

2016 SESSION HIGHLIGHTS

The *2016 Session Highlights* summarizes significant legislation considered by the 2016 Session of the General Assembly as selected by the staff of the Virginia Division of Legislative Services. The brief overview of the 2016 Session covers legislative actions through sine die on Friday, March 11, 2016. Bills are differentiated as Passed, Failed, or Carried Over. Passed bills are subject to review and veto by the Governor; thus, some of the bills listed as passed in this volume may be amended and some may not become law.

Agriculture

Passed

HB 340 Regulations for private animal shelter.

Requires the Board of Agriculture and Consumer Services to adopt regulations that determine whether a private animal shelter meets the purpose of finding permanent adoptive homes for animals.

HB 448 Acquisition of nutrient offset credits.

Allows a new or expanding facility registered under the Watershed General Permit to acquire nutrient offset credits, on land located in the same tributary as the facility, on which best management practices have been implemented that would achieve reductions greater than those currently required by federal or state law or the Chesapeake Bay TMDL Watershed Implementation Plan. The bill also allows the acquisition of credits or the allocation of credits under the general permit for a period longer than the current five-year restriction, subject to the approval of the State Water Control Board.

HB 699 Production of industrial hemp.

Clarifies that it is lawful for a person with a license to manufacture industrial hemp products or engage in scientific, agricultural, or other research involving the applications of industrial hemp and that no person shall be prosecuted for the possession, cultivation, or manufacture of industrial hemp plant material or products. The current law authorizes the Board of Agriculture and Consumer Services to adopt regulations necessary to license persons to grow industrial hemp or administer a research program. The bill requires the Commissioner of Agriculture and Consumer Services to establish a licensure program, with a maximum license fee of \$250.

HB 903 Commonwealth Center for Recurrent

Flooding Resiliency. Designates the Commonwealth Center for Recurrent Flooding Resiliency jointly at Old Dominion University, the Virginia Institute of Marine Science, and The College of William and Mary to (i)

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serve, advise, and support the Commonwealth by conducting interdisciplinary studies and investigations and (ii) provide training, technical and nontechnical services, and outreach in the area of recurrent flooding and resilience research to the Commonwealth and its political subdivisions.

Business

Passed

HB 378/SB 631 Workers' compensation; fee schedules for medical services. Directs the Workers' Compensation Commission (the Commission) to adopt regulations establishing fee schedules setting the maximum pecuniary liability of the employer for medical services provided to an injured person pursuant to the Virginia Workers' Compensation Act, in the absence of a contract under which the provider has agreed to accept a specified amount for the medical service. The regulations implementing the fee schedules shall become effective on January 1, 2018. The initial fee schedules will set amounts based on a reimbursement objective, which is the average of all amounts paid to providers in the same category of providers for the medical service in the same medical community. The Commission is required to retain a firm to assist it in establishing the initial fee schedules. The Commission is required to review and revise the fee schedules in the year after they become effective and biennially thereafter. The liability of the employer for certain medical services not included in a fee schedule will be set by the Commission. A stop-loss feature allows hospitals to receive payments or reimbursements that exceed the fee schedule amount for certain claims when the total charges exceed a charge outlier threshold, which initially is 150 percent of the maximum fee for the service set forth in the applicable fee schedule. Providers are prohibited from using a different charge master or schedule of fees for any medical service provided for workers' compensation patients than the provider uses for health care services provided to patients who are not claimants. The regulations setting fee schedules are exempt from the Administrative Process Act if the Commission utilizes a regulatory advisory panel to assist in the development of such regulations and provides an opportunity for public comment on the regulations prior to adoption. The regulatory advisory panel is directed to make recommendations to the Commission prior to July 1, 2017, on workers' compensation issues relating to (i)

pharmaceutical costs not previously included in the fee schedules; (ii) durable medical equipment costs not previously included in the fee schedules; (iii) certain awards of attorney fees; (iv) peer review of medical costs; (v) prior authorization for medical services; and (vi) other issues that the Commission assigns to it. The existing peer review provisions are repealed. The measure has an emergency clause.

HB 775/SB 646 Fantasy Contests Act; registration required; conditions of registration; civil penalty. Creates the Fantasy Contests Act (the Act), which applies to fantasy contests with an entry fee offered in Virginia. The bill defines "fantasy contest" as any online fantasy or simulated game or contest in which (i) the value of all prizes and awards offered to winning participants is established and made known to the participants in advance of the contest; (ii) all winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sports events; and (iii) no winning outcome is based on the score, the point spread, or any performance of any single actual team or combination of teams or solely on any single performance of an individual athlete or player in any single actual event. The bill requires operators of fantasy contests to register annually with the Department of Agriculture and Consumer Services. The bill sets forth the conditions for registration and penalties for violation of the Act. The bill provides that such contests are not illegal gambling.

