

# VIRGINIA GENERAL ASSEMBLY



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2021 Regular & Special Session 1  
LEGISLATIVE UPDATE  
Delegate William C. Wampler III

# **Procedural Notes About 2021**

## **Regular/Special Session**

**The 2021 Regular/Special Session I was procedurally unique**

**2021 Regular session ran from January 13<sup>th</sup> to February 8<sup>th</sup> (20 days)**

**2021 Special Session I ran from February 11<sup>th</sup> to February 27<sup>th</sup> (17 Days)**

**Bills passed each chamber in Regular Session were continued to the other body for consideration in Special Session I in almost all cases;**

**-The demarcation between Regular and Special Session represented what we typically would call “Crossover” where bills from each chamber crossover to the other**





# Bills that passed

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SELECTED LEGISLATION

# Alcoholic beverage control;

**HB 2266/SB 1471. Designated outdoor refreshment area license.** The law renames the “local special events” license as the “designated outdoor refreshment area” license. The law allows the Board of Directors of the Virginia Alcoholic Beverage Control Authority to increase the frequency and duration of events held under such license after adoption of an ordinance by a locality requesting such increase in frequency and duration. Under current law, localities are limited to holding 16 events per year under such license, with each event lasting no more than three consecutive days, except during the effective dates of any rule, regulation, or order that is issued by the Governor or State Health Commissioner to meet a public health emergency and that effectively reduces allowable restaurant seating capacity. The law also increases the state and local license fees for designated outdoor refreshment area licenses issued pursuant to a local ordinance.

# Civil Procedure

**HB 2139- Accrual of cause of action; diagnosis of latent injury.** Provides that a cause of action for a latent injury resulting from the exposure to a substance or the use of a product shall accrue when the person knew or should have known of the injury and its causal connection to an injury-causing substance or product.

**SB 1108- General district courts; jurisdictional limits.** Increases from \$25,000 to \$50,000 the maximum civil jurisdictional limit of general district courts for civil actions for personal injury and wrongful death.

**SB 1261- Court of Appeals; jurisdiction; number of judges.** Expands the jurisdiction of the Court of Appeals of Virginia by providing for an appeal of right in every civil case and provides that the granting of further appeal to the Supreme Court of Virginia shall be within the discretion of the Supreme Court. The bill provides for an appeal of right in criminal cases by a defendant, but leaves unchanged the current requirement that in criminal cases the Commonwealth must petition the Court of Appeals for granting of an appeal. The bill increases from 11 to 17 the number of judges on the Court of Appeals. The bill also (i) provides jurisdiction to the Court of Appeals over interlocutory appeals and petitions for review of injunctions; (ii) allows for oral arguments to be dispensed with if the panel of judges makes a unanimous decision that the appeal is wholly without merit or that the dispositive issues on appeal have already been authoritatively decided and the appellant has not argued that the case law should be overturned, extended, or reversed; (iii) provides that the Attorney General shall represent the Commonwealth in criminal appeals unless, and with the consent of the Attorney General, the attorney for the Commonwealth who prosecuted the case files a notice of appearance; (iv) eliminates the requirement for an appeal bond in criminal appeals; (v) requires all criminal cases in a court of record to be recorded and requires the clerk of the circuit court to prepare a transcript of any trial for which an appeal is noticed to him; and (vi) requires an expedited review of appeals of permanent protective orders and of bond validation proceedings. The bill has a delayed effective date of January 1, 2022, which is applicable to all provisions of the bill except for those increasing the number of judges on the Court of Appeals.

# Corrections

**HB 2038 Probation, revocation, and suspension of sentence; limitations.** Limits the amount of active incarceration a court can impose as a result of a revocation hearing for a probation violation. The bill provides that if the court finds the basis of a violation of the terms and conditions of a suspended sentence or probation is that the defendant was convicted of a criminal offense or violated another condition other than a technical violation, the court may pronounce whatever sentence might have been originally imposed. The bill also provides that if a court finds that a defendant has absconded from the jurisdiction of the court, the court may extend the period of probation or suspended sentence for a period not to exceed the length of time that such defendant absconded. The bill defines "technical violation" and provides specific limitations on the sentence a court may impose depending on whether the violation is a first, second, or third or subsequent technical violation. The bill also provides that a court may fix the period of probation for up to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned and any period of supervised probation shall not exceed five years from the release of the defendant from any active period of incarceration but such limitation shall not apply to the extent that an additional period of probation is necessary (i) for the defendant to participate in a court-ordered program or (ii) if a defendant owes restitution and is still subject to restitution compliance review hearings. The bill also provides that a court must measure any period of suspension of sentence from the date of entry of the original sentencing order.

**HB2167 Parole; notice and certification; monthly reports; discretionary early consideration.** Provides that the Department of Corrections shall set the release date for an inmate granted discretionary parole or conditional release no sooner than 30 business days from the date that the Department of Corrections receives notification from the Chairman of the Parole Board of the Board's decision to grant discretionary parole or conditional release, except that the Department of Corrections may set an earlier release date in the case of a terminally ill inmate granted conditional release. The bill provides that in the case of an inmate granted parole who was convicted of a felony and sentenced to a term of 10 or more years, or an inmate granted conditional release, the Board shall notify the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced (i) by electronic means at least 21 business days prior to such inmate's release that such inmate has been granted discretionary parole or conditional release or (ii) by telephone or other electronic means prior to release that a terminally ill inmate has been granted conditional release where death is imminent. The bill requires that the monthly reports issued by the Board regarding actions taken on the parole of prisoners (a) be published on the fifteenth day of the month and (b) include the name of each prisoner considered for parole, the offense of which the prisoner was convicted, the jurisdiction in which such offense was committed, the amount of time the prisoner has served, whether the prisoner was granted or denied parole, and the basis for the grant or denial of parole. However, in the case of a prisoner granted parole, the bill provides that such information shall be included in the statement published in the month immediately succeeding the month in which notification of such decision was given to the attorney for the Commonwealth and any victim. The bill also provides that if additional victim research is necessary, electronic notification shall be sent to the attorney for the Commonwealth and the director of the victim/witness program, if one exists, of the jurisdiction in which the offense occurred. The bill requires the Board to implement the provisions regarding monthly reports no later than December 15, 2021.



