to support additional workload. Added resources noted included a combination of support staff and/or attorney staff positions, adding resources to make part-time positions full-time, or adding resources to supplement the salaries of existing positions; in total, funding in the equivalent of 38.5 attorney and/or administrative positions was provided. Six Commonwealth's Attorneys indicated their locality was considering the implementation of body worn cameras, and 24 indicated that body worn cameras had not been implemented. Of those reporting BWCs, 18 Commonwealth's Attorneys in counties reported cameras had been deployed by a town police department within their county; some of these also had cameras deployed by county law enforcement. Three Commonwealth's Attorneys reported cameras had been deployed by a college or university police department within the jurisdiction of their city in addition to the deployment by their city police department.

Of the 84 offices reporting implementation of BWCs, 51 reported approximate hours of video footage over a 12-month period, totaling 181,192 hours of footage. While some offices were able to quantify hours, quite a few provided figures that had to be estimated, and a number of offices did not have or were unable to obtain the information for the survey. Details of the survey responses by office are included in Appendix D. House Appropriations Committee staff attended workgroup meetings and prepared a related retreat presentation prior to the

completion of the workgroup review for the Committee in November, 2018, also using data from the survey. A copy of the presentation, including additional summaries of the survey data, is included Appendix G.

#### Research Studies/Reports and Contacts, Other Jurisdictions

While limited research exists in the public realm and reports are only newly becoming available related to workload for prosecutors resulting from BWCs, the workgroup was able to locate and review a handful of relevant reports. Two reports were most relevant to the work of the group: "Police Body Worn Cameras: What Prosecutors Need to Know", published in March, 2018 by Prosecutor's Center for Excellence and White & Case LLP (PCE/White & Case); and a report provided by the Baltimore County State's Attorney Office entitled "Body-Worn Camera Video Evidence Study", produced on October 1, 2018 as part of a study conducted by The Justice Management Institute in Arlington, Virginia on behalf of Baltimore County, Maryland.

The PCE/White & Case report (2018) represents a comprehensive summary of the current knowledge related to body worn cameras and the implications and considerations for prosecutors. It provides background information regarding the technology and its implementation by law enforcement agencies, system capabilities, how videos are "tagged" by law enforcement identifying whether they contain evidence, and tying the videos to certain cases, equipment and storage costs as well as storage volume and retention considerations for law enforcement. The report further summarizes information regarding prosecutor coordination with law enforcement for viewing access and information sharing policies, and ultimately how the BWC program affects technology needs in prosecutors' offices, staffing needs in prosecutors' offices, viewing and redaction responsibilities of prosecutors and access to videos by defense counsel, or access by witnesses in cases of use of force against law enforcement (PCE/White & Case report [2018] can be located at <https://pceinc.org/wp-content/uploads/2018/03/20180301-Police-Body-Worn-Cameras-What-Prosecutors-Need-to-Know-White-and-Case-and-PCE.pdf>).

From a staffing needs perspective, the report identifies studies of staff needs based upon footage quantities for viewing and redaction, and recommends a simple determination of staff need based upon average numbers of arrests by officers with body worn cameras and average video recording times to determine the quantity of video footage a prosecutor's office will receive, and the consider prosecutor office policies to calculate the staff need. The report also identifies a handful of offices across the country that have provided staffing for various functions.

As it pertains to prosecutor staffing, the most commonly cited estimate of staff need is 1 position per every 100 cameras deployed by law enforcement. In attempting to identify the source of this ratio, Chief Deputy Commonwealth's Attorney Susan Hooks of the Virginia Beach Commonwealth's Attorney's office ultimately reached the City Prosecutor's office in Phoenix, Arizona. This office is responsible for prosecuting misdemeanor criminal cases for the City of Phoenix, and prepared estimates of time involved in reviewing and processing video evidence

based upon BWC footage from city police. The estimate of 100:1 resulted from this analysis, but continues to evolve as law enforcement policies change, such as when cameras are turned on and off, as additional cameras are added, and as legislative changes impacting redaction are approved, and a more conservative ratio may be under consideration (closer to 75:1).

Additional contact was made with Damon Mosler, Deputy District Attorney at San Diego County District Attorney's Office, who is actively involved with the Bureau of Justice Assistance (BJA) and has been involved in the production of many of the documents found online related to BWCs and prosecutors. Mr. Mosler is currently participating with a workgroup of the BJA studying three jurisdictions in California, Texas and New York. In the San Diego County District Attorney's Office, they are staffed with 300 attorney positions, and have approximately 3,800 BWCs deployed among law enforcement officers.

Finally, Susan Hooks of the Virginia Beach Commonwealth's Attorney's office also spoke with Scott Shellenberger, State's Attorney for Baltimore County Maryland, regarding the County's study on BWCs and the need for additional prosecutors. This office also handles all felonies and misdemeanors that could result in a term of incarceration, handling approximately 45,000 cases per year, and having been provided 11 staff positions as a result of workload arising from BWCs. Mr. Shellenberger provided a copy of the report completed by the Justice Management Institute, referenced above.

Prosecutors agree and the PCE/White & Case report also indicates that added workload from BWC footage originates from the time variation between a summarizing police report and footage from all cameras present at an incident. Prosecutors quoted in the PCE/White & Case report agree with comments from Colin Stolle, Commonwealth's Attorney for the City of Virginia Beach, made during workgroup meetings as well as before legislators during the 2018 session, that police information formerly provided to prosecutors as a one-page police report is, with BWC footage, replaced with hours of footage from cameras from multiple officers being on-site at an incident for the full period of time of the encounter with law enforcement, whether a DUI case or a domestic situation.

Viewing responsibilities and the prosecutor's ethical obligations have been well defined by workgroup discussions, but Commonwealth's Attorneys have additional responsibilities for redaction of certain information from video footage prior to disclosure to defense counsel in discovery, and in preparation for presentation at trial. While there is no specific statute pertaining to what must be redacted from video footage prior to discovery, specific information is not subject to public disclosure and must be redacted prior to presentation at trial. Personal identifying information and medical information that may be disclosed in video footage, images of victims, witnesses, individuals under protective orders and minors, information regarding confidential informants to law enforcement officers, and commands used by law enforcement with canines, may all be subject to redaction prior to presenting at trial and/or before disclosure to defense counsel. Various reports have indicated that redaction time can take from 1-1/2 to 4 times the length of the video.

In the Justice Management Institute's report (October 1, 2018) on the Baltimore County Justice System, a study was conducted using data of incidents and videos for a six-month period in 2018 from the police department and prosecutor's office to review the impact of BWCs on case processing and trial preparation workload of prosecutors and public defenders, as well as impacts on the court system. The study included detailed analysis of numbers of videos, minutes of videos, and numbers of incidents that fall into similar crime categories as those prosecuted by most Commonwealth's Attorneys in Virginia: misdemeanors and traffic cases that may lead to arrest or jail time, and class 1 & 2 felonies and other felonies. At the time of the study, the Baltimore County State's Attorney's office had 11 funded positions designated for handling workload from BWC footage, and in the first six months of 2018 had received 115,102 videos related to 32,528 incidents in the categories noted above, with 402,054 minutes (6,701 hours) of video ultimately representing incidents that become cases for the State's Attorney's office (out of total minutes in these categories for this period of 1.1 million, or 18,678 hours). Based upon this workload and available staff time, the report indicated a need for six further staff positions, however, the report also suggests that certain redaction process changes may mitigate the additional staff need.

The study conducted in Baltimore County represents a thorough, data driven approach to quantify workload in a prosecutor's office, with significant input and data provided for analysis by the Police Department and State's Attorney's office. While a similar data driven study in Virginia could assist in determining a methodology to quantify workload and identify a standard for staffing, sufficient data is not currently collected in a consistent manner by Commonwealth's Attorneys, and it is unknown whether such data is currently available in a consistent manner from local law enforcement agencies that have deployed cameras.

#### Data Availability and Findings

Limited data has been gathered and used to identify potential staff need among Commonwealth's Attorneys in Virginia. In the City of Virginia Beach, Commonwealth's Attorney Colin Stolle analyzed data from calendar year 2014 arrests and determined that if body worn cameras were deployed to all police officers, there would have been over 14,000 hours of BWC footage for review by the Commonwealth's Attorney's office. Based upon an estimate of 2,000 available hours of work time per full-time equivalent (FTE) position, there would be 7 FTE positions needed to view 2,000 hours of BWC footage. This would also equate to approximately 1 FTE per 50 body worn cameras, and this estimated need was included as the proposed standard in the Senate Finance Committee recommended amendment during the 2018 legislative session. While the City of Virginia Beach has provided added resources to the Commonwealth's Attorney's office for the handling of BWC footage, the City is still rolling out its deployment of cameras in a phased approach and statistics regarding actual numbers of videos and hours of footage is not yet available.

As a participant in the workgroup, the Hanover County Sheriff's office provided data projecting annual statistics for types of cases, numbers of videos produced, and hours of video produced. The Sheriff's office has deployed 150 body worn cameras and projects 5,371 annual hours of footage from 13,331 annual videos, with projected charges of 61 serious felonies, 652 other

felonies, 2,020 criminal misdemeanors and 5,553 traffic charges, totaling 8,287 annual charges. While only 9% of projected charges are felonies, approximately 15% of videos represent felony charges, and 23% of footage hours represent felony charges. While the Commonwealth's Attorney indicates these hours of footage are provided, statistics are not currently available regarding staff time involved in reviewing the footage for case preparation. Additionally, these statistics do not include additional footage generated from BWC's worn by police officers in the Town of Ashland, within Hanover County, that were deployed several years ago.

The most significant collection of data related to BWC footage and staff time devoted to viewing footage for case preparation in Virginia exists from Henrico County Commonwealth's Attorney Shannon Taylor. Henrico County Police Department began deploying body worn cameras to its officers in March, 2015. Beginning in mid-2016, the Commonwealth's Attorney began tracking and collecting detailed data regarding prosecutor time for each defendant, felony and misdemeanor case, numbers of officers and BWC videos provided for each case, and hours spent viewing video footage and on the cases based upon BWC video footage. In this locality, the Commonwealth's Attorney does not have direct access to all video footage captured by the police department, but rather seeks video footage when needed for specific cases. Data regarding the total footage available from the police department has not been gathered for different case types, but the footage requested for viewing by the Commonwealth's Attorney's office totaled on average 2,006 hours per year for an average of 2,191 cases annually over the past three years, with 48% of the hours viewed representing felony cases. Details of data compiled by the Commonwealth's Attorney's office, along with caseload data from the Henrico County courts, can be viewed in Appendix E.

Importantly, both of the previously mentioned reports speak to the lack of full resources available to review all BWC footage in prosecutor offices resulting in a need to triage viewing of footage, based upon such circumstances as footage containing victims and witnesses and/or the seriousness of the offense, requests for discovery by defense counsel and the nearness of the trial date. Similarly, Henrico County Commonwealth's Attorney Shannon Taylor spoke in the workgroup meeting of her office's need to triage BWC footage viewing to meet defense counsel discovery requests given limited staff resources. While the county has provided the Commonwealth's Attorney's office with some additional part-time resources to address BWC footage, a comparison of the footage hours viewed by staff in the office versus the caseload flowing through the courts in Henrico County make it clear that resources are not available to do anything but triage viewing according to defense counsel needs. Significant added resources would be needed to enable prosecutors to view all footage related to all active cases on a proactive basis.

## **Final Considerations and Workgroup Recommendations**

Significant discussion took place during workgroup meetings extending beyond the topics covered in detail in this report. The group took time to learn about and discuss the differences among represented localities, from police departments and a sheriff's office, regarding their methods of implementing body worn cameras, challenges of storage, access and handling the footage, including discussions of tagging videos as evidence and sharing footage with prosecutors. The group also examined arrest data and caseload data from recent years to consider the degree of Commonwealth's Attorney workload related to felony versus misdemeanor caseload. This data will be helpful for further quantitative analysis to determine a staffing standard should additional data regarding video footage and hours to be viewed by prosecutors become more consistently available.

Beyond local governments, Commonwealth's Attorneys, and legal authorities, the workgroup included representatives from other agencies, such as Virginia State Police, Virginia Indigent Defense Commission, and other court representatives to incorporate other perspectives into the study. Virginia State Police was included in the work group to incorporate the perspective of a state-level law enforcement agency with the potential to implement body worn cameras at a statewide level, as well as for the agency to be aware of the challenges that extend beyond the impact to law enforcement, to other areas of the criminal justice process, of a decision regarding such an implementation. Presently, the Virginia State Police is conducting a pilot program with body worn cameras, with five cameras deployed in one district (in Chesterfield County). If the Commonwealth contemplates a requirement that localities provide staff support to Commonwealth's Attorneys when implementing body worn cameras among locality law enforcement agencies, then the Commonwealth must consider the implication on the workload of Commonwealth's Attorneys of a state law enforcement agency implementing body worn cameras in its local districts. Additionally, Lieutenant Tom Cunningham of the Virginia State Police provided additional comments on the potential impact to law enforcement agencies in the case that Commonwealth's Attorneys are unable to continue prosecution of certain cases absent sufficient resources to meet their professional and ethical obligations when dealing with significant BWC footage. These comments can be found in Appendix F.