HB 874/SB 582 Credit unions; voluntary mergers. Authorizes the State Corporation Commission (SCC), notwithstanding field of membership requirements, to approve a merger of two Virginia state-chartered credit unions if (i) at least one of the merging credit unions has fewer than 35,000 active members and (ii) neither of the merging credit unions has been a party to a merger pursuant to this exemption within the preceding 24 months. The field of membership of the surviving credit union may be composed of a combination of the fields of membership of the merging credit unions.

Failed

HB 597 Minimum wage. Increases the minimum wage from its current federally mandated level of \$7.25 per hour to \$10.00 per hour effective July 1, 2016, to \$13 per hour effective July 1, 2017, and to \$15 per hour effective

July 1, 2018, unless a higher minimum wage is required by the federal Fair Labor Standards Act (FLSA). The measure also provides that the Virginia minimum wage applies to persons whose employment is covered by the FLSA.

Constitutional Amendments

Passed

HB 4/SB 446 Constitutional amendment (voter referendum); right to work. Provides for a referendum at the November 8, 2016, election to approve or reject an amendment to Article I of the Constitution of Virginia to 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.

HB 865 Constitutional amendment (voter referendum); property tax exemption for surviving spouse of certain emergency services providers. Provides for a referendum at the November 8, 2016, election to approve or reject an amendment to Article X of the Constitution of Virginia to allow the General Assembly to provide an option to the localities to exempt from taxation the real property of the surviving spouse of any law-enforcement officer, firefighter, search and rescue personnel, or emergency medical services personnel who was killed in the line of duty. The amendment provides that the surviving spouse must occupy the real property as his or her principal place of residence and that the exemption ceases if the surviving spouse remarries.

Failed

HB 3/SB 588 Constitutional amendment (voter referendum); charter schools. Provides for a referendum at the November 8, 2016, election to approve or reject an amendment to Article VIII of the Constitution of Virginia to grant the Board of Education the authority to establish charter schools within the school divisions of the Commonwealth, subject to any

criteria or conditions that the General Assembly may prescribe.

Courts/Civil Law

Passed

HB 231/SB 181 Augmented estate; elective share of surviving spouse. Revises provisions of the Code related to the elective share of the surviving spouse of a decedent dying on or after January 1, 2017, to track revisions made to the Uniform Probate Code by the Uniform Law Commission. The bill calculates the elective share of the surviving spouse as a graduated percentage, taking into account both spouses' assets and the length of marriage. Under current law, the surviving spouse is awarded 50% of the estate if there were no children and 33.3% if there were children. The bill also clarifies the process by which the elective share is to be claimed and provides instructions for the valuation of assets to encourage uniformity in the method of calculation of the elective share.

HB 703/SB 415 Legal age for marriage; 18 years of age. Provides that both parties to a marriage must be 18 years of age or older or emancipated at the time of solemnization by removing exceptions that allow marriage at a minimum age of 16 with the consent of the parent or guardian or younger than 16 in the case of pregnancy and with the consent of the parent or guardian and provides that marriages entered into in violation of this law are voidable. The bill also allows a minor to petition the juvenile and domestic relations district court for emancipation based on such minor's desire to enter into a marriage. The bill provides that, to allow emancipation based on such minor's desire to enter into a marriage, the court must make certain written findings, including that it is the minor's own will to enter into the marriage, that the individuals to be married are mature enough to make a decision to marry, that the marriage will not endanger the safety of the minor, and that it is in the best interests of the minor to be emancipated.

Failed

HB 906 Communications between ministers of religion and persons they counsel or advise. Provides that the testimony of a minister of religion that would disclose information communicated to the minister of religion confidentially by a person who sought spiritual counsel or advice from the minister of religion shall not

be permitted in a civil action over the objection of the person. The bill extends the "priest-penitent" privilege to individuals who seek spiritual counsel or advice from a minister of religion. This bill is a recommendation of the Boyd-Graves Conference.

Courts/Criminal Justice

Passed

HB 227/SB 358 Hearsay; exception; children; certain felonies. Establishes a hearsay exception to certain out-of-court statements made by a child under the age of 13 at the time of trial in cases involving a violation or attempted violation of an "offense against children." The bill contains a list of certain felony sex offenses and certain felony offenses resulting in physical injury that fall within the definition of an "offense against children." The court must hold a hearing prior to trial and find that the time, content, and totality of the circumstances provide sufficient indicia of reliability so as to render such statement inherently trustworthy. The bill provides factors for the court to consider in making such a determination. Notice of intent to offer the statement and the particulars of the statement must be given to the adverse party at least 14 days in advance of the proceedings.