# Criminal Offenses

**HB 1936 Robbery; penalties.** Creates degrees of punishment corresponding to the severity of a robbery offense. Any person who commits a robbery and causes serious bodily injury to or the death of another person is guilty of a Class 2 felony. Any person who commits robbery by using or displaying a firearm in a threatening manner is guilty of a Class 3 felony. Any person who commits robbery by using physical force not resulting in serious bodily injury, or by using or displaying a deadly weapon other than a firearm in a threatening manner, is guilty of a Class 5 felony. Any person who commits robbery by using threat or intimidation or by any other means not involving a deadly weapon is guilty of a Class 6 felony. Under current law, any robbery is punishable by confinement in a state correctional facility for life or any term not less than five years. The bill also provides that if a juvenile is charged with robbery, then a juvenile court shall conduct a preliminary hearing, for purposes of certifying the charge to the grand jury, whenever a juvenile 16 years of age or older is charged with a robbery charge that is punishable as a Class 2 or Class 3 felony, as provided for in the bill. Under current law, the juvenile court shall conduct such preliminary hearing for all robberies.

**HB2263/ SB 1165 Abolition of the death penalty.** Abolishes the death penalty, including for those persons currently under a death sentence. The bill provides that no person may be sentenced to death or put to death on or after its effective date for any violation of law. The bill incorporates [HB 1779](#) and is identical to [SB 1165](#).

**SB1138 Sexually transmitted infections; infected sexual battery; penalties.** Provides that any person who is diagnosed with a sexually transmitted infection and engages in sexual behavior that poses a substantial risk of transmission to another person with the intent to transmit the infection to that person and transmits such infection to that person is guilty of infected sexual battery, punishable as a Class 6 felony. The bill also repeals the crime of donating or selling blood, body fluids, organs, and tissues by persons infected with human immunodeficiency virus and the provisions regarding the testing of certain persons for human immunodeficiency virus or hepatitis B or C viruses. The bill contains technical amendments.

# Criminal Procedure

**HB 2047/SB 1315 Criminal proceedings; consideration of mental condition and intellectual and developmental disabilities.** Permits the admission of evidence by the defendant concerning a defendant's mental condition at the time of an alleged offense, including expert testimony, if such evidence is relevant and is not evidence concerning an ultimate issue of fact and (i) tends to show the defendant did or did not have the intent required for the offense charged and (ii) is otherwise admissible pursuant to the general rules of evidence. The bill provides that to establish a mental condition for such purposes, the defendant must show that his condition existed at the time of the offense and that such condition satisfies the diagnostic criteria for (a) a mental illness, as defined in the bill; (b) an intellectual or developmental disability, as defined in the bill; or (c) an autism spectrum disorder, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association. If a defendant intends to present such evidence, the bill requires him or his counsel to give notice in writing to the attorney for the Commonwealth within specified time periods. The bill also clarifies that a court, in addition to a magistrate, may enter an emergency custody order in such cases if the criteria required under current law for emergency custody orders are met.

The bill clarifies that a diagnosis of an intellectual or developmental disability shall be considered by a judicial officer for the purpose of rebuttal of a presumption against bail and that a court may order that a sentencing report prepared by a probation officer contain any diagnosis of an intellectual or developmental disability. The bill also adds to the requirements to be met for qualification as a court-appointed attorney two hours of continuing legal education, which shall cover the representation of individuals with behavioral or mental health disorders and individuals with intellectual or developmental disabilities.

Finally, the bill requires the Office of the Executive Secretary of the Supreme Court to collect data regarding the cases that use the evidence made permissible in the bill and the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century to study and make recommendations about the standard of danger to self or others that may be appropriately applied for such persons found not guilty under the provisions of the bill in the issuance of emergency custody orders, involuntary temporary detention orders, or the ordering of other mandatory mental health treatments. This bill is identical to [SB 1315](#).

# Criminal Procedure

**SB1399/HB2113 Sealing of criminal records; penalties.** Establishes a process for the automatic sealing of police and court records, defined in the bill, for certain convictions, deferred dispositions, and acquittals and for offenses that have been nolle prossed or otherwise dismissed. The bill also allows a person to petition for the sealing of police and court records relating to certain convictions. The bill has staggered delayed effective dates in order to develop systems for implementing the provisions of the bill. This bill incorporates [SB 1283](#) and [SB 1372](#) and is identical to [HB 2113](#).

**SB 1266 Admission to bail; rebuttable presumptions against bail.** Eliminates provisions regarding the rebuttable presumptions against being admitted to bail. The bill also provides that in making a bail determination, a judicial officer shall consider all relevant information, including a number of factors specified in the bill.

# Domestic Relations

**HB 1852 Uniform Collaborative Law Act.** Creates the Uniform Collaborative Law Act, which provides a framework for the practice of collaborative law, a process entered into voluntarily by clients for the express purpose of reaching a settlement in a family or domestic relations law matter, including (i) marriage, divorce, dissolution, annulment, and property distribution; (ii) child custody, visitation, and parenting time; (iii) alimony, spousal support, maintenance, and child support; (iv) adoption; (v) parentage; and (vi) negotiation or enforcement of premarital, marital, and separation agreements. The Act governs disclosure of information, privilege against disclosure of communications, and scope of representation by the attorneys in the proceeding.

**HB 1911 No-fault divorce; corroboration requirement.** Removes the corroborating witness requirement for no-fault divorces.

**HB 1184 Standby guardianship; triggering event.** Allows a parent who has reason to anticipate his possible detention, incarceration, or deportation connected to an immigration action to petition the court for approval of a standby guardian for the parent's minor child.

**SB 1325 Visitation; petition of grandparent.** Allows a grandparent who has petitioned the court for visitation of a minor grandchild, in cases where the parent of the minor grandchild is deceased or incapacitated, to introduce evidence of such deceased or incapacitated parent's consent to visitation with the grandparent. The bill provides that if the parent's consent is proven by a preponderance of the evidence, the court may then determine if grandparent visitation is in the best interest of the minor grandchild.