In addition to offering their perspectives from different positions in the criminal justice process, representatives from other agencies such as the Courts and the Virginia Indigent Defense Commission had the opportunity to share concerns regarding how BWC deployment among law enforcement officers and the availability of significant footage impacts their operations in their parts of the criminal process, as these areas were also not likely contemplated in local decisions to implement BWCs (note that these areas are considered in the Justice Management Institute study of Baltimore County). Although these areas are not related to prosecutor workload and are outside of the scope of the study pursuant to the budget language in Chapter 2, the group felt it important to highlight these areas of further study that should be undertaken by the appropriate agency or within the judicial system. Comments from the Virginia Indigent Defense Commission and Judicial Operations of the Chesterfield Circuit Court as to impacts in these other areas of the criminal justice process are also included in Appendix F.

Although not workgroup members, staff members of the House Appropriations Committee and Senate Finance Committee also attended some of the workgroup meetings. Prior to the completion of the meetings and review by the workgroup, House Appropriations Committee staff presented information from the surveys and discussions of the workgroup in a retreat presentation to the Committee in November, 2018. Presentation materials are included in Appendix G to this report.

At the conclusion of the workgroup meetings, several recommendations were formulated. Although local governments and Commonwealth's Attorneys expressed some disagreement regarding a mandated formula for staffing, and a one-size fits all approach, this sub-group of members met separately to develop an agreement regarding local support for staffing for BWC workload. While the workgroup agreed that insufficient data is available to establish a permanent standard, the workgroup also understood that waiting for sufficient data to become available would continue to place Commonwealth's Attorneys in an untenable position with regard to their workload. Consequently, the recommendations of the workgroup include continuing the group to gather sufficient data, and a staffing requirement that allows the opportunity for agreement between the local government and Commonwealth's Attorney before a fixed staffing requirement would go forward as a default result. All members felt strongly that a commitment from local governments to provide staffing support for BWC workload needs to be accompanied by a commitment from the Commonwealth to fund the shortfall in positions due to Commonwealth's Attorneys for felony prosecutions that many localities are currently covering with local resources.

Based upon the discussion, research, and reviews conducted over the past several months, the workgroup submits the following recommendations:

- Recommendation 1: That the Commonwealth fully fund existing Compensation Board approved staffing standards for Commonwealth's Attorneys' offices; as many localities provide additional staff resources using local funding to support felony workload in the Commonwealth's Attorney's office where staffing standards needs have not been met, the ability to address workload needs from BWC implementation is hampered. While full state funding of staffing standards to provide the 102 Assistant Commonwealth's Attorney positions due statewide carries a cost of \$6.4 million per year, with an additional cost of \$1.6 million per year for the 57 paralegal and administrative staff positions due statewide, the workgroup acknowledges that consideration of a phased-in approach over a limited number of years along with a commitment to full funding may be reasonable.
- Recommendation 2: That budget language be approved to provide for local agreements between Commonwealth's Attorneys and their local governments to provide staff funding to support added workload caused by BWCs; however, a minimum staffing requirement of one Assistant Commonwealth's Attorney position for every 75 body worn cameras deployed is required when mutual agreement cannot be reached between the Commonwealth's Attorney and the locality. Agreements reached between the Commonwealth's Attorney and local government are to be effective July 1, 2019 through June 30, 2021, with changes by agreement in the interim and in accordance with any increases in BWC deployment. Any previous

appropriation of staff resources by localities for the purposes of addressing BWC workload already in effect would be credited to the locality and incorporated into the agreement. Note that even with this recommendation, Commonwealth's Attorneys may not be able to gain access to resources through their county or city where other law enforcement agencies may deploy body worn cameras that will impact the workload of the Commonwealth's Attorney's office. For example, towns within counties with their own police departments and police departments of colleges and universities may choose to deploy BWCs, where these entities have no authority to appropriate staff support to Commonwealth's Attorneys' offices. Additionally, if the Virginia State Police were to implement a BWC program beyond its current pilot of 5 body worn cameras, the impact on local Commonwealth's Attorneys could be significant. According to a presentation by House Appropriations Committee Staff, other state law enforcement agencies have not deployed BWCs, but their decision to do so would likewise impact the Commonwealth's Attorneys of the communities in which they serve.

- Recommendation 3: That the workgroup established pursuant to the study language in Chapter 2 be continued through December, 2020 to allow for data to be gathered and reported from all Commonwealth's Attorneys' offices and law enforcement agencies on a regular basis; the data collected would be used by the workgroup for quantitative analysis to identify a standard for staffing needs based upon footage generated as evidence for criminal cases from BWCs. With the workgroup extension, a follow-up report with the potential for recommendations of new minimum standards for staffing needs for Commonwealth's Attorneys to handle BWC workload would be completed by December 1, 2020. Proposed budget language agreed upon by workgroup members, including local government representatives and Commonwealth's Attorney representatives, can be found in Appendix H.
- Recommendation 4: That any planning for new or expanded implementation of BWCs, whether among county or city law enforcement agencies, or whether among state law enforcement agencies, town police departments, or police departments of colleges and universities, must include the involvement of the Commonwealth's Attorney and an analysis of the workload impact on the Commonwealth's Attorney's office. A Body-Worn Camera Training and Technical Assistance document entitled "Policy Considerations for Body Worn Cameras in Prosecutor Offices" written by Damon Mosler, Deputy District Attorney at San Diego County District Attorney's Office and supported by the Bureau of Justice Assistance of the U.S. Department of Justice, was recently published and provides a concise description of considerations for prosecutors as a part of the implementation of BWCs among law enforcement, including considering how to handle legal and ethical requirements, and determination of what staffing resources will be required to review, edit and transcribe video footage. The technical assistance document can be found in Appendix I.

## **Appendix A – Workgroup Members**

### **Virginia Association of Commonwealth's Attorneys (VACA):**

- Colin Stolle, Commonwealth's Attorney, City of Virginia Beach
- Shannon Taylor, Commonwealth's Attorney, Henrico County
- David Ledbetter, Commonwealth's Attorney, City of Waynesboro
- Donald Caldwell, Commonwealth's Attorney, City of Roanoke
- Susan Hooks, Chief Deputy Commonwealth's Attorney, City of Virginia Beach

#### **Other Attendees:**

- Michael Doucette, Executive Director, Virginia Association of Commonwealth's Attorneys

### **Virginia Association of Counties (VACO):**

- C. Matt Harris, Deputy County Administrator, Chesterfield County
- Mary Ann Curtin, Director of Intergovernmental Relations, Chesterfield County
- Tim Hall, County Administrator, Henry County

#### **Other Attendees:**

- Katie Boyle, Director of Governmental Affairs, Virginia Association of Counties

### **Virginia Municipal League (VML):**

- Morgan Whayland, Intergovernmental Relations Officer, City of Norfolk
- Captain Marion Miles, City of Norfolk Police Department
- Deputy Chief Tony Zucaro, City of Virginia Beach Police Department
- Lieutenant Scott Wichtendahl, City of Virginia Beach Police Department

#### **Other Attendees:**

- Michelle Gowdy, Executive Director, Virginia Municipal League
- Janet Areson, Director of Policy Development, Virginia Municipal League

### **Virginia Sheriffs' Association:**

- Major Michael Trice, Office of Hanover County Sheriff David Hines
- Captain Rickey Dandridge, Office of Hanover County Sheriff David Hines

#### **Other Attendees:**

- John Jones, Executive Director, Virginia Sheriffs' Association

## **Workgroup Members (continued)**

### **Court System Participants**

#### **Court of Appeals of Virginia:**

- The Honorable Robert Humphreys, Judge, Court of Appeals of Virginia

#### **Circuit Courts:**

- Tricia Muller, Administrator of Judicial Operations, Chesterfield Circuit Court

#### **Virginia State Bar:**

- James McCauley, Ethics Counsel, Virginia State Bar

#### **Office of the Executive Secretary of the Supreme Court:**

- Kristi Wright, Director of Legislative and Public Relations, Office of the Executive Secretary of the Supreme Court
- Dorian Dalton, Staff Attorney, Office of the Executive Secretary of the Supreme Court
- Jaime Reyes, Records Management Services Manager, Office of the Executive Secretary of the Supreme Court

#### **Virginia Indigent Defense Commission:**

- Jacob Lubetkin, Policy Analyst, Virginia Indigent Defense Commission

## **Other Agency Participants**

### **Virginia State Police:**

- Lieutenant Tom Cunningham, Jr., Information and Communication Technologies, Virginia State Police

### **Department of Criminal Justice Services:**

- Erik Smith, Manager, Law Enforcement, Policy and Standards, Department of Criminal Justice Services

### **Commonwealth's Attorneys' Services Council:**

- Jane Chambers, Director, Commonwealth's Attorneys' Services Council

### **Senate Finance Committee Staff:**

- Adam Rosatelli, Legislative Fiscal Analyst, Senate Finance Committee Staff

### **House Appropriations Committee Staff:**

- Michael Jay, Legislative Fiscal Analyst, House Appropriations Committee Staff

### **Compensation Board Staff:**

- Robyn de Socio, Executive Secretary, Compensation Board
- Charlotte Lee, Budget Manager, Compensation Board
- Mark Pellett, Management & Financial Analyst, Compensation Board

**Appendix B – Allocation of State-funded Staffing and Needs under  
Compensation Board Staffing Standards; Locally-funded Staffing**

Allocation of State-funded Staffing and Needs under Compensation Board Staffing Standards; Locally-funded Staffing