HB 481/SB 270 Compliance with detainers; U.S. Immigration and Customs Enforcement. Prohibits the Director of the Department of Corrections, sheriff, or other official in charge of a facility from releasing an incarcerated alien for whom a lawful detainer order has been received from U.S. Immigration and Customs Enforcement, except to transfer custody of such alien to another facility or to an appropriate federal authority. The bill provides that an alien must be held in excess of his scheduled release date if federal or state law requires that such alien be held until transferred to an appropriate federal authority.

HB 1059 Virginia Criminal Sentencing Commission; heroin. Directs the Virginia Criminal Sentencing Commission to evaluate judge-sentencing and jury-sentencing patterns and practices in cases of manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute heroin across the Commonwealth and recommend adjustments in the sentencing guidelines previously adopted by the Commission.

HB 1160/SB 291 Physical evidence recovery kits. Establishes a comprehensive procedure for the collection and analysis of physical evidence recovery kits for victims of sexual assault, including those who elect at the time of the exam not to report a sexual assault to a law-enforcement agency. Kits from victims who elect not to report are known as "anonymous physical evidence recovery kits" and will be stored at the Division of Consolidated Laboratory Services (the Division) for two years, although the Division, the victim, or the law-enforcement agency may elect for the kits to be retained for a longer period of time. If the victim later elects to report the sexual assault, the victim's kit will be released to law enforcement. Health care providers are required to explain these procedures and time frames to victims. Where the victim elects to report the offense to law enforcement at the time of the exam, law enforcement is required to take possession of the victim's kit forthwith upon notification from the health care provider that the kit has been collected and, with limited exceptions, to submit the kit to the Department of Forensic Science for analysis within 60 days. The bill outlines the exceptions to mandatory submission for analysis, time frames, and storage requirements for retention of analyzed samples; expungement of DNA samples obtained but not connected to a crime; and victims' notification rights.

HB 1163/SB 610 Recognition of out-of-state concealed handgun permits; photo identification. Provides that the holder of an out-of-state concealed handgun permit who is at least 21 years of age is authorized to carry a concealed handgun in Virginia if (i) the other state has a means of verification of the validity of the permits issued in that state, accessible 24 hours a day if available; (ii) the person carries a government-issued photo identification and displays it upon demand of a law-enforcement officer; and (iii) the person has not previously had a Virginia concealed handgun permit revoked. The bill requires the Superintendent of State Police (Superintendent) to enter into agreements for reciprocal recognition with other states that require an agreement to be in place before the state will recognize a Virginia concealed handgun permit as valid in the state. The bill provides that if the Superintendent determines that another state requires the Attorney General to execute or formally approve such agreement, the Attorney General will execute or approve such agreement within 30 days of written notification by the Superintendent that the Attorney General is required to execute or approve such agreement. Current law

recognizes concealed handgun permits issued by states that (a) provide a means of verification of the validity of the permits issued in that state, accessible 24 hours a day and (b) have requirements and qualifications that are adequate to prevent possession of a permit by persons who would be denied a permit in Virginia. In addition, the bill requires the Superintendent, within 60 days of the effective date of the bill, to enter into agreements for reciprocal recognition of concealed handgun permits or licenses with other states where agreements were in existence on December 1, 2015.

HB 1386/SB 715 Firearms shows; voluntary background checks; penalties. Requires the Department of State Police to be available to perform background checks for non-dealer sales at firearms shows if requested by a party involved in a transaction. The promoter of the firearms show shall furnish the Department of State Police sufficient facilities to perform the background checks. In order for the bill to become effective, the U.S. Department of Justice must approve the policies and procedures that the Department of State Police will use to implement the provisions of the bill.

HB 1391/SB 49 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 family abuse to possess a firearm while the order is in effect. 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. Under current law, it is a Class 1 misdemeanor for a person subject to a protective order to purchase or transport a firearm.

Failed

HB 766/SB 626 Carrying concealed handguns; protective orders. Authorizes any person 21 years of age or older who is not prohibited from purchasing, possessing, or transporting a firearm and is protected by an unexpired protective order to carry a concealed handgun for 45 days after the protective order was issued. The bill provides that if the person issued the protective order applies for a concealed handgun permit during such 45-day period, such person will be authorized to carry a concealed handgun for an additional 45 days and be given a copy of the certified

application, which shall serve as a de facto concealed handgun permit. The bill requires such person to have the order or certified application and photo identification on his person when carrying a concealed handgun and to display them upon demand by a law-enforcement officer; failure to do so is punishable by a \$25 civil penalty.