# Elections

**SB 1148 Elections; date of June primary election.** 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.

# Energy

**HB1834/ SB1247 Electric utilities; closure of carbon-emitting generating units.** Requires each owner of a large carbon-emitting power plant to provide notice to relevant localities and state agencies about the decision to close the plant within 30 days of making such decision. The bill requires localities in which such facilities are located, and planning district commissions in such localities, to conduct public hearings regarding the impending closure within six months of receipt of such notice. The bill requires the Division of Energy to maintain a public website listing the facilities subject to the requirements of the bill and their anticipated closure dates. As part of an integrated resource plan, the bill requires each utility to submit a facility retirement study for its carbon-emitting facilities and disclose the study to relevant localities and state agencies. This bill is identical to [SB 1247](#).

**HB 1855 Department of Mines, Minerals and Energy.** Renames the Department of Mines, Minerals and Energy as the Department of Energy. Within the Department, the bill renames the Division of Mined Land Reclamation as the Division of Mined Land Repurposing and renames the Division of Energy as the Division of Renewable Energy and Energy Efficiency.

The bill makes substantive changes, removing the requirement that the Chief of the Division of Mines be appointed by the Governor and authorizing an employee other than the Virginia Gas and Oil Inspector to serve as the principal executive of the staff of the Virginia Gas and Oil Board. The bill also provides that the Chief Clean Energy Policy Advisor shall be appointed by the Governor. The bill removes or updates outdated language. The bill has a delayed effective date of October 1, 2021.

# Energy

**HB 1919 Local green banks.** Authorizes a locality, by ordinance, to establish a green bank to promote the investment in clean energy technologies in its locality and provide financing for clean energy technologies, defined in the bill. The bill establishes certain powers and functions of a green bank, including developing rules and procedures, financing and providing loans for clean energy projects, and stimulating demand for renewable energy. The bill requires the green bank to be a public entity, quasi-public entity, depository bank, or nonprofit entity and requires the locality to hold a hearing and publish notice of the hearing in a newspaper of general circulation prior to establishing the green bank.

**HB 1925 Virginia Brownfield and Coal Mine Renewable Energy Grant Fund and Program; handbook.** Establishes the Virginia Brownfield and Coal Mine Renewable Energy Grant Fund and Program (the Fund and Program). The bill provides that no allocation of funds shall be made to the Fund or Program unless federal funds are available to cover the cost of such allocation. The Fund and Program shall be administered by the Department of Mines, Minerals and Energy for the purpose of awarding grants to renewable energy projects that are located on brownfields or previously coal mined lands, both defined in the bill. Grants are to be awarded on a basis of \$500 per kilowatt of nameplate capacity from renewable energy sources that are located on previously coal mined lands and \$100 per kilowatt of nameplate capacity from renewable energy sources that are located on brownfields. No more than \$10 million shall be awarded to any previously coal mined lands project and no more than \$5 million to any single brownfield project. No more than \$35 million shall be allocated per year by the grant program. Of the \$35 million, \$20 million shall be reserved for previously coal mined lands projects. If less than \$20 million is distributed to such projects, the remaining funds may be reallocated to brownfield projects. The bill also provides that the Department shall, in consultation with stakeholders, develop a handbook for renewable energy and energy storage development on brownfields and previously coal mined lands. Finally, the bill requires the Department to submit an annual report regarding administration of the Fund and Program to the General Assembly. However, the annual report shall not be required if the Fund and Program are not funded.

**SB 1207/HB 2201 Solar and energy storage projects; siting agreements and special exceptions throughout the Commonwealth.** Expands existing provisions related to siting agreements and zoning special exceptions for solar projects located in an opportunity zone to include energy storage projects and makes the provisions statewide. The bill provides that its provisions shall not apply to any energy storage project that has received zoning and site plan approval, preliminary or otherwise, from the host locality before January 1, 2021. The bill also provides that its provisions shall not become effective with respect to energy storage projects unless the General Assembly approves legislation that authorizes localities to adopt an ordinance for taxation of energy storage projects such as solar projects with a local option for machinery and tools tax or solar revenue share.

# Energy

**SB 1284 Commonwealth Clean Energy Policy.** Establishes the Commonwealth Clean Energy Policy, replacing the Commonwealth Energy Policy. The bill sets out the energy policy and objectives of the Commonwealth Clean Energy Policy, which include: (i) the Commonwealth recognizes that effectively addressing climate change and enhancing resilience will advance the health, welfare, and safety of the residents of the Commonwealth and that addressing climate change requires reducing greenhouse gas emissions across the Commonwealth's economy sufficient to reach net-zero emission by 2045 in all sectors, including the electric power, transportation, industrial, agricultural, building, and infrastructure sectors; (ii) the Commonwealth recognizes the need to promote environmental justice and ensure that it is carried out throughout the Commonwealth and the need to address and prevent energy inequities in historically economically disadvantaged communities; and (iii) the Commonwealth must continue to prioritize economic competitiveness and workforce development in an equitable manner.

# Firearms

**HB 1992 Purchase, possession, or transportation of firearms following conviction for assault and battery of a family or household member; penalties.** Prohibits a person who has been convicted of assault and battery of a family or household member, as defined in the bill, from purchasing, possessing, or transporting a firearm. The prohibition expires three years after the date of conviction, at which point the person's firearms rights are restored, unless he receives another disqualifying conviction. A person who violates the provisions of the bill is guilty of a Class 1 misdemeanor.