CC	Locality	Positions Funded and Due in Accordance with Comp Bd FY19 Staffing Standards						VACA Survey	Positions Funded Through Other Sources Excl Comp Bd As Reported on FY19 Budget Request Submissions by Commonwealth's Attorneys					
		CB Funded Comm Atty Position Count	CB Funded Asst Atty Position Count (excl C/A)	CB Staff Stand Additional Asst Atty Pos Due	CB Funded Admin Position Count	CB Funded Paralegal Position Count	CB Staff Stand Additional Admin/ Paralegal Pos Due	How many attorneys do you currently have? (May Incl C/A)	Asst Attys Funded through Locality Only	Asst Attys Funded through Other Sources (Non CB)	Total Asst Attorneys' Salaries Funded Through Locality & Other Sources	Support Staff Funded through Locality Only	Support Staff Funded through Other Sources (Non CB)	Total Support Staff Salaries Funded Through Locality & Other Sources
001	ACCOMACK COUNTY	1.0	2.5	-	2.0	-	-	3.5	-	-	-	-	-	-
003	ALBEMARLE COUNTY	1.0	5.0	2.0	2.5	1.0	1.0	8.0	-	-	-	-	-	-
005	ALLEGHANY COUNTY	1.0	2.5	2.0	2.0	1.0	1.0	3.5	-	-	-	-	-	-
007	AMELIA COUNTY	1.0	1.0	-	1.0	-	-	2.0	-	-	-	-	-	-
009	AMHERST COUNTY	1.0	3.0	-	2.0	-	-	4.0	-	-	-	-	-	-
011	APPOMATTOX COUNTY	1.0	2.0	-	1.0	1.0	-	3.5	-	1.0	44,990	-	-	-
013	ARLINGTON/FALLS CHURCH	1.0	14.0	-	6.0	3.5	-	16.0	2.0	-	143,853	4.0	2.0	353,538
015	AUGUSTA COUNTY	1.0	5.0	2.0	2.5	2.0	1.0	7.0	-	-	-	-	-	-
017	BATH COUNTY	1.0	-	-	0.5	-	-	1.0	-	-	-	-	-	-
019	BEDFORD COUNTY	1.0	5.0	(1.0)	2.5	1.0	-	6.0	-	-	-	1.0	-	31,435
021	BLAND COUNTY	1.0	-	-	1.0	-	-	1.0	-	-	-	-	-	-
023	BOTETOURT COUNTY	1.0	3.0	-	2.0	1.0	-	4.0	-	-	-	-	-	-
025	BRUNSWICK COUNTY	1.0	2.0	-	1.0	1.0	-	4.0	-	-	-	-	-	-
027	BUCHANAN COUNTY	1.0	3.5	1.0	2.0	1.0	1.0	4.0	-	-	-	-	-	-
029	BUCKINGHAM COUNTY	1.0	0.5	1.0	1.0	-	-	1.5	-	-	-	-	-	-
031	CAMPBELL COUNTY	1.0	4.0	1.0	1.5	2.0	-	6.0	-	1.0	64,958	-	-	-
033	CAROLINE COUNTY	1.0	2.0	1.0	1.0	-	2.0	3.0	-	-	-	-	-	-
035	CARROLL/GALAX	1.0	3.0	3.0	2.0	1.0	2.0	4.0	-	-	-	1.0	-	10,400
036	CHARLES CITY COUNTY	1.0	-	-	1.0	-	-	1.0	-	-	-	-	-	-
037	CHARLOTTE COUNTY	1.0	-	-	1.0	-	-	1.0	-	-	-	-	-	-
041	CHESTERFIELD COUNTY	1.0	20.0	8.0	10.5	4.0	5.0	26.0	-	1.0	84,032	-	-	-
042	CHESTERFLD DRUG PROS	-	1.0	n/a	1.0	-	n/a	1.0	-	-	-	-	-	-
043	CLARKE COUNTY	1.0	0.5	-	1.0	-	-	2.0	-	-	-	-	-	-
045	CRAIG COUNTY	1.0	-	-	0.5	-	-	1.0	-	-	-	-	-	-
047	CULPEPER COUNTY	1.0	3.0	2.0	1.5	1.0	2.0	2.0	1.0	1.0	141,482	2.0	-	7,128
049	CUMBERLAND COUNTY	1.0	-	-	1.0	-	-	1.0	-	-	-	-	-	-
051	DICKENSON COUNTY	1.0	2.5	1.0	1.0	-	2.0	2.0	-	-	-	1.0	-	11,898
053	DINWIDDIE COUNTY	1.0	2.5	-	3.0	-	-	3.0	-	-	-	-	-	-
057	ESSEX COUNTY	1.0	1.0	-	1.0	-	-	-	-	-	-	1.0	-	42,120
059	FAIRFAX COUNTY	1.0	26.0	1.0	11.0	5.0	3.0	33.0	-	-	-	-	-	-
061	FAUQUIER COUNTY	1.0	4.0	1.0	3.5	-	-	9.0	-	-	-	-	-	-
063	FLOYD COUNTY	1.0	1.0	-	1.0	-	1.0	2.0	-	-	-	-	-	-
065	FLUVANNA COUNTY	1.0	1.0	-	1.0	1.0	-	2.0	-	-	-	-	-	-
067	FRANKLIN COUNTY	1.0	5.0	-	4.0	-	-	6.0	-	-	-	-	-	-
069	FREDERICK COUNTY	1.0	5.0	3.0	2.0	1.0	3.0	8.0	-	-	-	-	-	-
071	GILES COUNTY	1.0	3.0	1.0	2.0	-	-	3.0	-	-	-	-	-	-
073	GLOUCESTER COUNTY	1.0	3.0	1.0	2.5	-	-	6.0	-	-	-	-	-	-
075	GOOCHLAND COUNTY	1.0	1.0	-	1.0	-	-	2.0	-	-	-	-	1.0	40,810
077	GRAYSON/GALAX	1.0	2.0	1.0	2.0	-	-	3.0	-	-	-	-	-	-
079	GREENE COUNTY	1.0	1.0	-	1.0	-	-	-	-	-	-	-	-	-
081	GREENSVILLE/EMPORIA	1.0	3.5	-	2.0	1.0	-	-	-	-	-	-	-	-
083	HALIFAX COUNTY	1.0	4.0	-	3.0	0.5	-	6.0	-	-	-	1.0	-	21,025
084	HALIFAX DRUG PROSECUTOR	-	1.0	n/a	1.0	-	n/a	1.0	-	-	-	-	-	-
085	HANOVER COUNTY	1.0	8.0	3.0	4.5	2.0	1.0	9.0	-	-	-	-	-	-
087	HENRICO COUNTY	1.0	23.0	4.0	12.5	4.0	2.0	34.0	5.0	-	393,786	6.0	-	218,504
089	HENRY COUNTY	1.0	5.0	2.0	3.5	1.0	-	5.0	-	-	-	-	-	-
090	HENRICO CO DRUG PROS	-	1.0	n/a	1.0	-	n/a	1.0	-	-	-	-	-	-
091	HIGHLAND COUNTY	1.0	-	-	0.5	-	-	1.5	-	-	-	-	-	-
093	ISLE OF WIGHT COUNTY	1.0	3.0	-	3.0	-	-	4.0	-	-	-	-	-	-
095	JAMES CITY/WILLIAMSBURG	1.0	4.0	-	2.5	1.0	-	7.0	1.0	1.0	127,504	1.0	-	27,602
097	KING AND QUEEN COUNTY	1.0	-	-	1.0	-	-	-	-	-	-	-	-	-
099	KING GEORGE COUNTY	1.0	1.5	1.0	1.0	1.0	-	-	-	-	-	-	-	-
101	KING WILLIAM COUNTY	1.0	-	-	1.0	-	-	2.0	-	-	-	-	-	-

Allocation of State-funded Staffing and Needs under Compensation Board Staffing Standards; Locally-funded Staffing

CC	Locality	Positions Funded and Due in Accordance with Comp Bd FY19 Staffing Standards						VACA Survey	Positions Funded Through Other Sources Excl Comp Bd As Reported on FY19 Budget Request Submissions by Commonwealth's Attorneys				
		CB Funded Comm Atty Position Count	CB Funded Asst Atty Position Count (excl C/A)	CB Staff Stand Additional Asst Atty Pos Due	CB Funded Admin Position Count	CB Funded Paralegal Position Count	CB Staff Stand Additional Admin/ Paralegal Pos Due	How many attorneys do you currently have? (May Incl C/A)	Asst Attys Funded through Locality Only	Asst Attys Funded through Other Sources (Non CB)	Total Asst Attorneys' Salaries Funded Through Locality & Other Sources	Support Staff Funded through Locality Only	Support Staff Funded through Other Sources (Non CB)
103	LANCASTER COUNTY	1.0	1.0	-	2.0	-	-	-	-	-	-	-	-
105	LEE COUNTY	1.0	3.0	1.0	2.0	1.0	-	3.0	-	-	-	-	-
107	LOUDON COUNTY	1.0	8.0	4.0	6.0	-	-	19.0	9.0	684,099	12.0	-	594,107
109	LOUISA COUNTY	1.0	2.0	2.0	2.0	-	-	4.0	1.0	111,592	1.0	-	13,156
111	LUNENBURG COUNTY	1.0	1.0	-	1.0	-	-	1.5	-	-	-	1.0	3,060
113	MADISON COUNTY	1.0	-	-	1.0	-	-	2.0	-	-	-	-	-
115	MATHEWS COUNTY	1.0	-	-	1.0	-	-	1.0	-	-	-	-	-
117	MECKLENBERG COUNTY	1.0	4.0	1.0	3.5	-	-	5.0	-	-	-	1.0	23,400
119	MIDDLESEX COUNTY	1.0	-	-	1.0	-	-	1.0	-	-	-	-	-
121	MONTGOMERY COUNTY	1.0	6.0	2.0	3.5	1.0	1.0	8.0	-	-	-	5.0	3,854
125	NELSON COUNTY	1.0	1.0	-	1.0	-	-	2.0	-	-	1.0	-	21,640
127	NEW KENT COUNTY	1.0	1.0	-	1.0	-	-	1.5	-	-	-	-	-
131	NORTHAMPTON COUNTY	1.0	1.0	-	1.0	-	-	2.0	-	-	-	-	-
133	NORTHUMBERLAND COUNTY	1.0	1.0	-	1.0	-	-	2.0	-	-	-	-	-
135	NOTTOWAY COUNTY	1.0	1.0	1.0	1.0	-	1.0	2.0	-	-	-	-	-
137	ORANGE COUNTY	1.0	2.0	1.0	1.0	-	2.0	-	-	-	-	-	-
139	PAGE COUNTY	1.0	1.5	2.0	2.0	-	1.0	3.0	-	-	1.0	-	30,118
141	PATRICK COUNTY	1.0	1.0	1.0	1.0	-	1.0	3.0	-	1.0	1.0	-	4,000
143	PITTSYLVANIA COUNTY	1.0	5.0	-	2.5	2.0	-	6.0	-	-	-	-	-
145	POWHATAN COUNTY	1.0	1.5	-	1.0	-	1.0	3.0	-	-	-	-	-
147	PRINCE EDWARD COUNTY	1.0	3.5	-	3.0	-	-	4.0	-	-	1.0	-	30,243
149	PRINCE GEORGE COUNTY	1.0	2.5	-	2.0	1.0	-	3.5	-	-	-	-	-
153	PRINCE WILLIAM/ MANASSAS/ MANASSAS PARK	1.0	22.0	(1.0)	10.0	5.0	-	25.0	2.0	154,128	2.0	-	131,261
155	PULASKI COUNTY	1.0	6.0	-	3.0	2.0	-	6.0	-	-	-	-	-
157	RAPPAHANNOCK COUNTY	1.0	-	-	1.0	-	-	1.0	1.0	4,500	1.0	-	1,020
159	RICHMOND COUNTY	1.0	-	-	1.0	-	-	1.0	-	-	-	-	-
161	ROANOKE COUNTY	1.0	6.0	3.0	3.5	1.0	2.0	7.0	-	-	-	-	-
163	ROCKBRIDGE/LEXINGTON	1.0	3.0	1.0	2.0	-	2.0	4.0	-	-	-	-	-
165	ROCKINGHAM/HARRISONBURG	1.0	9.0	2.0	4.5	3.0	1.0	12.0	1.0	56,493	4.0	4.0	325,364
167	RUSSELL COUNTY	1.0	2.5	2.0	1.5	1.0	1.0	4.0	1.0	35,693	1.0	-	16,224
169	SCOTT COUNTY	1.0	2.5	2.0	1.0	1.0	2.0	4.0	-	-	-	-	-
171	SHENANDOAH COUNTY	1.0	3.0	1.0	2.0	-	1.0	-	-	-	-	-	-
173	SMYTH COUNTY	1.0	4.0	2.0	2.5	1.0	1.0	4.0	-	-	-	-	-
175	SOUTHAMPTON/FRANKLIN	1.0	3.0	1.0	2.0	1.0	-	4.0	-	-	-	-	-
177	SPOTSYLVANIA COUNTY	1.0	8.0	3.0	4.5	2.0	2.0	11.0	-	-	-	-	-
179	STAFFORD COUNTY	1.0	11.0	1.0	4.0	4.5	1.0	13.0	-	1.0	94,786	-	-
181	SURRY COUNTY	1.0	-	-	1.0	-	-	1.0	-	-	-	-	-
183	SUSSEX COUNTY	1.0	1.0	-	1.0	-	-	2.5	-	-	1.0	-	39,790
185	TAZEWELL COUNTY	1.0	7.0	4.0	5.5	-	-	-	-	-	1.0	-	25,418
187	WARREN COUNTY	1.0	3.0	3.0	3.0	-	-	5.0	-	-	-	-	-
191	WASHINGTON COUNTY	1.0	3.0	3.0	2.5	-	2.0	6.0	-	-	1.0	-	32,781
193	WESTMORELAND COUNTY	1.0	1.0	-	1.0	1.0	-	3.0	-	-	-	-	-
195	WISE/NORTON	1.0	7.0	1.0	4.0	1.5	-	8.5	-	1.0	45,760	-	-
197	WYTHE COUNTY	1.0	4.0	2.0	3.0	1.0	1.0	5.0	-	-	-	-	-
199	YORK/POQUOSON	1.0	4.0	-	3.5	-	-	8.0	-	-	3.0	1.0	171,558
510	ALEXANDRIA	1.0	8.0	-	5.5	2.0	-	14.0	4.0	309,629	5.0	1.0	176,987
511	ALEXANDRIA DRUG PROS	-	1.0	n/a	1.0	-	n/a	1.0	-	-	-	-	-
520	BRISTOL	1.0	3.0	2.0	3.0	-	-	4.0	-	-	-	-	-
530	BUENA VISTA	1.0	-	1.0	1.0	-	-	1.0	-	-	-	-	-
540	CHARLOTTESVILLE	1.0	5.0	-	2.5	1.0	-	7.0	1.0	90,002	-	-	-
550	CHESAPEAKE	1.0	21.0	2.0	10.0	5.5	1.0	26.0	-	-	-	2.0	50,494
570	COLONIAL HEIGHTS	1.0	4.0	1.0	4.0	-	-	5.0	-	-	1.0	-	103,600

126

Allocation of State-funded Staffing and Needs under Compensation Board Staffing Standards; Locally-funded Staffing