HB 997 Marijuana; decriminalization of simple marijuana possession. Decriminalizes simple marijuana possession and provides a civil penalty of no more than \$100 for a first violation, \$250 for a second violation, and \$500 for a third or subsequent violation. Under current law, a first offense is punishable by a maximum fine of \$500 and a maximum 30-day jail sentence, and subsequent offenses are a Class 1 misdemeanor. The bill reduces the criminal penalties for distribution and possession with intent to distribute, etc., marijuana. The bill creates a rebuttable presumption that a person who possesses no more than one ounce of marijuana possesses it for personal use and provides that the suspended sentence/substance abuse screening provisions apply only to criminal violations or to civil violations by a minor. The bill also limits forfeiture of property from the sale or distribution of marijuana to quantities of more than one pound; currently there is no minimum amount.

SB 22 Expungement of certain charges and convictions. Allows a person to petition for expungement of convictions and deferred disposition dismissals for marijuana possession, underage alcohol possession, and using a false ID to obtain alcohol when the offense occurred prior to the person's twenty-first birthday and five years have elapsed since the date of completion of all terms of sentencing and probation.

Education

Passed

HB 8 Virginia Virtual School established. Establishes the Board of the Virginia Virtual School (the Board) as a policy agency in the executive branch of state government for the purpose of governing the full-time virtual school programs offered to students enrolled in the Virginia Virtual School (the School). The Secretary of Education is responsible for such agency. The 14-member Board is given operational control of the School and assigned powers and duties. The bill requires the School to be open to any school-age person in the Commonwealth and provide an educational program meeting the Standards of Quality for grades kindergarten

through 12. The bill requires the average state share of Standards of Quality per pupil funding for each enrolled student to be transferred to the School.

HB 131/SB 612 Students who receive home instruction; participation in interscholastic programs. Prohibits public schools from joining an organization governing interscholastic programs that does not deem eligible for participation a student who (i) receives home instruction; (ii) has demonstrated evidence of progress for two consecutive academic years; (iii) is in compliance with immunization requirements; (iv) is entitled to free tuition in a public school; (v) has not reached the age of 19 by August 1 of the current academic year; (vi) is an amateur who receives no compensation but participates solely for the educational, physical, mental, and social benefits of the activity; (vii) complies with all disciplinary rules and is subject to all codes of conduct applicable to all public high school athletes; and (viii) complies with all other rules governing awards, all-star games, maximum consecutive semesters of high school enrollment, parental consents, physical examinations, and transfers applicable to all high school athletes. The bill provides that no local school board is required to establish a policy to permit students who receive home instruction to participate in interscholastic programs. The bill permits reasonable fees to be charged to students who receive home instruction to cover the costs of participation in such interscholastic programs, including the costs of additional insurance, uniforms, and equipment. This bill was vetoed by the Governor.

HB 516 Board of Education; policy on sexually explicit instructional material. Requires the Board of Education to establish a policy to require each public elementary or secondary school to (i) notify the parent of any student whose teacher reasonably expects to provide instructional material that includes sexually explicit content, as defined by the Board; (ii) permit the parent of any student to review instructional material that includes sexually explicit content upon request; and (iii) provide, as an alternative to instructional material and related academic activities that include sexually explicit content, nonexplicit instructional material and related academic activities to any student whose parent so requests.

HB 895/SB 336 Board of Education; high school graduation requirements. Removes existing provisions related to standard and advanced studies diplomas and

standard and verified units of credit and requires the Board of Education, in establishing high school graduation requirements, to (i) develop and implement, in consultation with stakeholders representing elementary and secondary education, higher education, and business and industry in the Commonwealth and including parents, policymakers, and community leaders in the Commonwealth, a Profile of a Virginia Graduate that identifies the knowledge and skills that students should attain during high school in order to be successful contributors to the economy of the Commonwealth, giving due consideration to critical thinking, creative thinking, collaboration, communication, and citizenship; (ii) emphasize the development of core skill sets in the early years of high school; and (iii) establish multiple paths toward college and career readiness for students to follow in the later years of high school that include internships, externships, and credentialing. The bill also sets forth the procedure for the establishment of such graduation requirements. The bill specifies that such graduation requirements shall apply to each student who enrolls in high school as (a) a freshman after July 1, 2018; (b) a sophomore after July 1, 2019; (c) a junior after July 1, 2020; or (d) a senior after July 1, 2021.

FOIA

Passed

HB 817/SB 494 Virginia Freedom of Information Act (FOIA); record exclusions; rule of redaction; no weight accorded to public body's determination. Reverses the holding of the Virginia Supreme Court in the case of *Department of Corrections v. Surovell* by setting out the general rule of redaction, which provides that no provision of FOIA is intended, nor shall it be construed or applied, to authorize a public body to withhold a public record in its entirety on the grounds that some portion of the public record is excluded from disclosure by FOIA or by any other provision of law. Further, the bill states that a public record may be withheld from disclosure in its entirety only to the extent that an exclusion from disclosure under FOIA or other provision of law applies to the entire content of the public record. Otherwise, only those portions of the public record containing information subject to an exclusion under FOIA or other provision of law may be withheld, and all portions of the public record that are

not so excluded shall be disclosed. The bill defines the term "information" and provides that it is declaratory of the law as it existed prior to the September 17, 2015, decision of the Supreme Court of Virginia in the case of the *Department of Corrections v. Surovell*. The bill also reverses that part of the holding of the Virginia Supreme Court in the case of *Department of Corrections v. Surovell* by providing that in a FOIA enforcement action, no court shall be required to accord any weight to the determination of a public body as to whether an exclusion applies.