**HB 2295/SB1381 Carrying a firearm or explosive material within Capitol Square and the surrounding area, into a building owned or leased by the Commonwealth, etc.; penalty.** Makes it a Class 1 misdemeanor for a person to carry any firearm or explosive material within (i) the Capitol of Virginia; (ii) Capitol Square and the surrounding area; (iii) any building owned or leased by the Commonwealth or any agency thereof; or (iv) any office where employees of the Commonwealth or agency thereof are regularly present for the purpose of performing their official duties. The bill provides exceptions for the following individuals while acting in the conduct of such person's official duties: any law-enforcement officer, any authorized security personnel, any active military personnel, any fire marshal when such fire marshal has been granted police powers, or any member of a cadet corps while such member is participating in an official ceremonial event for the Commonwealth. The prohibitions of the bill that apply to any building owned or leased by the Commonwealth or any office where state employees are performing official duties do not apply to retired law-enforcement officials visiting a gun range owned or leased by the Commonwealth or any of the following while acting in the conduct of official duties: a bail bondsman, an employee of the Department of Corrections or a state juvenile correctional facility, an employee of the Department of Conservation and Recreation, or an employee of the Department of Wildlife Resources. Such prohibitions also do not apply to an individual carrying a weapon into a courthouse who is statutorily exempt, any property owned or operated by a public institution of higher education, any state park, or any magistrate acting in the conduct of the magistrate's official duties. The bill requires that notice of the provisions prohibiting the carrying of such firearms or explosive material be posted at each of the public entrances to Capitol Square and the other locations where such firearms and explosive material are prohibited in the bill. The bill provides that any firearm or explosive material carried in violation of these provisions is subject to seizure by a law-enforcement officer and forfeiture to the Commonwealth. This bill is identical to [SB 1381](#).



# FOIA.

**HB 2004 Virginia Freedom of Information Act; law-enforcement criminal incident information; criminal investigative files.** Adds criminal investigative files, defined in the bill, relating to a criminal investigation or proceeding that is not ongoing, also defined in the bill, to the types of law-enforcement and criminal records required to be released in accordance with the provisions of the Virginia Freedom of Information Act. Under current law, the release of criminal investigative files is discretionary. The bill provides that the mandatory release of criminal incident information relating to felony offenses and criminal investigative files shall not be required if the release of such information would likely effect certain results, outlined in the bill. The bill also extends the amount of additional time a public body has to respond, in the case of a request for certain criminal investigative files, from an additional seven work days to an additional 60 work days as long as the public body has communicated to the requester within the initial allowable five-work-day response period that it is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period. The bill contains technical amendments. As introduced, this bill was a recommendation of the Virginia Freedom of Information Advisory Council.

## Gaming

**SB 1127 Charitable gaming; permit requirement; permissible locations; suspensions and revocations.** Modifies the list of organizations that may conduct charitable gaming and requires such organizations, other than organizations conducting raffles that reasonably expect to realize gross receipts from such raffles of \$40,000 or less in any 12-month period, to obtain a permit from the Department of Agriculture and Consumer Services; however, the bill exempts certain organizations from the permit application and audit fees. The bill specifies the locations at which an organization may conduct bingo, network bingo, instant bingo, pull tabs, or seal cards. The bill prohibits the holding of a permit by a supplier or manufacturer that commits certain violations or offenses after July 1, 2021. The bill prohibits the Charitable Gaming Board from adjusting the percentage of gross receipts that an organization must use for religious, charitable, community, or educational purposes or for certain real property expenses until a study is completed by a joint subcommittee created in the bill. The bill provides that, notwithstanding the provisions of the bill, any organization that conducted bingo, network bingo, instant bingo, pull tabs, or seal cards at a location outside of the county, city, or town in which its principal office, as registered with the State Corporation Commission, is located or an adjoining county, city, or town on or before February 1, 2021, may continue to conduct bingo, network bingo, instant bingo, pull tabs, or seal cards at such locations until June 30, 2022.

# Health and Health Professionals

**HB 1987 Telemedicine.** Requires the Board of Medical Assistance Services to amend the state plan for medical assistance to provide for payment of medical assistance for remote patient monitoring services provided via telemedicine for certain high-risk patients, makes clear that nothing shall preclude health insurance carriers from providing coverage for services delivered through real-time audio-only telephone that are not telemedicine, and clarifies rules around the prescribing of Schedule II through VI drugs via telemedicine, including establishing a practitioner-patient relationship via telemedicine. This bill is identical to [SB 1338](#).

**SB 1338/HB2218 Pharmaceutical processors; cannabis products.** Permits pharmaceutical processors to produce and distribute cannabis products other than cannabis oil and for that purpose defines the terms "botanical cannabis," "cannabis product," and "usable cannabis." The bill requires the Board of Pharmacy to establish testing standards for botanical cannabis and botanical cannabis products, establish a registration process for botanical cannabis products, and promulgate emergency regulations to implement the provisions of the bill. The bill provides that if a practitioner determines it is consistent with the standard of care to dispense botanical cannabis to a minor, the written certification shall specifically authorize such dispensing. The bill allows the Board of Pharmacy to assess and collect botanical cannabis regulatory fees to cover costs associated with the implementation of the provisions of the bill, including costs for new personnel, training, promulgation of regulations and guidance documents, and information technology. The bill exempts the Board of Pharmacy's acquisition of a commercially available cannabis-specific software product to implement the provisions of the bill from the Virginia Public Procurement Act. This bill is identical to [HB 2218](#).

# Higher Education

**HB 1930 Public institutions of higher education; admissions applications; criminal history.** Prohibits each public institution of higher education, with the exception of the Virginia Military Institute and a law school of a public institution of higher education that is accredited by the American Bar Association, from (i) utilizing an institution-specific admissions application that contains questions about the criminal history of the applicant or (ii) denying admission to any applicant on the basis of any criminal history information provided by the applicant on any third-party admissions application accepted by the institution. The bill permits each public institution of higher education to inquire into the criminal history of any individual who has been admitted to but has yet to enroll at the institution and withdraw an offer of admission to any individual whom the institution subsequently determines to have a criminal history that poses a threat to the institution's community. The bill has a delayed effective date of January 1, 2022.