CC	Locality	Positions Funded and Due in Accordance with Comp Bd FY19 Staffing Standards						VACA Survey	Positions Funded Through Other Sources Excl Comp Bd As Reported on FY19 Budget Request Submissions by Commonwealth's Attorneys					
		CB Funded Comm Atty Position Count	CB Funded Asst Atty Position Count (excl C/A)	CB Staff Stand Additional Asst Atty Pos Due	CB Funded Admin Position Count	CB Funded Paralegal Position Count	CB Staff Stand Additional Admin/ Paralegal Pos Due	How many attorneys do you currently have? (May Incl C/A)	Asst Attys Funded through Locality Only	Asst Attys Funded through Other Sources (Non CB)	Total Asst Attorneys' Salaries Funded Through Locality & Other Sources	Support Staff Funded through Locality Only	Support Staff Funded through Other Sources (Non CB)	Total Support Staff Salaries Funded Through Locality & Other Sources
590	DANVILLE	1.0	9.0	-	6.5	-	-	10.0	-	-	-	-	4.0	114,795
630	FREDERICKSBURG	1.0	6.0	2.0	3.5	2.0	1.0	6.0	-	-	-	-	1.0	40,946
650	HAMPTON	1.0	12.0	-	6.0	3.5	-	-	-	-	-	-	-	-
650	HAMPTN CTY DRUG PROS	-	2.0	n/a	1.0	-	n/a	-	-	-	-	-	-	-
670	HOPEWELL	1.0	3.0	-	2.0	1.0	-	4.0	-	-	-	-	-	-
690	LYNCHBURG	1.0	10.0	1.0	4.5	3.0	1.0	12.0	-	-	-	4.0	5.0	385,626
690	MARTINSVILLE	1.0	4.0	-	2.0	2.0	-	4.0	-	-	-	-	-	-
700	NEWPORT NEWS	1.0	19.0	(1.0)	12.5	3.0	-	26.5	7.0	1.0	519,553	16.0	9.0	951,520
710	NORFOLK	1.0	30.0	1.0	16.0	8.5	-	37.0	2.0	-	119,558	17.0	-	584,106
730	PETERSBURG	1.0	6.0	-	3.5	1.0	-	7.0	-	-	-	1.0	-	15,600
740	PORTSMOUTH	1.0	16.0	(1.0)	9.0	3.5	-	-	-	-	-	-	6.0	288,163
741	PORTSMTH CTY DRUG PR	-	1.0	n/a	1.0	-	n/a	-	-	-	-	-	-	-
750	RADFORD	1.0	2.0	1.0	1.0	-	1.0	2.0	-	-	-	-	-	-
760	RICHMOND CITY	1.0	32.0	-	14.0	7.0	-	39.0	7.0	-	580,034	2.0	-	89,565
770	ROANOKE	1.0	12.0	1.0	6.0	3.0	-	14.0	1.0	-	79,352	-	2.0	73,819
771	ROANKE CTY DRUG PROS	-	1.0	n/a	1.0	-	n/a	1.0	-	-	-	-	-	-
775	SALEM	1.0	3.5	1.0	1.0	1.0	1.0	3.5	-	-	-	1.0	-	3,000
790	STAUNTON	1.0	3.0	2.0	2.0	1.0	1.0	4.0	-	-	-	-	-	-
800	SUFFOLK	1.0	9.0	-	4.5	2.0	-	15.0	3.0	1.0	338,166	7.0	-	290,680
810	VIRGINIA BEACH	1.0	28.0	2.0	16.5	4.0	-	41.0	-	-	-	-	4.0	122,450
820	WAYNESBORO	1.0	4.0	-	3.0	1.0	-	4.5	-	-	-	-	-	-
840	WINCHESTER	1.0	7.0	1.0	5.0	1.0	-	7.0	-	-	-	-	-	-
		120.0	613.0	102.0	379.5	124.0	57.0	771.5	49.0	11.0	\$4,278,944	103.0	49.0	\$5,530,203

## Appendix C – Summary of Prosecutors’ Ethical Duties

James McCauley, Ethics Counsel for the Virginia State Bar, has provided the following summary regarding prosecutors’ ethical duties:

### *“The Brady Rule and the Prosecutor’s Ethical Duty To Disclose Exculpatory Evidence*

*Brady v. Maryland*, 373 U.S. 83, 87 (1963), holds that “the suppression by the prosecution of evidence favorable to an accused violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.” The duty to disclose such evidence is applicable even though there has been no request by the accused, and the duty encompasses impeachment evidence as well as exculpatory evidence. Under a line of cases beginning with *Brady v. Maryland*, 373 U.S. 83 (1963), the U.S. Supreme Court has held that prosecutors have an obligation under the due process clauses of the Fifth and 14th Amendments to disclose exculpatory evidence that is material to the guilt or sentencing of a defendant. The duty to disclose also applies to evidence that would tend to impeach the credibility of a government witness whose testimony was central to the government’s case. *Giglio v. United States*, 405 U.S. 150 (1972). In the context of using a BWC, video footage that is inconsistent with a victim’s or government witness’ account or statement, for example, could be impeachment material a prosecutor may be obligated to disclose or make available to the defense. While the disclosure obligations set forth in *Brady* and *Giglio* appear to be broad, they are in fact more narrowly construed by the courts. First, the prosecution’s duty to disclose turns on whether the evidence is “material.” The Supreme Court has defined evidence as material “when there is a reasonable probability that, had the evidence been disclosed, the result of the proceeding would have been different.” *Cone v. Bell*, 129 S.Ct. 1769, 1783 (2009). *But see Workman v. Commonwealth*, 272 Va. 633, 636 S.E.2d 368 (2006) (The question is not whether the defendant would more likely than not have received a different verdict with the evidence, but whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence).

Moreover, the prosecutor has an affirmative duty to seek out exculpatory evidence because the Commonwealth is charged with the duty to disclose exculpatory evidence regardless of any failure by the police to bring favorable evidence to the prosecutor’s attention. *Kyles v. Whitley*, 514 U.S. 419 (1995). *See also Workman v. Commonwealth*, 272 Va. 633, 636 S.E.2d 368 (2006) (In order to comply with *Brady*, therefore, the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government’s behalf in this case, including the police).

Further, as the Supreme Court stated in *Kyles v. Whitley*, it is the prosecutor alone, not the police, that must assess the “materiality” of the evidence. In a discussion about staffing and resources for Commonwealth’s attorneys, these legal requirements are important as they require the prosecutor to not only to request BWC footage from law enforcement officers, but also personally review the footage, or risk a *Brady* violation that may cause a continuance, mistrial or reversal of a conviction.

While the obligation to disclose *Brady/Giglio* material is limited in a number of respects, prosecutors also have an independent ethical obligation with regard to disclosure of exculpatory evidence. Rule 3.8(d) of the Virginia Rules of Professional Conduct requires a prosecutor to “make timely disclosure to counsel for the defendant, or to the defendant if he has no counsel, of the existence of evidence which the prosecutor knows tends to negate the guilt of the accused, mitigate the degree of the offense, or reduce the punishment, except when disclosure is precluded or modified by order of a court.”

The ethical duty to disclose exculpatory evidence differs from the prosecutor’s duty to disclose *Brady/Giglio* material in three respects. First, the exculpatory evidence does not have to meet the “materiality” test, and need only negate guilt, mitigate the degree of the offense or reduce the punishment. As the Virginia State Bar’s Standing Committee on Legal Ethics has stated, Rule 3.8(d) “is not limited to ‘material’ evidence, but rather applies to all evidence which has some exculpatory effect on the defendant’s guilt or sentence.” Legal Ethics Opinion 1862.

Second, the prosecutor does not have an affirmative duty to search for exculpatory evidence under the ethics rule. The ethics rule requires only disclosure of evidence the prosecutor *knows* to be exculpatory, i.e., tends to negate guilt. Third, the ethics rule requires the prosecutor to disclose known exculpatory evidence *as soon as practicable*, a more demanding standard that leaves little room for delay once evidence comes to a prosecutor’s attention. Virginia Legal Ethics Op. 1862. Impliedly, this means a prosecutor must disclose exculpatory evidence of which the prosecutor has knowledge during plea negotiations, unless the evidence is impeachment only. *United States v. Ruiz*, 536 U.S. 622 (2002) (A guilty plea waives defendant’s *Brady* right to disclosure of material *impeachment* evidence). See also ABA Formal Opinion #09-454 (Timely disclosure means prior to any guilty plea proceeding.)

#### *The Prosecutor’s Ethical Duties of Diligence and Competence*

Like all lawyers, Commonwealth’s attorney must practice competently and diligently. The “Scope” section for the Rules of Professional Conduct states that the rules “apply to all lawyers, whether practicing in the private or public sector.” Rule 1.1 requires an attorney to provide competent representation for his client; the rule defines “competent” as including “the legal knowledge, skill thoroughness and preparation reasonably necessary for the representation.” Further pertinent clarification is found in Comment 5 to Rule 1.1; “adequate preparation” is presented as an aspect of the duty of competence. Rule 1.3 requires an attorney to perform his legal services with diligence and promptness. Comment 1 to that rule notes that a lawyer should control his work load, “so that each matter can be handled adequately.” Also, Comment 2 to that rule explains that the duty of diligence includes *timely* performance of the legal work. As expressed in that comment, a “client’s interests often can be adversely affected by the passage of time or the change of conditions.”

Rules 1.1 and 1.3 are without exceptions. There is no language in the Rules of Professional Conduct creating a different standard for prosecutors to act competently and diligently. Nor is it a defense to a bar disciplinary complaint that a lawyer’s failure to act competently and diligently was caused by an overwhelming workload. Lawyers, and their supervisors, are

expected to control their workload and not undertake more work than they can handle diligently and competently. This means declining a new representation if the lawyer has reached the maximum capacity under which he or she can represent a client with competence and diligence.

Rule 1.16 (a) of the Rules of Professional Conduct requires that a lawyer not continue or undertake representation if the representation cannot be performed without violating the Rules of Professional Conduct. Comment [1] to Rule 1.16 states “[a] lawyer should not accept or continue representation in a matter unless it can be performed competently, promptly, without improper conflict of interest and to completion.”

In Legal Ethics Opinion 1798, the Virginia State Bar’s Standing Committee on Legal Ethics quoted with approval language from the Arizona Bar:

Ethical Rule 1.16 makes clear that a lawyer with a maximum caseload must decline new cases or terminate representation where the representation will result in violation of the Rules of Professional Conduct or other law. Consequently, where the demands of an extreme caseload make an attorney unable to devote sufficient attention to a particular case, acceptance of that case will cause a violation of Ethical Rules 1.1 on competent representation, 1.3 on attorney diligence and 1.16 for failing to decline or terminate representation where the representation will violate these rules.

Thus, a lawyer who accepts more cases than he can competently prosecute will be committing an ethical violation.

In LEO 1798 the Committee concluded that “a Commonwealth’s Attorney who operates with a caseload so overly large as to preclude competent, diligent representation in each case is in violation of the ethics rules.”

If a Commonwealth’s Attorney’s office has lawyers who are charged with managing and supervising Assistant Commonwealth’s Attorneys, those managing and supervising lawyers owe ethical duties required by Rule 5.1 of the Rules of Professional Conduct. Rule 5.1 (a) requires that a lawyer in a managerial position make reasonable efforts to ensure that the office has measures in place so that lawyers in the office conform to the Rules of Professional Conduct. Also, paragraph (b) of Rule 5.1 states that where one attorney has direct supervision over another lawyer, the supervisor should make reasonable efforts to ensure the other lawyer complies with the Rules of Professional Conduct. As the Ethics Committee stated in LEO 1798:

Those provisions do place responsibility on the shoulders of a Commonwealth’s Attorney for having in place policies and procedures to establish an office that practices within the parameters of the Rules of Professional Conduct and that the Commonwealth’s Attorney properly supervise the Assistant Commonwealth’s Attorneys reporting to him to assure ethical compliance. Attorney Smith in struggling with his caseload and missing important deadlines

was under the supervision of the Commonwealth's Attorney. That lead attorney in deciding the case load to be borne by Attorney Smith is in a position to render impossible Attorney Smith's ability to work competently and diligently. Where a supervising attorney assigns a caseload so large as to preclude any hope of the supervised attorney's ethically representing the client (or clients), that supervisor would be in violation of Rule 5.1.

... if a Commonwealth's Attorney has in fact assigned such an impermissibly large caseload to an Assistant Commonwealth's Attorney, the facts that the client is the amorphous Commonwealth and that the Commonwealth's Attorney has himself a large caseload provide no safe harbor from the requirements of Rule 5.1."