Failed

SB 202 Virginia Freedom of Information Act; disclosure of salaries of public employees. Provides that public access to records of the official salaries or rates of pay of public employees whose annual rate of pay is the annual equivalent of twice the federal minimum wage or less is not required under FOIA. Currently, public access to salary information is required for public employees whose annual rate of pay is more than \$10,000. The bill also provides that publicly available databases of public employees' salaries shall not include the name of any public officer, appointee, or employee.

General Laws

Passed

HB 143 Alcoholic beverage control; neutral grain spirits or alcohol sold at government stores; proof. Increases from 101 to 151 the proof of neutral grain spirits or alcohol that is without distinctive character, aroma, taste, or color that may be sold at government stores. This bill was vetoed by the Governor.

HB 145 Virginia Public Procurement Act; public works contracts; prevailing wage provisions. Prohibits state agencies from requiring bidders, offerors, contractors, or subcontractors to pay, or require the payment of, wages, salaries, benefits, or other remuneration to persons employed to perform services in connection with a public works project at a rate that is based on the wages and benefits prevailing for the corresponding classes of labors and mechanics employed. A corresponding prohibition is made applicable to state agencies providing grants or other financial assistance for public works projects, unless otherwise required under federal law. The measure

further states that it is the policy of the Commonwealth not to implement, adopt, enforce, or require any program, policy, or provision that requires a public works contract that requires the payment of wages or other remuneration at a rate based on the prevailing wage, whether modeled on the federal Davis-Bacon Act or similar state law. This bill was vetoed by the Governor.

HB 335/SB 352 Official emblems and designations; official snake; state rock. Establishes the Eastern Garter Snake (*Thamnophis sirtalis sirtalis*) as the official snake of the Commonwealth and Nelsonite as the state rock of Virginia. The bills also add to § 1-510 of the Code of Virginia, which consolidates official state emblems and designations, two designations—the Northern Cardinal as the state bird and the American Dogwood as the state tree, adopted as HJ 9 (1950) and HJ 6 (1956), respectively—that had been inadvertently omitted.

HB 814 Secretary of the Commonwealth; powers and duties; creation of a Virginia Indian advisory board. Authorizes the Secretary of the Commonwealth to establish a Virginia Indian advisory board to assist the Secretary in reviewing applications seeking recognition as a Virginia Indian tribe and to make recommendations to the Secretary, the Governor, and the General Assembly on such applications and other matters relating to recognition. The bill sets out the membership and powers and duties of any Virginia Indian advisory board established by the Secretary of the Commonwealth.

HB 1362/SB 692 Lobbyist reporting, the State and Local Government Conflict of Interests Act, and the General Assembly Conflicts of Interests Act; annual filing of required disclosures; definition of gift; separate report of gifts; definition of procurement transaction; technical amendments. Requires the disclosure forms filed by lobbyists and persons subject to the conflict of interests acts to be filed annually. Lobbyists are required to file by July 1 for the preceding 12-month period complete through the last day of April and persons subject to the conflict of interests acts are required to file on or before January 15. The bill also requires the Governor, Lieutenant Governor, and Attorney General, members of the Governor's Cabinet, and members of the General Assembly to file on or before May 1 a separate report of gifts received during the period beginning January 1 through adjournment sine

die of the regular session of the General Assembly. Effective January 1, 2017, the bill removes from the Code the disclosure forms filed by lobbyists and persons subject to the conflict of interests acts and requires the Virginia Conflict of Interest and Ethics Advisory Council (Council) to prescribe the forms to be used to comply with disclosure requirements. The bill also makes numerous other changes related to lobbyist reporting and the conflict of interests acts including (i) exempting from the definition of a gift any gift with a value of less than \$20; (ii) providing that the filing of a single disclosure form by a person subject to the conflict of interests acts satisfies the filing requirement for all positions or offices held or sought by such person; (iii) clarifying that lobbying disclosure forms are filed with the Council and are open to public inspection and copying in the office of the Council, and not the Secretary of the Commonwealth; (iv) clarifying that candidates for statewide office, the General Assembly, and constitutional office are required to file a statement of economic interests with the Council; (v) authorizing travel provided to facilitate attendance by a legislator at certain meetings where attendance is approved by the Chairman of the House or Senate Committee on Rules in addition to approval by either committee is not a gift; (vi) clarifying that gifts to certain members of a lobbyist's family are not considered gifts; (vii) providing that the definition of procurement transaction for purposes of the laws governing lobbyists is limited to those in which the stated or expected value of the contract is equal to \$5 million or more; (viii) providing that records relating to formal advisory opinions or informal advice of the Council shall be confidential and excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act; (ix) providing that a lobbyist's principal is not required to disclose the name of a legislative or executive official, or a member of his immediate family, who attends a reportable entertainment event if that legislative or executive official reimburses the principal for, or otherwise pays for, his attendance, or the attendance of a member of his immediate family, at the entertainment event; and (x) authorizes the Council to grant an extension from a filing deadline for good cause. The bill contains an emergency clause that applies to the changes described in clauses (vii) through (x). Finally, the bill requires that the Supreme Court of Virginia report to the Council by October 1, 2016, on the application of the conflict of interests acts on members of the judiciary and evaluate