**HB 1980 Enslaved Ancestors College Access Scholarship and Memorial Program established.** Establishes the Enslaved Ancestors College Access Scholarship and Memorial Program, whereby Longwood University, the University of Virginia, Virginia Commonwealth University, the Virginia Military Institute, and The College of William and Mary in Virginia, with any source of funds other than state funds or tuition or fee increases, are required to annually (i) identify and memorialize, to the extent possible, all enslaved individuals who labored on former and current institutionally controlled grounds and property and (ii) provide a tangible benefit such as a college scholarship or community-based economic development program for individuals or specific communities with a demonstrated historic connection to slavery that will empower families to be lifted out of the cycle of poverty. The bill requires the State Council of Higher Education for Virginia to collaborate with such institutions to establish guidelines for the implementation of the Program and to annually collect information on the implementation of the Program from such institutions and report such information to the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, the Senate Committee on Finance and Appropriations, and the Virginia African American Advisory Board.

# Higher Education

**HB 2120 Public institutions of higher education; governing boards; meetings, input, and disclosures.** Requires the governing board of each public institution of higher education to establish and maintain on the institution's website (i) a listing of all board members, including the name of the Governor who made each appointment and the date of each appointment; (ii) a listing of all committees created by the board and the membership of each committee; (iii) a schedule of all upcoming meetings of the full board and its committees and instructions for the public to access such meetings; (iv) an archive of agendas and supporting materials for each meeting of the governing board and its committees that was held; and (v) an email address or email addresses that allow board members to receive public communications pertaining to board business. The bill requires such boards to solicit the input of representatives of the institution's faculty senate or its equivalent (a) at least twice per academic year on topics of general interest to the faculty and (b) in advance of decisions to be made on the search for the institution's new chief executive officer. The bill also requires the State Council of Higher Education for Virginia, in consultation with the Virginia Freedom of Information Advisory Council, to work with each public institution of higher education and with technology experts to develop a minimal uniform standard, to the extent practicable, for providing the public with real-time electronic access to meetings of the governing boards of public institutions of higher education.

**HB 2123/SB 1387 Public institutions of higher education; certain students; financial assistance programs.** Provides that students who meet the criteria to be deemed eligible for in-state tuition regardless of their citizenship or immigration status shall be afforded the same educational benefits, including financial assistance programs administered by the State Council of Higher Education for Virginia the State Board for Community Colleges, or a public institution of higher education, as any other individual who is eligible for in-state tuition. The bill directs the State Council of Higher Education for Virginia, in coordination with institutions of higher education in the Commonwealth, to promulgate regulations to implement the provisions of the bill. The bill has a delayed effective date of August 1, 2022, and is identical to [SB 1387](#).

**HB 2204 Get Skilled, Get a Job, Give Back (G3) Fund and Program established.** Establishes the Get Skilled, Get a Job, Give Back (G3) Fund and requires the Virginia Community College System to establish the G3 Program for the purpose of providing financial assistance from the Fund to certain low-income and middle-income Virginia students who are enrolled in an educational program at an associate-degree-granting public institution of higher education that leads to an occupation in a high-demand field. The bill contains provisions for student eligibility, financial assistance award amounts, and data reporting. This bill is identical to [SB 1405](#).

# Housing

**HB 1842 Property Owners' Association Act; Condominium Act; rulemaking authority of property owners' associations and unit owners' associations; smoking.** Permits (i) except to the extent that the declaration provides otherwise, the board of directors of a property owners' association to establish reasonable rules that restrict smoking in the development, including (a) rules that prohibit smoking in the common areas and, (b) for developments that include attached private dwelling units, rules that prohibit smoking within such dwelling units, and (ii) except to the extent that the condominium instruments provide otherwise, the executive board of a condominium unit owners' association to establish reasonable rules that restrict smoking in the condominium, including rules that prohibit smoking in the common elements and within units. The bill clarifies the authority of executive boards of condominium unit owners' associations to establish, adopt, and enforce rules and regulations with respect to the use of the common elements of the condominium and with respect to such other areas of responsibility assigned to the unit owners' association by the condominium instruments, except where expressly reserved by the condominium instruments to the unit owners. The bill also permits unit owners, by a majority of votes cast at a meeting of the unit owners' association, to repeal or amend any rule or regulation adopted by the executive board. This bill is a recommendation of the Virginia Housing Commission.

**HB 1889 Virginia Residential Landlord and Tenant Act; landlord remedies; noncompliance with rental agreement; payment plan; extend sunset.** Extends the sunset date from July 1, 2021, to July 1, 2022, of certain provisions enacted during the 2020 Special Session related to the Virginia Residential Landlord and Tenant Act. Such provisions (i) changed from five to 14 days the amount of time that a landlord who owns four or fewer rental dwelling units must wait after serving written notice on a tenant notifying the tenant of his nonpayment of rent and of the landlord's intention to terminate the rental agreement if rent is not paid before the landlord may pursue remedies for termination of the rental agreement; (ii) required a landlord who owns more than four rental dwelling units, or more than a 10 percent interest in more than four rental dwelling units, before terminating a rental agreement due to nonpayment of rent, to serve upon such tenant a written notice informing the tenant of the total amount due and owed and offer the tenant a payment plan under which the tenant must pay the total amount due and owed in equal monthly installments over a period of the lesser of six months or the time remaining under the rental agreement; (iii) outlined the remedies a landlord has if a tenant fails to pay the total amount due and owed or enter into a payment arrangement within 14 days of receiving notice or if the tenant enters into a payment arrangement but fails to pay within 14 days of the due date any rent that becomes due under the payment plan or arrangement after such plan or arrangement becomes effective; and (iv) clarified that a tenant is not precluded from participating in any other rent relief programs available to the tenant through a nonprofit organization or under the provisions of a federal, state, or local law, regulation, or action.