**Appendix D – Commonwealth’s Attorney Survey Results**

Commonwealth's Attorney Survey Results - October, 2018

CC	Locality	2017 Final Locality Population Estimate	VACA SURVEY			VACO/VML SURVEY	VACA SURVEY					
			Survey Date w/Response	Are Body Cameras Currently Used in your Locality (10-2018 Survey)	Where Cameras Deployed, Expected Deployment	When were body-worn cameras first deployed?	#BWC Deployed in Locality	What is the total number of Body Camera video hours that you received from your local law enforcement for a 12 month period of time?	As a result of Body Cameras has your locality provided you additional staff?	If you answered yes to local staff due to BWCs, how many additional staff (attorneys or support staff) did you receive from your locality to assist you?	Does your locality provide additional staff for your office above the positions allocated to you by the Compensation Board?	Does your office currently handle cases that you are not statutorily obligated to handle?
001	Accomack County	33,041	Oct-18	Yes.	Chincoteague and 15 ICC		15	200	No.		No.	select misdemeanors.
003	Albemarle County	107,697	Oct-18	No.			0		No.		No.	No.
005	Allegheny County	15,405	Oct-18	Yes.	3 different departments	Jul-17	50	200	No.		No.	misd. And infractions with attorneys
007	Amelia County	12,948	Oct-18	Yes.			13	400	No.		No.	misdemeanors & traffic.
009	Amherst County	31,982	Oct-18	Yes.	Amherst Town Police 7, Amherst SO 16	2015	23		No.		Yes.	misdemeanors & traffic.
011	Appomattox County	15,536	Oct-18	Yes.	Sheriff's Office	2016	12	1,560	No.		No.	misdemeanors & traffic.
013	Arlington/Falls Church	239,074	Oct-18	No.			0		No.		Yes.	misdemeanors & traffic.
015	Augusta County	75,013	Oct-18	No.			0		No.		No.	misdemeanors.
017	Bath County	4,556	Oct-18	No.			0		No.		No.	misdemeanors & traffic.
019	Bedford County	77,807	Oct-18	Yes.	68 Bedford Co SO, 16 Town of Bedford PD		100		No.		No.	misdemeanors where defendant has an attorney, any pro se domestic charges, & DUIs
021	Bland County	6,511	Oct-18	No.		Apr-16	10		No.		No.	misdemeanors & traffic.
023	Botetourt County	33,350	Oct-18	No.			0		No.		Yes.	misdemeanors & traffic.
025	Brunswick County	16,581	Oct-18	Yes.	Brunswick SO, Lawrenceville PD, Alberta PD		78		Yes.	one ft attorney and also increased funding of pt clerical to ft	Yes.	Class 1 or 2 misdemeanors.
027	Buchanan County	22,004	Oct-18	No.			0		No.		No.	misdemeanors & traffic.
029	Buckingham County	16,957	Oct-18	No.			0		No.		No.	misdemeanors & traffic.
031	Campbell County	55,503	Oct-18	Yes.			10		No.		No.	misdemeanors & traffic.
033	Caroline County	29,990	Oct-18	No.			0		No.		No.	misdemeanors.
035	Carroll/Galax	29,212	Oct-18	Yes.			100		No.		No.	misdemeanors.
036	Charles City County	7,151	Oct-18	No, although our locality is exploring implementation in the future.			0		No.		No.	misdemeanors if jail is a possibility.
037	Charlotte County	12,231	Oct-18	No.			0		No.		Yes.	misdemeanors.
041	Chesterfield County	340,020	Oct-18	Yes.		Apr-17	400	8,822	Yes.	3	Yes.	misdemeanors & traffic.
043	Clarke County	14,312	Oct-18	Yes.	Berryville town Police		9	120	No.		Yes.	misdemeanors & traffic.
045	Craig County	5,129	Oct-18	No.			0		No.		No.	misdemeanors & traffic.
047	Culpeper County	50,272		No response.								
049	Cumberland County	9,861	Oct-18	No.			0		No.		No.	misdemeanors & traffic.
051	Dickenson County	14,682	Oct-18	Yes.			20	1,000	No.		No.	misdemeanors.
053	Dinwiddie County	28,500	Sep-18	Yes.	belong to the SO as well as 20+ car cameras; and animal control has 3		30		No.		No.	misdemeanors & traffic.
057	Essex County	10,813	Feb-18	No response.			18					
059	Fairfax County	1,143,420	Oct-18	Yes.			203	195	No.		No.	misdemeanors & traffic.
061	Fauquier County	69,098	Oct-18	Yes.			30	2,400	No.		Yes.	misdemeanors & traffic.
063	Floyd County	15,550	Oct-18	No.			0		No.		No.	misdemeanors & traffic.

Commonwealth's Attorney Survey Results - October, 2018

CC	Locality	2017 Final Locality Population Estimate	VACA SURVEY			VACOVML SURVEY	VACA SURVEY					Does your office currently handle cases that you are not statutorily obligated to handle?
			Survey Date w/Response	Are Body Cameras Currently Used in your Locality (10-2018 Survey)	Where Cameras Deployed, Expected Deployment	When were body-worn cameras first deployed?	#BWC Deployed in Locality	What is the total number of Body Camera video hours that you received from your local law enforcement for a 12 month period of time?	As a result of Body Cameras has your locality provided you additional staff?	If you answered yes to local staff due to BWCs, how many additional staff (attorneys or support staff) did you receive from your locality to assist you?	Does your locality provide additional staff for your office above the positions allocated to you by the Compensation Board?	
065	Fluvanna County	26,467	Oct-18	Yes		Mar-16	30		No.		No.	Class 1 or 2 misdemeanors.
067	Franklin County	56,427	Oct-18	Yes			31		No.		No.	misdemeanors.
069	Frederick County	85,820	Oct-18	Yes		2013	130	2,500	No.		Yes.	misdemeanors & traffic.
071	Giles County	17,053	Oct-18	Yes	SO has another 10-12 but not in use, 12 ICC		16		No.		No.	misdemeanors & traffic.
073	Gloucester County	37,169	Oct-18	Yes		Aug-16	42	3,000	Yes.	1	Yes.	select misdemeanors.
075	Goochland County	22,705	Oct-18	Yes			40	200	No.		No.	misdemeanors.
077	Grayson/Galax	15,660	Oct-18	Yes	Galax		26	120	No.		No.	misdemeanors & traffic.
079	Greene County	19,985	Sep-18	No response.			25					
081	Greenville/Emporia	11,563	Sep-18	No response.	County has 27 and City has 20 + 13 fleet cameras		47					
083	Halifax County	35,215	Oct-18	Yes			55		No.		No.	Class 1 or 2 misdemeanors.
085	Hanover County	106,375	Oct-18	Yes	Hanover SO and Ashland Town Police		175	5,371	Yes.	1 ACA but 4 ACA's received pay increase	Yes.	Class 1 or 2 misdemeanors.
087	Henrico County	324,395	Oct-18	Yes		2015	422	3,516	Yes.	2 Part time and other factors were considered + BWC	Yes.	misdemeanors & traffic.
089	Henry County	51,975	Oct-18	Yes		2015	54	5,000	No.		No.	misdemeanors & traffic.
091	Highland County	2,284	Oct-18	No.			0		No.		No.	misdemeanors & traffic.
093	Isle Of Wight County	37,333	Oct-18	Yes		Oct-14	60	2,400	Yes.	We received one support staff and one attorney. However the attorney position was an unfunded Comp Board position.	Yes.	DUI, drug cases, DV, school cases, weapons, at request of LEO or victim
095	James City/Williamsburg	74,722	Oct-18	Yes	Both County and City	Jul-15	150	2,458	Yes.	1 attorney, expanded one part time secretary to full time	Yes.	Class 1 or 2 misdemeanors.
097	King And Queen County	6,935	Oct-18	Yes	4 more are on order	2014	12	75	No.		Yes.	misdemeanors.
099	King George County	25,381	Sep-18	No response			25					
101	King William County	16,627	Oct-18	Yes			5	120	No.		Yes.	misdemeanors.
103	Lancaster County	11,171		No response.								
105	Lee County	24,363	Oct-18	No, although our locality is exploring implementation in the future.			0		No.		No.	misdemeanors & traffic.
107	Loudon County	396,068	Oct-18	Yes	110 by the end of 2018		60		No.		Yes.	misdemeanors & traffic.
109	Louisa County	35,035	Oct-18	Yes	4 town police, LCSSO 13	Apr-15	17		Yes.	1	Yes.	Class 1 or 2 misdemeanors.
111	Lunenburg County	12,386	Oct-18	Yes	Lunenburg 12, Kenbridge 5, Victoria getting 5, state police up to 6	Sep-16	20	520	No.		No.	misdemeanors & traffic.

Commonwealth's Attorney Survey Results - October, 2018

CC	Locality	2017 Final Locality Population Estimate	VACA SURVEY			VACOVML SURVEY	VACA SURVEY					
			Survey Date w/Response	Are Body Cameras Currently Used in your Locality (10-2018 Survey)	Where Cameras Deployed, Expected Deployment	When were body-worn cameras first deployed?	#BWC Deployed in Locality	What is the total number of Body Camera video hours that you received from your local law enforcement for a 12 month period of time?	As a result of Body Cameras has your locality provided you additional staff?	If you answered yes to local staff due to BWCs, how many additional staff (attorneys or support staff) did you receive from your locality to assist you?	Does your locality provide additional staff for your office above the positions allocated to you by the Compensation Board?	Does your office currently handle cases that you are not statutorily obligated to handle?
113	Madison County	13,190	Oct-18	No, although our locality is exploring implementation in the future.			0		No.		Yes.	Class 1 or 2 misdemeanors.
115	Mathews County	8,651	Oct-18	No.			0		No.		No.	Most misdemeanors & traffic when requested.
117	Mecklenberg County	31,264	Oct-18	Yes.		2016	63	17.35	No.		No.	Class 1 or 2 misdemeanors.
119	Middlesex County	11,004	Oct-18	No, although our locality is exploring implementation in the future.			0		No.		No.	misdemeanors.
121	Montgomery County	98,776	Oct-18	Yes.			55	300	No.		No.	select misdemeanors.
125	Nelson County	14,858	Oct-18	Yes.			9		No.		Yes.	represented misdemeanors & traffic.
127	New Kent County	21,709	Oct-18	Yes.		Jul-17	30	250	Yes.	1 part-time support staff	Yes.	misdemeanors & traffic.
131	Northampton County	12,000	Oct-18	Yes.			48	960	No.		No.	misdemeanors.
133	Northumberland County	12,053	Oct-18	Yes.			20		No.		No.	misdemeanors.
135	Nottoway County	15,845	Oct-18	Yes.	Crewe, Blackstone 27 Orange Co. SO, 16 Orange Town Police	Apr-18	31		No.		No.	misdemeanors & traffic.
137	Orange County	34,521	Feb-18	No response.			43					
139	Page County	23,665	Oct-18	No.			0		No.		Yes.	misdemeanors & traffic.
141	Patrick County	17,930	Oct-18	Yes.			27		No.		Yes.	misdemeanors & traffic.
143	Pittsylvania County	62,166	Oct-18	Yes.			100		No.		No.	misdemeanors & traffic.
145	Powhatan County	29,166	Oct-18	No.			0		No.		Yes.	misdemeanors & traffic.
147	Prince Edward County	23,223	Oct-18	Yes.	town police only		46	1,500	No.		No.	misdemeanors & traffic.
149	Prince George County	37,025	Oct-18	No, although our locality is exploring implementation in the future.			0		No.		No.	Class 1 or 2 misdemeanors.
153	Prince William/Manassas/Manassas Park	455,900	Oct-18	Yes.	PW County and other towns and cities	2017	500	30,000	Yes.	1	No.	misdemeanors & traffic.
155	Pulaski County	34,467	Feb-18	No.	Pulaski town PD		18		No.		No.	misdemeanors & traffic.
157	Rappahannock County	7,288	Oct-18	No.			0		No.		No.	No.
159	Richmond County	9,094	Oct-18	Yes.			31	150	No.		No.	misdemeanors and traffic where defendant has an attorney or if an officer requests assistance.
161	Roanoke County	93,735	Oct-18	No.			0		No.		Yes.	misdemeanors & traffic.
163	Rockbridge/Lexington	22,596	Oct-18	No.	Lexington is on the verge of getting them		0		No.		No.	misdemeanors & traffic.
165	Rockingham/Hamiltonburg	80,666	Oct-18	Yes.	Hamiltonburg PD, JMU-PD		127	2,000	No.		No.	misdemeanors & traffic.
167	Russell County	27,309	Oct-18	Yes.			36	500	No.		Yes.	Class 1 or 2 misdemeanors.
169	Scott County	22,377	Oct-18	No.			0		No.		No.	misdemeanors & traffic.
171	Shenandoah County	42,525		No response.								