the feasibility of creating separate provisions that would apply to such members.

SB 41 Religious freedom; solemnization of marriage.

Provides that no person shall be (i) required to participate in the solemnization of any marriage or (ii) subject to any penalty, any civil liability, or any other action by the Commonwealth, or its political subdivisions or representatives or agents, solely on account of such person's belief, speech, or action in accordance with a sincerely held religious belief or moral conviction that marriage is or should be recognized as the union of one man and one woman. The bill defines "person" as any (a) religious organization; (b) organization supervised or controlled by or operated in connection with a religious organization; (c) individual employed by a religious organization while acting in the scope of his paid or volunteer employment; (d) successor, representative, agent, agency, or instrumentality of any of the foregoing; or (e) clergy member or minister. The bill also defines "penalty."

Failed

HB 773 Government Nondiscrimination Act; creation.

Creates the Government Nondiscrimination Act (the Act), which prohibits a government entity from taking any discriminatory action against a person on the basis that such person believes, speaks, or acts in accordance with a sincerely held religious belief that marriage is or should be recognized as the union of one man and one woman and that the terms "man" and "woman" refer to an individual's immutable biological sex as objectively determined by anatomy and genetics of the individual at the time of birth. For purposes of the Act, discriminatory actions include actions that adversely affect the tax treatment of a person or that withhold or otherwise make unavailable any (i) grant, contract, subcontract, cooperative agreement, guarantee, loan, scholarship, license, certification, accreditation, or employment; (ii) entitlement or benefit under a benefit program; or (iii) entitlement to utilize state property. The Act also provides that a person shall be considered to be validly accredited, licensed, or certified for any purpose under state law if such person would otherwise have been accredited, licensed, or certified but for a determination based upon such person's sincerely held religious belief or moral conviction.

Health

Passed

HB 789 Exhumations; notice to next of kin. Establishes procedures for notification of the next of kin of a dead person upon receipt by the circuit court of a report regarding an investigation that requires an exhumation or filing of a petition for exhumation. The bill provides that in cases in which the exhumation is requested as part of an investigation by the Chief Medical Examiner or other medical examiner, upon request of the attorney for the Commonwealth and a finding that good cause exists, a judge may order for a period not to exceed 90 days that notification of the next of kin of the dead person be withheld, the report and order for exhumation be sealed, and any parties involved in the investigation or exhumation not disclose to the next of kin of the dead person or to any other person that the court may deem appropriate that the investigation or exhumation has occurred. Such order may be extended for additional periods of up to 90 days upon petition of the attorney for the Commonwealth and a finding that good cause for such extension exists.

HB 905 Advance disclosure of allowed amount or charge for procedure. Requires every hospital to furnish a patient scheduled to receive an elective procedure, test, or service to be performed by the hospital, upon his request or the request of his legally authorized representative made no less than three days in advance of the date on which such elective procedure, test, or service is scheduled to be performed, with an estimate of the payment amount for which the participant will be responsible.

SB 278 Criminal history background checks; continued employment of individuals convicted of an offense. Prohibits assisted living facilities, adult day care centers, licensed and registered child welfare agencies, and family day homes approved by family day systems from continuing to employ individuals who have been convicted of specific offenses as defined in § 63.2-1719 that are barriers to employment.

SB 437 Military medical personnel; pilot program. Directs the Department of Veterans Services, in collaboration with the Department of Health Professions, to establish a pilot program in which military medical personnel may practice and perform certain delegated acts that constitute the practice of medicine under the

supervision of a licensed physician or podiatrist. The bill requires the Department of Veterans Services to establish general requirements for participating in the program.

Failed

SB 436 Fostering Futures program. Establishes the Fostering Futures program to provide services and support to individuals between the ages of 18 and 21 who were formerly in foster care as a minor and are transitioning to adulthood and self-sufficiency.