# Housing

**HB 2014 Virginia Residential Landlord and Tenant Act; landlord remedies; landlord's acceptance of rent with reservation; tenant's right of redemption.** Prohibits a landlord from accepting full payment of rent, as well as any damages, money judgment, award of attorney fees, and court costs, from a tenant and receiving an order of possession pursuant to an unlawful detainer action and proceeding with eviction, unless there are bases for the entry of an order of possession other than nonpayment of rent stated in the unlawful detainer action filed by the landlord. Under current law, a landlord may accept full or partial payment of all rent and receive an order of possession pursuant to an unlawful detainer action and proceed with eviction, provided that he has stated in a written notice to the tenant that any and all amounts owed to the landlord by the tenant, including payment of any rent, damages, money judgment, award of attorney fees, and court costs, would be accepted with reservation and would not constitute a waiver of the landlord's right to evict the tenant from the dwelling unit. The bill provides specific language that must be included within such notice, and requires a landlord who elects to seek possession of the dwelling unit to provide a copy of the notice to the court for service to the tenant along with the summons for unlawful detainer. The bill also allows tenants to exercise the right of redemption in unlawful detainer actions an unlimited number of times except that a landlord with four or fewer rental dwelling units, or up to a 10 percent interest in four or fewer rental dwelling units, may limit a tenant's use of the right of redemption to once per lease period, provided that the landlord provides written notice of such limitation to the tenant. Under current law, tenants may only exercise the right of redemption once during any 12-month period of continuous residency in the dwelling unit, regardless of the term of the rental agreement or any renewal term of the rental agreement. The bill directs the Director of the Department of Housing and Community Development (Director) to develop a sample termination notice to be maintained on the Department of Housing and Community Development's (Department) website that includes language referencing acceptance of rent with reservation by a landlord following a breach of a lease by a tenant, and requires the Department to convene a stakeholder group to provide input to the Director regarding the development of such sample termination notice.



# Insurance

**HB 1896 Essential health benefits; abortion coverage.** Removes the prohibition on the provision of coverage for abortions in any qualified health insurance plan that is sold or offered for sale through a health benefits exchange established or operating in Virginia. This bill is identical to [SB 1276](#).

**HB 2008/SB 1269 Health insurance; authorization of drug prescribed for the treatment of a mental disorder.** Requires that any provider contract between a carrier and a participating health care provider with prescriptive authority, or its contracting agent, contain provisions that require, when a carrier has previously approved prior authorization for any drug prescribed for the treatment of a mental disorder listed in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, no additional prior authorization can be required if (i) the drug is a covered benefit; (ii) the prescription does not exceed the U.S. Food and Drug Administration-labeled dosages; (iii) the prescription has been continuously issued for no fewer than three months; and (iv) the prescriber performs an annual review of the patient to evaluate the drug's continued efficacy, changes in the patient's health status, and potential contraindications. The bill provides that this requirement does not prohibit a carrier from requiring prior authorization for any drug that is not listed on its prescription drug formulary at the time the initial prescription is issued. The bill also requires that such provider contracts contain provisions requiring a carrier to honor a prior authorization issued by the carrier for a drug regardless of whether the drug is removed from the carrier's prescription drug formulary after the initial prescription for that drug is issued. Under the bill, provisions related to provider contracts and prior authorization shall apply to the state insurance health plan. This bill is identical to [HB 2008](#).

**HB 2219 Pharmacies; freedom of choice.** Provides that no insurance carrier, corporation providing preferred provider subscription contracts, or health maintenance organization providing health care plans or its pharmacy benefits manager shall prohibit a covered individual from selecting the pharmacy of his choice to furnish specialty pharmaceutical benefits under the covered individual's policy. The bill provides that no pharmacy that meets the terms and conditions of participation shall be precluded from obtaining a direct service agreement or participating provider agreement and that any request for such agreement by a pharmacy shall be acted upon by a carrier, corporation, or organization or its pharmacy benefits manager within 60 days of receiving the request.

# Labor and Employment

**HB 1985 Workers' compensation; presumption of compensability for COVID-19.** Establishes a presumption that COVID-19 causing the death or disability of health care providers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that the COVID-19 virus is established by a positive diagnostic test for COVID-19 and signs and symptoms of COVID-19 that require medical treatment. The bill provides that such presumption applies to any death or disability occurring on or after March 12, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after March 12, 2020, and prior to July 1, 2020, either of the following criteria must be met, and on or after July 1, 2020, and prior to December 31, 2021, both of the following criteria must be met: (i) the claimant received a positive diagnosis of COVID-19 from a licensed physician, nurse practitioner, or physician assistant after either a presumptive positive test or a laboratory-confirmed test for COVID-19 and (ii) the claimant presented with signs and symptoms of COVID-19 that required medical treatment. The bill provides that such presumptions do not apply to any person offered by his employer a vaccine for the prevention of COVID-19 unless the person is immunized or the person's physician determines in writing that immunization would pose a significant risk to the person's health.

**HB 2032 Employment; domestic service.** Provides that individuals who are engaged in providing domestic service are not excluded from employee protection laws.

**SB1375/HB 2207 Workers' compensation; presumption of compensability for COVID-19.** Establishes a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, correctional officers, and regional jail officers is an occupational disease compensable under the Workers' Compensation Act. The bill provides that such presumption applies to any death or disability occurring on or after July 1, 2020, caused by infection from the COVID-19 virus, provided that for any such death or disability that occurred on or after July 1, 2020, and prior to December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs and symptoms of COVID-19 that required medical treatment. This bill incorporates [SB 1342](#) and is identical to [HB 2207](#).



# Local Government

**HB 1778 Removal of clutter from property; civil penalty.** Provides that a locality may by ordinance require the removal of clutter from property, except on land zoned for or in active farming operation, or may, whenever the governing body deems it necessary, after reasonable notice, have such clutter removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected. The bill defines "clutter" as including mechanical equipment, household furniture, containers, and similar items that may be detrimental to the well-being of a community when they are left in public view for an extended period or are allowed to accumulate. Violations of the bill are subject to the existing civil penalty applicable to violations of provisions relating to the removal of trash, garbage, refuse, litter, and similar substances from property.