Commonwealth's Attorney Survey Results - October, 2018

CC	Locality	2017 Final Locality Population Estimate	VACA SURVEY			VACO/VML SURVEY	VACA SURVEY					
			Survey Date w/Response	Are Body Cameras Currently Used in your Locality (10-2018 Survey)	Where Cameras Deployed, Expected Deployment	When were body-worn cameras first deployed?	#BWC Deployed in Locality	What is the total number of Body Camera video hours that you received from your local law enforcement for a 12 month period of time?	As a result of Body Cameras has your locality provided you additional staff?	If you answered yes to local staff due to BWCs, how many additional staff (attorneys or support staff) did you receive from your locality to assist you?	Does your locality provide additional staff for your office above the positions allocated to you by the Compensation Board?	Does your office currently handle cases that you are not statutorily obligated to handle?
173	Smyth County	30,686	Oct-18	No.			0	30	No.		No.	misdeemeanors.
175	Southampton/Franklin	18,119	Oct-18	Yes.	Courtland PD, VSP and Franklin; 30 ICC	2007	32	500	No.		No.	select misdeemeanors.
177	Spotsylvania County	131,549	Oct-18	Yes.			150		Yes.	1	Yes.	Most misdeemeanors.
179	Stafford County	145,699	Oct-18	No.			0		No.		No.	misdeemeanors.
181	Surry County	6,674	Oct-18	Yes.			12	416	No.		No.	misdeemeanors.
183	Sussex County	11,655	Oct-18	Yes.			22		Yes.	1 part time attorney	Yes.	Class 1 or 2 misdeemeanors.
185	Tazewell County	42,574		No response.								
187	Warren County	39,239	Oct-18	Yes.	SO has 23 and Front Royal PD has 30	Sep-15	53	1,000	No.		Yes.	misdeemeanors & traffic.
191	Washington County	53,789	Oct-18	No.			0		No.		Yes.	select misdeemeanors.
193	Westmoreland County	17,760	Oct-18	Yes.	Westmoreland Co. Sheriff's Office and Colonial Beach PD	Around 2014	25	1,350	Yes.	1	Yes.	Class 1 misdeemeanors and traffic.
195	Wise/Norton	39,133	Oct-18	Yes.	Wise County & City of Norton		100		No.		No.	misdeemeanors & traffic.
197	Wythe County	28,723	Oct-18	Yes.	Wytheville PD, VSP interdiction team also has dashcam		30	240	No.		No.	misdeemeanors & traffic.
199	York/Poquoson	68,890	Oct-18	Yes.		2014	80		Yes.	1	Yes.	select misdeemeanors.
510	Alexandria	160,719	Oct-18	No.			0		No.		Yes.	Class 1 or 2 misdeemeanors.
520	Bristol	17,160	Oct-18	No, although our locality is exploring implementation in the future.			0		No.		No.	misdeemeanors & traffic.
530	Buena Vista	6,424	Oct-18	Yes.			10		No.		No.	select misdeemeanors.
540	Charlottesville	49,132	Oct-18	Yes.			83	275	No.		Yes.	misdeemeanors.
550	Chesapeake	242,655	Oct-18	Yes.			265	10,200	No.		Yes.	select misdeemeanors.
570	Colonial Heights	17,320	Oct-18	Yes.			50	6,000	Yes.	1 part time secretary	Yes.	Class 1 or 2 misdeemeanors.
590	Danville	41,358	Oct-18	Yes.			135	12,500	Yes.	1	Yes.	misdeemeanors & traffic.
830	Fredericksburg	27,645	Oct-18	Yes.			77	10,543	No.		Yes.	misdeemeanors.
850	Hampton	136,743		No response.								
870	Hopewell	22,817	Oct-18	Yes.			53	208	No.		No.	Class 1 or 2 misdeemeanors.
880	Lynchburg	80,380	Oct-18	Yes.			175	5,090	Yes.	2	Yes.	Class 1 or 2 misdeemeanors.
590	Martinsville	13,382	Oct-18	Yes.	Martinsville PD		40		No.		No.	misdeemeanors & traffic.
700	Newport News	182,155	Oct-18	Yes.			412	42,127	Yes.	3	Yes.	Class 1, 2, 3, & 4 misdeemeanors, traffic infractions that arise out of the same incident as charges being handled by our office, & other offenses at the request of the Court.
710	Norfolk	246,256	Oct-18	Yes.			600	499	No.		Yes.	select misdeemeanors.
730	Petersburg	31,705	Oct-18	Yes.			50	2,600	No.		No.	misdeemeanors & traffic.

136

Commonwealth's Attorney Survey Results - October, 2018

CC	Locality	2017 Final Locality Population Estimate	VACA SURVEY			VACO/VML SURVEY	VACA SURVEY					
			Survey Date w/Response	Are Body Cameras Currently Used in your Locality (10-2018 Survey)	Where Cameras Deployed, Expected Deployment	When were body-worn cameras first deployed?	#BWC Deployed in Locality	What is the total number of Body Camera video hours that you received from your local law enforcement for a 12 month period of time?	As a result of Body Cameras has your locality provided you additional staff?	If you answered yes to local staff due to BWCs, how many additional staff (attorneys or support staff) did you receive from your locality to assist you?	Does your locality provide additional staff for your office above the positions allocated to you by the Compensation Board?	Does your office currently handle cases that you are not statutorily obligated to handle?
740	Portsmouth	95,440		No response.								
750	Radford	17,208	Oct-18	Yes.	30 Radford, 20 Radford University		55	200	No.		No.	Class 1 or 2 misdemeanors.
760	Richmond City	222,853	Oct-18	Yes.			500		No.		No.	misdemeanors & traffic.
770	Roanoke	99,908	Oct-18	Yes.			258	4,000	No.		Yes.	misdemeanors & traffic.
775	Salem	25,679	Oct-18	Yes.	85 Salem PD, 12 Roanoke College plus all cars have ICC		75	2,500	Yes.	1 Part time paralegal	Yes.	misdemeanors & traffic.
790	Staunton	24,781	Oct-18	Yes.			51	4,502	No.		No.	misdemeanors, traffic infractions, and local ordinance violations where defendant has an attorney.
800	Suffolk	92,533	Oct-18	Yes.			175		Yes.	1	No.	select misdemeanors.
810	Virginia Beach	454,448	Oct-18	Yes.	Approximately 425 at the end of 4 years		106		Yes.	13	Yes.	DUI, DV, Misdemeanors on request that meet certain criteria
820	Waynesboro	21,955	Oct-18	Yes.			49		No.		No.	DUI's, Domestic A&B, and traffic or misdemeanor when defendant has an attorney.
840	Winchester	28,005	Oct-18	Yes.	Expect 75 by the end of the year beteen PD and SO	In process of full implementation	16	558	No.		No.	misdemeanors.
							7,486					

No Response	11	9%	5%	6
Yes	77	64%	70%	84
No	26	22%	20%	24
No, although our locality is exploring implementation in the future.	6	5%	5%	*Note, 7 localities that did not respond or said "No" in 10/18 previously provided counts of BWC in an earlier survey
Total	120	100%	100%	120

**Appendix E – Detailed Data Collected by Henrico County Commonwealth’s Attorney’s Office Related to Body Worn Camera Footage, Comparison with Caseload Data**

Henrico County Statistics	Annualized Statistics*			3-Year Average	%
	CY 2016	CY 2017	CY 2018		
Total Felony Cases Viewed	1,076	657	841	858	39%
Total Misdemeanor Cases Viewed	1,566	1,231	1,203	1,333	61%
Total All Cases Viewed	2,642	1,888	2,044	2,191	
Total Felony Hours Viewed	1,122	804	940	955	48%
Total Misdemeanor Hours Viewed	1,121	960	1,071	1,051	52%
Total All Hours Viewed	2,243	1,764	2,011	2,006	
Average footage hours per Felony Case	1.0	1.2	1.1	1.1	
Average footage hours per Misdemeanor Case	0.7	0.8	0.9	0.8	
Average footage time per All Case Types	0.8	0.9	1.0	0.9	
Maximum footage hours per Case	12.0	21.0	7.3	13.4	
Cases with greater than 5 footage hours	15	20	11	15.33	
Felony Cases with > 5 footage hours	13.5	17.0	8.3	12.9	
Misdemeanor Cases with > 5 footage hours	1.5	3.0	2.7	2.4	
Total footage hours, cases with > 5 hours	109.9	182.5	65.0	119.1	
Total All Defendants with Footage Viewed	2,300	1,726	1,835	1,954	
Average footage hours per Defendant	1.0	1.0	1.1	1.0	
Max footage hours per Defendant	15.8	25.0	15.5	18.8	
Commenced Circuit Court Felonies	3,524	4,552	3,862	3,979	
GDC Criminal Felony Filings**	5,132	5,640	5,012	5,261	
GDC Criminal Misdemeanor Filings	7,748	8,220	7,868	7,945	
GDC Traffic Felony Filings	181	191	214	195	
GDC Traffic Misdemeanor Filings	10,537	11,649	11,354	11,180	
JDR Felony Filings	1,262	1,189	1,048	1,166	
JDR Misdemeanor Filings	3,133	2,815	2,710	2,886	

\*Henrico County Comm Atty BWC data for CY2016 begins May, 2016; data for CY2018 ends Sep, 2018; annual figures are projected. \*\*GDC Felony filings include filings as felonies in General District Court that are subsequently certified to Circuit Court, and are included in Commenced CC Felonies; Some Felony Filings in GD are subsequently reduced to lesser offenses.

**Appendix F – Workgroup Agency Representative Comments Regarding  
Other Impacts on Law Enforcement and the Court System of Body Worn  
Cameras**

- Judicial Operations, Chesterfield Circuit Court
- Virginia State Police
- Virginia Indigent Defense Commission

Judicial Operations, Chesterfield Circuit Court Representative  
Comments on the Impacts of Digital Evidence on Trial Courts

All digital evidence is a challenge for the courts. While Body Worn Cameras (BWCs) exacerbate the volume, digital evidence is a major disruptor to the way courts traditionally have done business. Some of the issues highlighted here would be appropriate for further study by an appropriate legislative or judicial policymaking body.

Impacts on technology in courtrooms. Presently, no Virginia blueprint exists to guide courts on what technology should exist in general and limited jurisdiction courtrooms to allow for the use of digital evidence in court proceedings. While Virginia courthouse facility guidelines speak generally to technology, they are not sufficiently detailed to inform a procurement effort to update courtrooms to however current standards may be defined. A baseline is needed for what attorneys, *pro se* litigants, jurors, and others should reasonably expect to find at their disposal in a courtroom/courthouse. Such direction also needs to address network capacity in court facilities if the Commonwealth intends to access cloud-stored evidence during trial. Streaming to one courtroom may work seamlessly; however, sufficient bandwidth to simultaneously stream in multiple courtrooms becomes problematic. While it would be informative for the state to provide a template to establish reasonable expectations, by statute, the funds to address courtroom technology are the responsibility of local government to provide, as this is defined as part of the facility. The Chesterfield Circuit Court regularly receives complaints from attorneys and the public about the state of courtroom technology. These complaints, along with an assessment earlier this year from the Center for Legal and Court Technology at the William & Mary School of Law, formed the basis of a capital budget request Chesterfield's three courts jointly submitted to the County to address technology in our 17 operational courtrooms. We estimate this effort will cost the County approximately \$3 million over the next 2 years just to bring us current. That is a significant ask of local government. It also includes addressing the unique restrictions court administrators are learning about to outfit a historic courtroom with technology, as a museum essentially was put back into regular service 4 years ago when the 12th Circuit received an additional judge for whom there was no courtroom.

Impacts on technology in clerks' offices. The many legal and procedural implications to preserving the record when it includes digital evidence are well known, most notably storing digital evidence and matching it to case files. The trial courts eagerly await state legislative, court rule, and policy direction that will address, among other things, the challenge of how to facilitate the viewing and copying of digital evidence by authorized parties. I am told a pending Supreme Court Rule related to digital exhibits and pleadings is forthcoming. In Chesterfield, no Clerk's Office is presently equipped with a vehicle to provide to those authorized to view digital

evidence that must remain in the Court's custody, nor do they have the hardware to copy it, as they would with a paper file for a fee.

Impacts on court personnel who must support all court technology. Most Virginia courts do not have the local or state resources to employ technology specialists as court staff. I am fairly certain this dire need is not even a factor in court staffing formulas. While some courts are tackling this in creative ways, even in a large jurisdiction such as Chesterfield, we just this fiscal year are getting our first dedicated IT support position (from the locality) to be shared among all three courts and the drug court programs. Having to troubleshoot, often immediately so if during a court proceeding, places a tremendous burden on court employees serving as de facto IT and audio-visual support for everything in their court including courtroom technology. This is specialized knowledge that typically is far outside the jobs they were hired to do and on top of their primary workload of case processing activities.

Impacts on court personnel who handle case processing and customer service. If prosecutors elect to shift resources by not handling some or all misdemeanors in the district courts, this will have SIGNIFICANT impacts on the already very limited human resources in those courts. While the Chesterfield courts did not publicly comment as things unfolded locally earlier this year, for approximately five months, as you know, this was the case in the Chesterfield General District Court. Personally, I found what my General District Court administrator colleagues had to deal with during this time, and still are, literally jaw-dropping in terms of the magnitude and volume of work it added for court staff (continuance requests, discovery motions, responding to victim inquiries in person and over the phone on topics such as restitution, creation of new forms for police to use, etc.). It would be worthwhile to meet with the Clerk of Court to gain a full appreciation of the toll this added workload took on her and her staff and to document what occurred. Further, as mentioned in one of the workgroup meetings, the majority of Virginia's district courts are woefully understaffed. Just in Chesterfield, the Office of the Executive Secretary staffing study indicates the General District Court requires 12 additional positions, and the Juvenile & Domestic Relations Court requires 4 additional positions *before* you factor in additional workload generated by digital evidence. *Should a local Commonwealth's Attorney decline to prosecute misdemeanors indefinitely, I believe it will cripple the district courts.* While I cannot speak to the local impact on the police department of having to prepare for and participate in court proceedings without prosecutors, I imagine it likewise was significant. I would *guess* it also probably translated to officers spending more time in court.