Carried Over

HB 193 Certificates of public need. Creates a two-phase process to sunset certificate of public need requirements for many categories of medical care facilities and projects, with the requirement for a certificate of public need (i) for ambulatory and outpatient surgery centers other than rural ambulatory and outpatient surgery centers and for capital expenditures at medical care facilities other than rural medical care facilities, repealed effective July 1, 2016, and (ii) for all medical care facilities other than nursing homes, rehabilitation hospitals and beds, organ or tissue transplant services, certain open heart surgery services, and rural medical care facilities, repealed effective January 1, 2017. The bill also creates a new permitting process for categories of facilities and projects exempted from the certificate of public need process that requires the Commissioner of Health to issue a permit but requires the Commissioner to condition a permit on (a) the agreement of the applicant to provide a specified level of care at a reduced rate to indigents, accept patients requiring specialized care, or facilitate the development and operation of primary medical care services in designated medically underserved areas of the applicant's service area and (b) compliance of the applicant with quality of care standards. The bill also eliminates regional health planning agencies and makes numerous changes to the COPN process for facilities and projects that will still be subject to the requirement of a certificate.

Housing**Passed**

SB 416 Limited Residential Lodging Act; penalty. Establishes the Limited Residential Lodging Act (the Act), which allows persons to rent out their primary residences or portions thereof for charge for periods of less than 30 consecutive days or do so through a hosting platform. Localities are preempted from adopting ordinances or zoning restrictions prohibiting such short-term rentals, but authorized to adopt ordinances requiring persons renting their primary residences to have a minimum of \$500,000 of liability insurance, prohibiting persons from renting their primary residences if they fail to pay applicable taxes, and requiring persons renting their primary residences to register with the locality. A hosting platform must register with the Department of Taxation to collect and remit all applicable taxes on behalf of the property owner using the hosting platform. The bill defines "limited residential lodging," "booking transaction," and "hosting platform" and provides for penalties for violations of the Act. The bill contains a reenactment clause and directs the Virginia Housing Commission to convene a work group to further study the issues presented in the bill and make recommendations for consideration by the 2017 Session of the General Assembly.

Failed

SB 67 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.

Prisons/Corrections**Passed**

HB 815 Method of execution. Provides that if the Director of the Department of Corrections certifies that lethal injection is not available as a method of execution, electrocution shall be used instead, and vice versa.

Social Services**Passed**

HB 342/SB 466 Guardianship; communication between incapacitated person and others. Provides that a guardian shall not unreasonably restrict an incapacitated person's ability to communicate with, visit, or interact with other persons with whom the incapacitated person has an established relationship.

HB 1189 Operation of a child welfare agency without a license; child abuse and neglect; penalty. Provides that operating or engaging in the conduct of a child welfare agency without first obtaining a license when it is known that such license is required or after such license has been revoked or has expired constitutes a willful act or willful omission for purpose of the crime of abuse and neglect of a child. Under current law, a parent, guardian, or other person responsible for the care of a child who by willful act or omission causes or permits serious injury to the life or health of such child is guilty of abuse and neglect of a child, which is punishable as a Class 4 felony.

Taxation**Passed**

HB 63 Sales and use tax; exemption for certain nonprofit entities. Provides exemptions from sales and use tax and local license taxes for certain nonprofit veterans organizations. The sales and use tax exemption shall not be used by a nonprofit veterans organization for purchases of tangible personal property that is used primarily (i) for social and recreational activities for members or (ii) for providing insurance benefits to members or their dependents.

HB 127/SB 99 Real property tax exemption; spouse of military service member killed in action. Clarifies that "killed in action" includes a determination by the U.S. Department of Defense of "died of wounds received in action" for purposes of the real property tax exemption on the residence of the surviving spouse.

HB 834/SB 449 Virginia Growth and Opportunity Act; report. Establishes the Virginia Growth and Opportunity Board to administer grants from the Virginia Growth and Opportunity Fund for regional economic and workforce development projects. The bill

provides that regional councils will be established across the Commonwealth, consisting of representatives of government and the business and education communities, and councils may submit applications for collaborative projects in their regions that enhance private-sector growth, competitiveness, and workforce development. A portion of the grant funds will be awarded on a population basis and a portion on a competitive basis.

Carried Over

SB 742 Motor vehicle fuels sales tax in certain transportation districts. Changes the regional gas tax in Hampton Roads from a percentage to a cents per gallon tax that decreases as the price of gas increases. The regional gas tax in Hampton Roads would have a floor of \$0.05 per gallon and a ceiling of \$0.14 per gallon and would be determined on the basis of the average wholesale price of unleaded regular gasoline. The bill places a floor on the price of gasoline that the regional gas tax is imposed on in Northern Virginia that is identical to the floor used for the statewide gas tax and increases the regional gas tax in Northern Virginia from 2.1% to 3%.