## Marijuana

**HB 2312/SB 1406 Marijuana; legalization; retail sales; penalties.** Eliminates criminal penalties for simple possession of up to one ounce of marijuana by persons 21 years of age or older, modifies several other criminal penalties related to marijuana, and imposes limits on dissemination of criminal history record information related to certain marijuana offenses. The bill creates the Virginia Cannabis Control Authority (the Authority), the Cannabis Oversight Commission, the Cannabis Public Health Advisory Council, the Cannabis Equity Reinvestment Board and Fund, and the Virginia Cannabis Equity Business Loan Program and Fund and establishes a regulatory and licensing structure for the cultivation, manufacture, wholesale, and retail sale of retail marijuana and retail marijuana products, to be administered by the Authority. The bill contains social equity provisions that, among other things, provide support and resources to persons and communities that have been historically and disproportionately affected by drug enforcement. The bill has staggered effective dates, and numerous provisions of the bill are subject to reenactment by the 2022 Session of the General Assembly. This bill incorporates [HB 1815](#) and is identical to [SB 1406](#). See H. B. 2312 Chapter PDF text:

# Motor Vehicles

**HB 2138 Identification privilege cards; fee; confidentiality; penalties.** Authorizes the Department of Motor Vehicles to issue identification privilege cards to applicants who hold a citizenship or legal presence status that is eligible for a special identification card or a limited-duration special identification card and have reported income from Virginia sources or been claimed as a dependent on an individual tax return filed with the Commonwealth in the preceding 12 months. The bill provides that identification privilege cards shall be treated as special identification cards unless otherwise provided in the Code of Virginia. The bill limits the release of certain information stored by the Department. The bill has a delayed effective date of January 1, 2022.

# Public Safety

**HB 2216 Virginia Missing Person with Autism Alert Program.** Renames the Virginia Missing Child with Autism Alert Program to the Virginia Missing Person with Autism Alert Program and expands it to apply to any missing person with autism, regardless of age. The bill defines a "missing person with autism" as any person (i) whose whereabouts are unknown, (ii) who has been diagnosed with autism spectrum disorder as defined by the Code of Virginia, and (iii) whose disappearance poses a credible threat to the safety and health of the person.

# Social Services

**SB 1328 State-Funded Kinship Guardianship Assistance program.** Creates the State-Funded Kinship Guardianship Assistance program (the program) to facilitate child placements with relatives, including fictive kin, and ensure permanency for children. The bill sets forth eligibility criteria for the program, payment allowances to kinship guardians, and requirements for kinship guardianship assistance agreements.

# Public Education

**HB 1790/SB 1132 Public schools; severe weather conditions and other emergency situations; unscheduled remote learning days.** Provides that when severe weather conditions or other emergency situations have resulted in the closing of any school in a school division for in-person instruction, the school division may declare an unscheduled remote learning day whereby the school provides instruction and student services, consistent with guidelines established by the Department of Education to ensure the equitable provision of such services, without a reduction in the amount paid by the Commonwealth from the Basic School Aid Fund. The bill prohibits any school division from claiming more than 10 unscheduled remote learning days in a school year unless the Superintendent of Public Instruction grants an extension. This bill is identical to [SB 1132](#).

**HB 1904/SB 1196 Teachers and other licensed school board employees; cultural competency.** Requires teacher, principal, and division superintendent evaluations to include an evaluation of cultural competency. The bill requires every person seeking initial licensure or renewal of a license from the Board of Education (i) to complete instruction or training in cultural competency and (ii) with an endorsement in history and social sciences to complete instruction in African American history, as prescribed by the Board. The bill also requires each school board to adopt and implement policies that require each teacher and any other school board employee holding a license issued by the Board to complete cultural competency training, in accordance with guidance issued by the Board, at least every two years. This bill is identical to [SB 1196](#).

**HB 2299/ SB1288 Department of Education and Board of Education; special education.** Requires the Department of Education and the Board of Education to develop new policies and procedures and effect numerous modifications to existing policies and procedures to improve the administration and oversight of special education in the Commonwealth. This bill is identical to [SB 1288](#).

**SB 1257 Standards of Quality; specialized student support positions.** Modifies a school personnel requirement in Standard 2 of the Standards of Quality to require each school board to provide at least three specialized student support positions, including school social workers, school psychologists, school nurses, licensed behavior analysts, licensed assistant behavior analysts, and other licensed health and behavioral positions, per 1,000 students.

# Public Education

**SB 1303 School boards; in-person instruction.** Requires each school board to offer in-person instruction to each student enrolled in the local school division in a public elementary and secondary school for at least the minimum number of required instructional hours and to each student enrolled in the local school division in a public school-based early childhood care and education program for the entirety of the instructional time provided pursuant to such program. The bill contains certain exceptions to the abovementioned requirement. The bill requires each school board to provide such in-person instruction in a manner in which it adheres, to the maximum extent practicable, to any currently applicable mitigation strategies for early childhood care and education programs and elementary and secondary schools to reduce the transmission of COVID-19 that have been provided by the federal Centers for Disease Control and Prevention. The bill requires the Department of Education to establish benchmarks for successful virtual learning and guidelines for providing interventions to students who fail to meet such benchmarks and for transitioning such students back to in-person instruction. The bill also requires all teachers and school staff to be offered access to receive an approved COVID-19 vaccination through their relevant local health district. The bill has an expiration date of August 1, 2022.

# Taxation

**HB 1935/SB1146 Conformity of the Commonwealth's taxation system with the Internal Revenue Code; emergency.** Advances Virginia's date of conformity with the Internal Revenue Code from December 31, 2019, to December 31, 2020. The bill deconforms from the suspension of the overall limitation on itemized deductions and the reduction in the medical expense deduction floor for taxable year 2017 and taxable years on and after January 1, 2019, and from the provisions of the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) related to the net operating loss limitation and carryback, a loss limitation applicable to taxpayers other than corporations, the limitation on business interest, and certain loan forgiveness and other business financial assistance. The bill provides an individual and corporate income tax deduction or subtraction, as applicable, of up to \$100,000 for Rebuild Virginia grants and certain amounts related to Paycheck Protection Program loans. The bill contains an emergency clause and is identical to [SB 1146](#).

# Taxation

**HB 2185/SB 1403 Sales tax; exemption for personal protective equipment; emergency.** Establishes a retail sales and use tax exemption for personal protective equipment, defined in the bill. The exemption is available to any business that has in place a COVID-19 safety protocol that complies with the Emergency Temporary Standard promulgated by the Virginia Department of Labor and Industry and that meets other criteria. The exemption sunsets on the first day following the expiration of the last executive order issued by the Governor related to the COVID-19 pandemic and the termination of the COVID-19 Emergency Temporary Standard and any permanent COVID-19 regulations adopted by the Virginia Safety and Health Codes Board. The bill contains an emergency clause and is identical to [SB 1403](#).