Impacts on judicial and court personnel staffing studies. Questions include: will criminal cases need to be set for longer times to accommodate a higher volume of digital evidence if most cases now will have some amount of video? And, if only some courtrooms are equipped with the capabilities to view digital evidence due to hardware cost or streaming limitations, do we have to schedule fewer criminal dockets? With digital evidence, since a higher number of

defendants likely will plead guilty in matters that previously would have gone to trial, will it be at a rate high enough to offset other cases taking longer to try? Will issues with proprietary software be resolved so judges and juries can efficiently view and authenticate digital evidence? Will digital evidence become a factor in the various staffing models for judges and court personnel? Statewide, the district courts are understaffed by 271 positions, not including the dozens of judges slated to be added July 1, 2019 with no corresponding court support staff.

Impacts on case processing time guidelines. In circuit courts, we cannot meet the criminal guidelines now. Absent sufficient resources for prosecutors and defense attorneys to review digital evidence prior to district court hearings, will a higher rate of continuance requests be granted at the lower level for the opportunity to do so thus resulting in more delay? Will determination of the authenticity of video evidence add meaningful time to court hearings? Typically, by the time indictments are handed down, cases are near or already exceeding case processing guidelines.

If you or anyone may find it helpful to speak to my court administrator colleagues in Chesterfield as a group about the impact of digital evidence in all its forms, from all its sources, on criminal and civil case processing in Virginia's trial courts, I would be happy to arrange it.

Tricia D. Muller  
Administrator of Judicial Operations  
Chesterfield Circuit Court Judges' Chambers

Virginia State Police Representative Comments on  
Impacts on Law Enforcement Officers and Courts of a  
Discontinuation of Prosecutor Presence in General District Court

If the Compensation Board Body Worn Camera Study Workgroup recommends the discontinuation of a prosecutor in the courtroom for the prosecution of misdemeanors (except domestic violence offenses), [or if a Commonwealth's Attorney were to discontinue such prosecution], the workgroup should consider the impact to Virginia law enforcement officers and the judicial process.

Without the prosecutorial engagement of the Commonwealth's Attorney's Office for all misdemeanors (particularly jailable offenses) during pretrial and court proceedings, members of the workgroup have identified potentially significant impacts for law enforcement, judges, court officials, and their respective roles within the judicial process.

In the absence of a prosecutor during General District Court proceedings, two members of our workgroup expressed concern regarding the law enforcement officer's inability to 'argue' their respective case before the court. Police officers are not equipped to argue the law, file or respond to motions or make objections and, in some courts, officers are not permitted to make motions or proffer points of the law.

Another potential impact in the absence of a prosecutor during DUI cases is the possibility Virginia courts experience a reduction in the number of DUI convictions statewide, thereby generating significant concern by organizations such as MADD, AAA, Drive Smart, etc. likely resulting in engagement with their respective legislators to voice their concerns.

A careful assessment was recently conducted of the existing "Court Organization and Procedure" curriculum and lesson plan currently utilized to provide all Virginia Department of State Police sworn law enforcement personnel with instruction for successful court preparation and testimony. The current curriculum is insufficient to adequately provide troopers with the ability to serve as a proxy or representative for the Commonwealth during court and pre-trial (discovery) proceedings.

Specific areas not currently addressed during existing instruction include:

- How to negotiate a Motion for Discovery;
- Obtain a robust understanding of the Rules of Evidence, e.g., when to engage, considerations for, procedural protocols, etc.;
- How to navigate and prosecute complex requirements for a DUI conviction;

- Comprehensively understand all Elements of an Offense and the ability to provide testimony for each.

In addition to incorporating substantive classroom and practical instruction within the Court Organization and Procedure class, other related legal courses and lesson plans will require significant revisions including the capstone course, "Moot Court", a mock exercise taking place in a courtroom with a judge and prosecutor where students are required to testify and demonstrate a sufficient understanding of court procedures.

Should the workgroup recommend to the Virginia General Assembly the elimination of Commonwealth's Attorney's Office services for misdemeanors, [or should a Commonwealth's Attorney choose to discontinue such prosecution] it is estimated Virginia law enforcement officers will need a minimum of four additional hours of instruction.

Further, the Department of Criminal Justice Services (DCJS) may be required to establish new compulsory minimum training standards to address the increased roles and responsibilities for law enforcement performing the roles traditionally carried out by the Commonwealth's Attorney.

Lastly, in addition to training provided for law enforcement, judges may require training, guidance, and "best practices" awareness and considerations associated with conducting hearings held in General District Court.

Lieutenant Thomas A. Cunningham, Jr.  
Virginia State Police  
Information and Communication Technologies Division

# VIRGINIA INDIGENT DEFENSE COMMISSION

## COMMISSION MEMBERS

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Henry L. Chambers, Jr.  
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Carolyn Grady  
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DENISE SANDLIN  
Budget and Finance Director

Robyn M. de Socio, Executive Secretary  
Compensation Board  
102 Governor's Street  
Suite 120  
Richmond, VA 23219

Re: Body Worn Camera Workload Impact on Public Defenders and Private Court-Appointed Attorneys

Dear Ms. deSocio:

On behalf of the Virginia Indigent Defense Commission, I would like to provide you with a brief report on how BWCs have impacted both Public Defenders and private court-appointed attorneys. For our Public Defender offices, nearly all of our 25 offices have seen a significant increase in their workload as a result of BWC evidence. Public Defender offices already contend with high caseloads, and reviewing BWC footage has markedly increased the hours that our attorneys must devote to their cases. An additional defense-specific complication for reviewing BWCs is that we often need to replay the video for our clients. Even though the VIDC views BWCs as having an overall positive effect, not just for defendants, but also for the criminal justice system in general, the challenge that BWCs place on the Public Defender offices is substantial, and the VIDC is attempting to find ways to address the workload issues. At this point, we have significant concerns that our attorneys will not be able to continue to meet their ethical and professional responsibilities.

Private court-appointed attorneys also face a dramatic workload increase due to BWCs without any additional compensation. This is a major issue because, as demonstrated in the attached chart, Virginia's compensation for court-appointed attorneys currently ranks among the lowest in the nation. The statutory attempts to rectify this with a waiver system are a hollow remedy. For example, in a misdemeanor case the initial statutory cap is \$120, which, with court-appointed attorneys being paid \$90 an hour, is met after less than an hour and a half of work. Code § 19.2-163 does allow for attorneys to apply for a waiver to the cap, which provides them with an additional \$120, but that \$240 is met after less than 3 hours of work. Assuming that misdemeanors and traffic cases produce a significant portion of BWC footage, it is not hard to imagine that court-appointed attorneys will be faced with terrible choices, which will hurt their

clients, hurt their practice, or potentially undermine both. Court-appointed attorneys will likely have to stop taking court appointed cases; not watch all the BWC footage, in violation of their ethical duties; or basically be forced to work for free. None of these options are acceptable.

Please let us know if you need any additional information or feedback.

Sincerely,

A handwritten signature in black ink, appearing to be 'DJ', written over the word 'Sincerely,'.

David Johnson  
Executive Director  
Virginia Indigent Defense Commission

**Appendix G – House Appropriations Committee Staff Retreat Presentation on  
Body Worn Cameras and Commonwealth’s Attorney Workload, November 13,  
2018**



# **Overview of the Impact of Body Cameras on the Operations and Workload of Commonwealth's Attorneys Offices**

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**Michael Jay, Fiscal Analyst  
House Appropriations Committee Retreat  
November 13, 2018**

- Code Requirements and Current Staffing Levels**
- Review of Body Camera Usage in Virginia
- Policy Questions Going Forward

## Commonwealth's Attorneys Offices are Required to Prosecute Felony Cases

- Section § 15.2-1627(B) of the Code of Virginia requires Commonwealth's Attorneys to prosecute all felony cases
  - Furthermore, the Code requires Commonwealth's Attorneys to enforce all forfeitures
- Code provides Commonwealth's Attorneys may prosecute at their discretion any misdemeanors or other violations which may carry a penalty of confinement in jail and/or a fine of at least \$500
  - Out of 110 Commonwealth's Attorneys offices that responded to a recent survey from the Commonwealth's Attorneys Association, only 2 offices limit prosecutions only to felonies
    - 53 offices stated they prosecute misdemeanors and traffic cases
    - 21 offices stated they prosecute all misdemeanors
    - 34 offices stated they prosecute certain specific types of misdemeanor cases
  - Arrest data for 2012 through 2014 shows that 60% of arrests in the Commonwealth are for misdemeanors, and 40% are for felonies

## Staffing Standards for Commonwealth's Attorneys are Based on Felony Cases

- The staffing standards, recommended by the Virginia Association of Commonwealth Attorneys and approved by the State Compensation Board, are based on the number of felony defendants and felony sentencing events

$$\# \text{ of Attorneys Needed} = \text{Workload Calculation} / \text{Size Factor Adjustment}$$

- **Workload calculation** = 3 year average number of felony defendants + 3 year average number of felony sentencing events

Size Factor Adjustment to Reflect Economies of Scale

Office Size Based on Workload Calculation	Category Range Based on Workload Calculation	Adjustment Factor
Super	3,000 or more	125
Large	1,000 – 2,999	100
Mid	300 - 999	85
Small	0 - 299	70

151

## Ratio of Felony Defendants Per Prosecutor

Annual Number of Felony Defendants per  
Number # of Attorneys Needed Based on Staffing Standards

	Number of Localities	Minimum # of Felony Defendants	Maximum # of Felony Defendants	Average
Super	1	87.2	87.2	87.2
Large	16	53.7	67.8	61.3
Middle	45	42.8	61.4	50.7
Small	58	32.9	62.2	43.6

### Notes:

- A report from the US Department of Justice in 2007 shows an average of 94 felony cases closed per prosecuting attorney for all offices across the country
- The American Bar Association has set a criminal annual caseload standard of no more than 150 felony cases or 400 misdemeanor cases per attorney for defense lawyers but has not established standards for prosecuting attorneys

152

## Current Staffing Levels Through the Compensation Board

- The estimated cost of fully funding the current staffing standards is \$8.0 million GF annually

	Staffing Standards	Compensation Board Funded	Difference
Attorney Positions	711	625.2	85.8
Paralegals	177	124.0	53.0
Administrative Support Staff	<u>355</u>	<u>372.5</u>	<u>-17.5</u>
<b>Total</b>	<b>1,243</b>	<b>1,121.7</b>	<b>121.3</b>

Note: The Compensation Board calculates a net need of 85.8 attorneys statewide, but also rounds up the calculation to full FTEs by locality which results in a net need of 108 attorney positions, as opposed to 85.8. After rounding up the total need for support staff including paralegals and administrative support staff is 57 positions

153

- Code Requirements and Current Staffing Levels
- Review of Body Camera Usage in Virginia**
- Policy Questions Going Forward

## The Implementation of Body Cameras Increased the Workloads of Commonwealth's Attorneys Offices

- The Commonwealth's Attorneys Association sent a survey to all of the Commonwealth's Attorney's offices requesting information concerning the use of body cameras within their locality
  - 110 out of 120 Commonwealth's Attorneys offices replied to the survey
- 77 of the 110 localities that responded state that their local law enforcement agencies currently employ body cameras (with a total of 7,320 body cameras currently in use)
  - An additional 7 localities reported that their locality is considering implementing body cameras
  - Some localities currently using body cameras are in the process of increasing the number of cameras in use

## Most Body Cameras are In the Larger Localities

# of Body Cameras in Locality	# of Localities	Total Number of Body Cameras
No Cameras	43	0
Less than 25	18	257
25 to 49	18	624
50 to 74	14	769
75 to 99	5	393
100 to 199	13	1,717
200 to 299	3	726
300 or More	<u>6</u>	<u>2,834</u>
<b>Total</b>	<b>120</b>	<b>7,320</b>

- 79 Commonwealth's Attorneys offices, 2/3's of all offices, either have no body cameras in their jurisdiction or have less than 50 cameras
- 40% of body cameras are located within 6 localities: Chesterfield, Newport News, Henrico, Prince William, Richmond City & Norfolk
- Virginia Beach police currently have 106 body cameras in use but are increasing that number to 450

156

## Some Localities Already Provide Additional Staff In Addition to the Compensation Board Funded Positions

# of Body Cameras in Locality	# of Localities	Additional Attorneys	Additional Support Staff	Total Additional Staff
No Cameras	43	10	50	60
Less than 25	18	4	16	20
25 to 49	18	2	18	20
50 to 74	14	9	28	37
75 to 99	5	1	17	18
100 to 199	13	8	58	66
200 to 299	3	1	8	9
300 or More	<u>6</u>	<u>25</u>	<u>74</u>	<u>99</u>
<b>Total</b>	<b>120</b>	<b>60</b>	<b>269</b>	<b>329</b>

- Data on these positions is self-reported to the Compensation Board
- Some localities have provided positions specifically to reflect the impact of body cameras on workload while other positions were in place prior to the use of body cameras