Transportation/Motor Vehicles

Passed

HB 1069 Toll collection procedures, fees, and penalties; period of nonpayment; notice of unpaid tolls; reciprocity agreements and enforcement. Requires the Department of Transportation to allow E-ZPass account holders to provide an email or phone number and to electronically notify account holders of a toll violation and further requires toll operators to notify the Department of such toll violations. The bill amends the definition of high-occupancy toll (HOT) lanes to ensure that mass transit vehicles and commuter buses meet the high-occupancy requirement. The bill lengthens, from 30 to 60 days, the time period before the administrative fee increases from \$25 to \$100 for all toll violations. The bill decreases the civil penalties for an unpaid toll violation on the HOT lanes, making them equal to civil penalties for other toll violations, and allows the HOT lanes operator to offer reduced civil penalties if the owner of the vehicle pays within 14 days prior to the hearing date, which is also permitted for other toll operators. For violations on any toll road, the bill provides that for a first conviction there is a cap of

\$2,200 on civil penalties and administrative fees. The bill also provides for a 10-day grace period for unpaid tolls and requires toll operators to attempt to process and collect unpaid tolls twice during such period. The bill allows the Governor to enter into agreements on behalf of the Commonwealth with other states to provide for the enforcement of tolling violations occurring in Virginia on out-of-state residents and to enforce tolling violations in other states on Virginia residents. Reciprocity agreements with other states would provide for notification of the Commissioner of the Department of Motor Vehicles (DMV) or other similar entity in another state so that violators who have not paid would have their registration suspended in accordance with the agreement. The bill allows for agreements between toll operators or high-occupancy toll (HOT) lanes operators and DMV to include necessary information to enforce reciprocity agreements. The bill states that a toll violation on the HOT lanes is a traffic infraction and requires a HOT lanes operator to mail the statutorily required invoice for unpaid tolls, as is the case for other toll violations. The bill clarifies references to the issuance of summonses for toll violations and requires toll operators to attempt to collect tolls through a debt collector before mailing a summons. The bill provides for a two-year statute of limitations for all toll violations.

HB 1111/SB 476 Hampton Roads Transportation Accountability Commission. Allows an elected official of any of the four counties embraced by the Hampton Roads Transportation Accountability Commission (the Commission) who serves on the county's governing body and has been appointed by resolution of such governing body to represent the county on the Commission to serve on the Commission. Currently, only the chief elected officer of such county may serve on the Commission. The bill allows a chief elected officer to designate a current elected officer of the same governing body to serve in his place on the Commission for one meeting if 48-hour notice is provided to the chairman. The bill also ensures that the moneys in the Hampton Roads Transportation Fund are distributed to the Commission and allows the Commission to invest moneys in excess of those required to meet current needs in the same manner as other transportation moneys are invested. The bill clarifies that when investments are made in accordance with the restrictions placed on the investment of transportation moneys that those investing are exempt from personal liability. The bill also allows the Commission to spend Hampton Roads

Transportation Fund moneys on administrative and operating expenses and removes the requirement that, if no other funds are available, administrative expenses of the Commission be allocated among the localities within Planning District 23 on the basis of relative population. The bill states that it does not result in the expiration of the contingently effective provisions of Chapter 896 of the Acts of Assembly of 2007 or Chapter 766 of the Acts of Assembly of 2013.

HB 1348 Smoking in motor vehicles; presence of minor under age eight; civil penalty. Provides that any person who smokes in a motor vehicle, whether in motion or at rest, when a minor under the age of eight is in the motor vehicle is subject to a civil penalty of \$100. The offense may be charged on a uniform traffic summons form. The bill provides that such violation is a secondary offense.

SB 117 Opening and closing motor vehicle doors. Requires drivers to wait for a reasonable opportunity to open vehicle doors on the side adjacent to moving traffic. A violation constitutes a traffic infraction punishable by a fine of not more than \$50.

Failed

HB 946/SB 387 Regulation of towing. Bans the use of spotters by tow truck drivers and towing and recovery operators and requires the authorization or presence of the owner of the property from which a trespassing vehicle is being towed; the use of spotters and towing without such authorization are included as acts for which a consumer can file a complaint with the Division of Consumer Counsel at the Office of the Attorney General. The bill also includes as violations of the Virginia Consumer Protection Act prohibited acts by tow truck drivers and towing and recovery operators, violations of police towing, and violations of local ordinances regulating police towing, price, and trespass towing.

SB 390 Temporary visitor's driver's licenses. Allows the Department of Motor Vehicles to issue a temporary visitor's driver's license to an applicant who is unable to present valid documentary evidence of legal permanent residency in the United States or conditional resident alien status, if certain requirements are met.

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