**SB1130 Personal property tax exemption; motor vehicle of a disabled veteran.** Provides that one motor vehicle of a veteran who has a 100 percent service-connected, permanent, and total disability shall be exempt from local taxes. This bill is the enabling legislation for a constitutional amendment ratified by the voters of the Commonwealth at the November 2020 general election.

# Technology and Innovation

**HB 2031 Facial recognition technology; authorization of use by local law-enforcement agencies and campus police departments at public institutions of higher education.** Provides that no local law-enforcement agency or campus police department shall purchase or deploy facial recognition technology, defined in the bill, unless such purchase or deployment is expressly authorized by statute. The bill prohibits a local law-enforcement agency or campus police department at a public institution of higher education currently using facial recognition technology from continuing to use such technology without such authorization after July 1, 2021.

**HB 2307/SB1392 Consumer Data Protection Act.** Establishes a framework for controlling and processing personal data in the Commonwealth. The bill applies to all persons that conduct business in the Commonwealth and either (i) control or process personal data of at least 100,000 consumers or (ii) derive over 50 percent of gross revenue from the sale of personal data and control or process personal data of at least 25,000 consumers. The bill outlines responsibilities and privacy protection standards for data controllers and processors. The bill does not apply to state or local governmental entities and contains exceptions for certain types of data and information governed by federal law. The bill grants consumer rights to access, correct, delete, and obtain a copy of personal data and to opt out of the processing of personal data for purposes of targeted advertising, the sale of personal data, or profiling of the consumer. The bill provides that the Attorney General has exclusive authority to enforce violations of the law, and the Consumer Privacy Fund is created to support this effort. The bill directs the Joint Commission on Technology and Science to establish a work group to review the provisions of this act and issues related to its implementation, and to report on its findings by November 1, 2021. The bill has a delayed effective date of January 1, 2023. This bill is identical to [SB 1392](#).

# Traffic Infractions

**HB 1846 Provisional drivers; use of handheld personal communications devices.** Eliminates the provision prohibiting a holder of a provisional driver's license to operate a vehicle while using a wireless communication device. Such provision was specific only to the holder of a provisional license. Under a different current law, all drivers, including those with a provisional driver's license, are prohibited from holding a personal communications device while operating a vehicle.

**HB 2262 Traffic regulation; bicycles; report.** Requires the driver of a motor vehicle to change lanes when overtaking a bicycle or certain other vehicles when the lane of travel is not wide enough for the overtaking motor vehicle to pass at least three feet to the left of the overtaken vehicle. The bill also removes the limitations on riding bicycles and certain other vehicles two abreast. The Department of State Police is directed to convene a work group to review issues related to allowing bicyclists to treat stop signs as yield signs, and to report any recommendations to the chairmen of the House and Senate Committees on Transportation.

**SB 1335 Learner's permits; use of personal communications device.** Eliminates the provisions prohibiting a holder of a learner's permit or a holder of a provisional driver's license from operating a vehicle while using a wireless telecommunications device. Such provisions were specific only to the holder of a learner's permit or a provisional driver's license. Under a different current law, all drivers, including those with a learner's permit or a provisional driver's license, are prohibited from holding a handheld personal communications device while operating a vehicle.



# Voting

**HB 1888 Absentee voting; procedural and process reforms; availability and accessibility reforms; penalty.** Makes various reforms to absentee voting processes and procedures, including those related to availability and accessibility. The bill requires certain actions to be taken to process absentee ballots returned before the day of an election, including verifying the correct completion of the voter affirmation statement, and provides for an opportunity for an absentee voter to make corrections to the statement in certain circumstances. The bill requires the establishment of drop-off locations for the return of voted absentee ballots. Additionally, a central absentee voter precinct is required to be established in each locality; currently, establishment is optional. On the day of the election, officers of election are required to begin processing absentee ballots in the central absentee voter precincts prior to the close of polls, but no ballot vote counts are permitted to be transmitted outside of the central absentee voter precinct before the close of polls; a violation of such prohibition is a Class 1 misdemeanor. When reporting election results to the Department of Elections, the general registrars are required to report absentee ballots cast early in person separately from all other absentee ballots. Additionally, a voter who has applied for and received an absentee ballot may choose to instead vote at his polling place on election day, and such voter shall be entitled to cast a provisional ballot. The bill requires a ballot marking tool with screen reader assistive technology to be made available for absentee voters with a print disability. Restrictions on the availability of absentee voting for first-time voters who registered by mail are repealed. The bill contains technical amendments for organizational and readability purposes.

**HB1921 Assistance for certain voters; curbside voting.** Clarifies that any voter with a permanent physical disability, temporary physical disability, or injury is entitled to vote outside of the polling place. The bill further provides that during a declared state of emergency related to a communicable disease of public health threat, any voter is entitled to vote outside of the polling place. The bill requires that the area designated for voting outside of the polling place be clearly marked and instructions on how the voter is to notify an officer of election of his request to vote outside of the polling place be prominently displayed. The bill makes technical amendments for clarity and organizational purposes.

**HB 2081 Polling places; prohibited activities; unlawful possession of a firearm; penalty.** Prohibits any person from knowingly possessing a firearm within 40 feet of any building, or part thereof, used as a polling place, including one hour before and one hour after its use as a polling place, except for (i) a qualified law-enforcement officer or retired law-enforcement officer, (ii) any person occupying his own private property that falls within 40 feet of the polling place, or (iii) a licensed armed security officer whose employment or performance of his duties occurs within 40 feet of the polling place. The bill further provides that no person shall knowingly possess a firearm within 40 feet of a meeting place for the local electoral board while the electoral board meets to ascertain the results of an election or any place used as the setting for a recount. A violation of the provisions of the bill is a Class 1 misdemeanor.