## The Virginia State Police is Currently Undertaking a Pilot Program to Evaluate the Use of Body Cameras

- Beginning in 2017 the Virginia State Police initiated a pilot project to evaluate effectiveness of body worn cameras
- The body worn cameras pilot project is part of the new Next Generation System Project which also includes replacing the current cameras in the patrol vehicles with a system including 3 cameras within the vehicles
- Currently the pilot is limited to 5 patrol vehicles and one training vehicle in area 6 (Chesterfield, Amelia and Powhatan Counties)
- It is the intention of the State Police to move forward with the replacement of the cameras in the patrol cars regardless of any decision on the body worn cameras
- No other state agency with law enforcement responsibility currently uses body cameras

- Code Requirements and Current Staffing Levels
- Review of Body Camera Usage in Virginia
- Policy Questions Going Forward**

## Language Proposed During the 2018 General Assembly Session Aimed at Addressing Issue

- The House Appropriations Committee adopted language requiring localities that elect “to provide their local law enforcement personnel with body cameras, shall provide their Commonwealth's Attorneys office with additional staff, using local funds, as needed to accommodate the additional workload resulting from the requirement to process and review footage from the body cameras.”
  - This language amendment was rejected on the House Floor
- The Senate Budget included language requiring localities that elect to use body cameras to “hire one entry level Assistant Commonwealth's Attorney, at a salary established by the Compensation Board, at a rate of one Assistant Commonwealth's Attorney for up to 50 body worn cameras employed for use by patrol officers, and one Assistant Commonwealth's Attorney for every 50 body worn cameras employed for use by patrol officers, thereafter.”
  - This language amendment was not included in the Final Budget
  - Based on the information provided in the survey this proposed language would require 156 locally funded positions at a cost of approximately \$11 million

## The Proposed 50 to 1 Ratio Based on Analysis From Virginia Beach Experience

- An analysis of calendar year 2014 arrests estimated that if all Virginia Beach Police officers were outfitted with body cameras there would have been over 14,000 hours of footage that would have been subject to review by the Commonwealth's Attorneys office
  - Assuming a 40-hour work week and 50 work weeks a year one FTE could review 2,000 hours of footage a year, resulting in an estimated need of 7 FTEs to review the 14,000 hours of footage
  - 7 FTEs equates to approximately 1 FTE per 50 body cameras

161

## 2018 Adopted Budget Included Language Convening a Workgroup to Develop Recommendations Going Forward

- Item 73.U of Chapter 2 requires the Executive Secretary of the Compensation Board to convene a working group comprised of representatives of the Supreme Court, Department of Criminal Justice Services, Commonwealth's Attorneys, local governments, and other stakeholders to investigate how body worn cameras have or may continue to impact the workloads experienced by Commonwealth's Attorneys offices
- The workgroup was required to examine processes, relevant judicial decisions, practices, and policies used in other states, potential financial and staffing challenges, and other related issues to determine workload impacts, and to develop recommended budgetary and legislative actions for consideration during the 2019 Session of the General Assembly
  - A report is due to the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2018
  - Work group has met 2 times and a 3<sup>rd</sup> meeting is scheduled for later this week

## Policy Issues Influencing the Cost of Body Cameras

- The attorney handling a prosecution is ethically obligated to review all video footage potentially relevant to the case
  - Due to staffing concerns some offices delegate the bulk of review to support staff or otherwise limiting the amount of film reviewed
- When does information need to be redacted from the body camera footage?
  - Some other states have laws which require redaction in specific instances
  - In Virginia some offices redact footage for specific reasons; i.e. children, abuse victims, individuals with no or minimal clothes, police informants
  - Some offices do not redact footage
  - Estimates for the time it takes to redact ½ hour of video varies from 1 hour to 3 hours
  - The state police asserts that one FTE currently spends approximately 35% of their time redacting video even though there are only 5 cameras in patrol cars

163

## **Appendix H – Workgroup Recommended Budget Amendment**

Workgroup Recommended Amendment to Item 70 of Chapter 2, 2018 Special Session I Acts of Assembly, adding new language as follows:

“J. 1. Any locality in the Commonwealth that employs the use of body worn cameras for its law enforcement officers shall be required to establish and fund one full-time equivalent entry-level Assistant Commonwealth's Attorney, at a salary no less than that established by the Compensation Board for an entry-level Assistant Commonwealth's Attorney, at a rate of one Assistant Commonwealth's Attorney for up to 75 body worn cameras employed for use by local law enforcement officers, and one Assistant Commonwealth's Attorney for every 75 body worn cameras employed for use by local law enforcement officers, thereafter. However, with the consent of the Commonwealth's Attorney, a locality may provide their Commonwealth's Attorney's office with additional funding, using a different formula than stated above, as needed to accommodate the additional workload resulting from the requirement to review, redact and present footage from body worn cameras. If, as of July 1, 2019, a locality is providing additional funding to the Commonwealth's Attorney's office specifically to address the staffing and workload impact of the implementation of body worn cameras on that office, that additional funding shall be credited to the formula used in that locality. Any agreed upon funding formula between the impacted Commonwealth's Attorney and the locality employing body worn cameras shall be filed with the Compensation Board by July 1, 2019 and shall remain in effect unless modified by the agreement of both parties until June 30, 2021. Thereafter, any agreed upon funding formula between the impacted Commonwealth's Attorney and the locality employing body worn cameras shall be filed with the Compensation Board by July 1st of each year and shall remain in effect unless modified by the agreement of both parties until June 30th of the following year. The term “locality” means every county or independent city with an Attorney for the Commonwealth. The term “employed for use” includes all body worn cameras maintained by the law enforcement agency or agencies of that locality, regardless of any temporary inoperability.

2. The working group convened by the Executive Secretary of the Compensation Board pursuant to Chapter 2, Item 73, U (2018 Special Session I Acts of Assembly) shall be maintained to continue to study the impact of body worn cameras on the workload of Commonwealth's Attorney offices, providing an additional report to the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2020. During this timeframe, each Commonwealth's Attorney office in a locality that employs body worn cameras, in conjunction with the law enforcement agency using body worn cameras, shall report to the Compensation Board the following information on a quarterly basis, in a format prescribed by the Board:

- a. The number of hours of body worn camera video footage received from their law enforcement agencies. The number of hours should additionally be broken down into corresponding categories of felonies, misdemeanors and traffic offenses. Any recorded event that results in charges for two or more of the above categories shall be reported in the most serious offense category;
- b. The number of hours spent in the course of redacting videos; and
- c. Any other data determined relevant and necessary by the Compensation Board for this analysis.

3. Should a Commonwealth's Attorney office in a locality that employs body worn cameras fail to report to the Compensation Board the information above for two consecutive quarters, that locality may discontinue for the following fiscal year that additional funding to the Commonwealth's Attorney office that is specifically appropriated to address the staffing and workload impact of the implementation of body worn cameras on that office.

4. The workgroup shall utilize the reported information to examine the staffing challenges and workload impact on Commonwealth's Attorneys' offices of the implementation of body worn cameras over this added time and make any additional recommendations in the subsequent report, including but not limited to recommending a different staffing formula than stated above."

**Appendix I – Bureau of Justice Assistance/Body Worn Camera Training and Technical Assistance: “Policy Considerations for Body Worn Cameras in Prosecutor Offices” by Damon Mosler, Deputy District Attorney, San Diego County District Attorney’s Office**

## Policy Considerations for Body-Worn Cameras in Prosecutor Offices

By Damon Mosler, Deputy District Attorney at San Diego County District Attorney's Office

Body-worn recordings are not simply another type of evidence that law enforcement collects and prosecutors use to prosecute offenders; their novelty, the volume of data generated, and the public's recent spotlight on BWCs make this type of evidence unique.

As law enforcement agencies begin to employ this new technology, prosecutor offices should consider the following when developing office policies:

### 1. Coordination with Law Enforcement

The prosecutor should consider coordinating with law enforcement and providing input into their policies and training sessions. This coordination will ensure that both stakeholders understand and are better able to manage the impact of body worn cameras to their agencies.

#### a. Prosecutor input

- i. Offer to work with law enforcement to develop policies.
  1. Prosecutors will receive recordings by priority. They must understand how law enforcement plans to share the recordings with their offices.
  2. Continue to review the policy and revise it as new issues emerge.

#### b. Coordination

- i. Offer to coordinate with all law enforcement agencies in your jurisdiction so that policies can be as uniform as possible. This will allow for better integration by your office.
  1. Offer to host monthly meetings with command staff and training officers to share "best practices" in BWCs.
  2. Coordinate policies and agreements among agencies to better determine recording procedures when multiple agencies respond to a scene.
  3. Coordinate camera type and storage methods as best as possible among law enforcement agencies within the same prosecutor jurisdiction, as this will help to ensure that the prosecutor does not have to buy multiple licenses in order to view the recordings.
  4. Discuss how law enforcement will respond to open-record requests to coordinate a response.

#### c. Training

- i. Offer to participate in training sessions to give the prosecutor's perspective regarding the use of BWCs, such as:
  1. Assisting in the development of narration for consent searches, explaining reasons for terminating a recording, and understanding how to record the execution of a search warrant; and

167

2. Cautioning that an officer may inadvertently create a need for redaction if the officer records a witness' driver's license or other identifying information.

## 2. Stakeholder Meetings

The prosecutor may consider convening a stakeholder meeting that includes (for example) law enforcement, victim advocates, community groups, defense attorneys, and local elected officials. The prosecutor can explain how the equipment works, explain how it will be used in court, and address privacy concerns. The meetings will help prosecutors and law enforcement to anticipate reactions to new BWC policies.

### a. City attorneys

- i. The use, retrieval, and storage of BWC recordings should be coordinated with city attorneys in any jurisdictions where multiple prosecutors handle felonies and misdemeanors.

### b. Public defenders and private defense attorneys

- i. Explore with the public and private defenders whether it is possible to work out in advance admissibility issues (e.g., authenticity, discovery, chain-of-custody) and storage concerns. It is particularly important to develop a standardized way to provide recordings that are part of discovery.

### a. Judges

- i. Have a meeting with the administrative judge to discuss when and how the recordings will be presented in court. For example, are the courtrooms equipped to play the recordings?
- ii. Determine what protective orders may be needed to redact recordings or to prevent release to the media or the public (see 4. Retention and Storage, below).

## 3. Discovery

It may be difficult for a case prosecutor to view all of the footage from a crime scene. In addition, separate prosecutors may handle the intake, motions, and trial of the case. Thus, many questions will surface regarding discovery of BWC recordings. The following areas all have potential legal and ethical consequences; thus, the prosecutor's office should have internal policies in place for consistent practice throughout the office/jurisdiction prior to using BWC evidence in cases.

### a. Who

- i. Who is responsible for collecting recordings from law enforcement agency/agencies?
- ii. Who views all of the hours of a recording in any given case? Must *all* recordings be viewed prior to being discovered?
- iii. Who is responsible for redactions (both mandatory and discretionary redactions)?
- iv. Who provides discovery (e.g., Deputy DA, paralegal, tech support)?
- v. Who creates transcripts?

### b. When

- i. When does one give notice of the recording—at the first appearance, arraignment, or preliminary hearing?

168

- ii. When does one provide recordings according to discovery rules/statutes: Before resolution of the case? Early in the case so that the defense attorney can use it to help reach a plea agreement?
  - c. **How**
    - i. Is the recording received by the prosecutor on a disc, via shared server, or via iCloud?
- 4. Retention and Storage**
- Prosecutors should develop and identify a retention and storage plan or manual. This plan will assist in outlining proper retention and storage requirements.
- a. **What**
    - i. Which recordings will be retained after disposition of the case: All recordings from any given incident, or just a representative sample? Only ones used as evidence in court?
  - b. **How**
    - i. How will the recordings be stored: On a disc, on the prosecutors' server, or in the cloud? Will storage be shared with the public defender (in jurisdictions where funding is the same source)?
    - ii. For how long will the recordings be stored if state statute does not govern retention of evidence? Should the recordings be treated like DNA evidence (in states that have specific DNA-retention statutes)?
- 5. Protective Orders**
- Defense attorneys, police departments, Probation, and Parole can seek protective orders to regulate the use of the body worn camera recordings.
- a. **When**
    - i. Determine when a protective order should be sought.
  - b. **Why**
    - i. Consider issuing a protective order to restrict public dissemination of a recording in order to:
      - 1. Protect witnesses (e.g., a police officer may ask for a witness's identifying information on the recording);
      - 2. Prevent a defense attorney from giving the recording to the media (instead, consider a memorandum of understanding or a contractual agreement with the defense attorney to ensure compliance);
      - 3. Prevent law enforcement from giving the recording to the media; and/or
      - 4. Prevent the defendant from disseminating the recording.
- 6. Staffing and Funding**
- Assess staffing and funding needs for viewing, editing, and transcribing. Because of the potential for mass quantities of recordings, offices may need to hire additional staff that can view, edit, organize, and transcribe the recorded evidence.

169