



2016 General Assembly Report

The General Assembly reconvened session ended on April 20, 2016. Below is an update on the Action Alliance's priorities and other key legislation of interest to our constituency. Legislation must pass the House, Senate, and be approved by the Governor before becoming law. When available, we have noted the Action Alliance's position on the legislation. For actual votes and language of the bills, please click on the link provided. Please note that we only provided links to legislation that is still active. Unless noted in the law, legislation becomes effective July 1, 2014.

STATUS ON LEGISLATIVE PRIORITIES THE ACTION ALLIANCE

1. SUPPORT INCREASE FUNDING FOR SEXUAL AND DOMESTIC VIOLENCE VICTIM SERVICES

The General Assembly approved the 2016-2018 biennium budget, which includes an additional \$617,000/year in state funding for sexual assault services at the Department of Criminal Justice Services and an additional \$1,000,000/year in TANF funding for domestic violence services at the Department of Social Services.

2. SUPPORT COMPREHENSIVE, TRAUMA-INFORMED, STATEWIDE POLICIES AND PROTOCOLS FOR THE COLLECTION, STORAGE AND ANALYSIS OF PHYSICAL EVIDENCE RECOVERY KITS (P.E.R.K.S.).

[SB 291](#) (Sen. Black & Sen. Favola) & **[HB 1160](#) (Del. Bell)—Approved by Governor.**

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. These bill provide that:

- PERKs associated with report to law enforcement go to the Forensic Lab for analysis (very few exceptions);
- PERKs associated with a report must be analyzed by the lab within a designated timeframe and returned to law enforcement;
- Law enforcement must store PERKs, after analysis at the lab, for a minimum of 10 years or 2 years passed age of majority for minors;
- All anonymous PERKs go to the Consolidated Lab for storage for a minimum of 2 years;
- Victims be informed of status of PERKs throughout process.

3. *SUPPORT POLICIES THAT STRENGTHEN VIRGINIA'S LAWS ON THE AGE OF CONSENT TO MARRY TO PROTECT TEENS AND CHILDREN AT RISK.*

SB 415 (Sen. Vogel & Sen. Howell) & HB 703 (Del. McClellan)— Approved by Governor.

Provides that a minor 16 or 17 years of age who wants to be married may petition the juvenile courts for emancipation. The bill outlines conditions that the courts must take into consideration to determine if the marriage is in the best interest of the minor. These conditions shall include: that the minor is not being compelled against the minor's will by force, threats, persuasions, menace, or duress; the individuals to be married are mature enough to make such a decision to marry; the marriage will not endanger the safety of the minor, and that it is in the best interests of the minor petitioning for an order of emancipation that such order be entered. Neither a past or current pregnancy of either individual to be married or between the individuals to be married nor the wishes of the parents or legal guardians of the minor desiring to be married shall be sufficient evidence to establish that the best interests of the minor would be served by entering the order of emancipation.

4. *SUPPORT POLICIES THAT INCREASE VICTIM SAFETY BY REDUCING OFFENDERS' ACCESS TO FIREARMS IN CASES OF INTIMATE PARTNER VIOLENCE.*

SB 49 (Sen. Howell & Sen. Marsden) & HB 1391 (Del. Murphy)—Approved by Governor

Provides that it is a Class 6 felony for a person who is subject to a permanent protective order (i.e. 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 transporting 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.

The following bills to disarm offenders were defeated: SB 546 (Sen. Favola); HB 658 (Del. Filler-Corn); and HB 1106 (Del. Murphy)

5. *OPPOSE ARMING VICTIMS, RATHER THAN DISARMING OFFENDERS, AS THE SOLUTION TO SEXUAL AND DOMESTIC VIOLENCE.*

SB 626 (Sen. Vogel) & HB766 (Del. Gilbert)—Vetoed by the Governor.

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. 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.

The following bill to arm victims as solution to sexual and domestic violence were defeated:

HB761 (Del. Freitas)

HB 768 (Del. Gilbert)

SB 656 (Sen. Vogel)

6. *SUPPORT POLICIES TO ENSURE THAT ALL VICTIMS, REGARDLESS OF RACE, ABILITY, SEXUAL ORIENTATION, GENDER IDENTITY, OR IMMIGRATION STATUS HAVE ACCESS TO FAIR, EQUAL AND RESPECTFUL TREATMENT.*

The following bills to promote equality were defeated:

SB 12 (Sen. Ebbin)

HB 5 (Del. Simon)

SB 10 (Sen. Ebbin)

HB 300 (Del. Simon)

SB 67 (Sen. Wexton)

HB 429 (Del. Villanueva)

SB 82 (Sen. Favola)

HB 913 (Del. Toscano)

HB 35 (Del. Sullivan)

HB 1005 (Del. Levine)

HB 179 (Del. Kory)

7. *OPPOSE POLICIES THAT ENDORSE DISCRIMINATION AND ROLL- BACK, ERODE AND BLOCK ACCESS TO ECONOMIC SECURITY, SAFETY AND EQUALITY FOR PERSONS WHO IDENTIFY AS LESBIAN, GAY, BISEXUAL, TRANSGENDER AND/OR QUEER.*

The following bill were defeated:

SB 40 & SB 41 (Sen. Carrico)

HB 431 (Del. LaRock)

HB 77 (Del. Marshall)

HB 663 (Del. Cole)

HB 385 (Del. Marshall)

HB 773 (Del. Gilbert)

HB 397 (Del LaRock)

HB 781 (Del. Cole)

ADDITIONAL SEXUAL AND DOMESTIC VIOLENCE LEGISLATION PASSED

Child Abuse

[SB 358](#) (Sen. McDougle) & [HB 227](#) (Del. Albo)—Approved by Governor.

Establishes a hearsay exception to certain out-of-court statements made by a child under the age of 13 in cases involving a violation or attempted violation of certain felony sex offenses and certain felony offenses resulting in physical injury 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 it 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. Action Alliance Supports.

Campus Sexual Assault

[SB 83](#) (Sen. Favola) —Approved by Governor.

Requires all mutual aid agreements and memoranda of understanding required between public or private institutions of higher education and other law-enforcement agencies to specify the procedure for sharing information.

[HB 1015](#) (Del. Massie) —Approved by Governor.

Permits each public institution of higher education or nonprofit private institution of higher education to request the cooperation of the primary law enforcement agency of the locality in which the institution is located to establish a written memorandum of understanding with such law-enforcement agency to address the prevention of and response to criminal sexual assault and requires such law-enforcement agency to cooperate in establishing such memorandum of understanding.

[HB 1016](#) (Del. Massie) —Approved by Governor.

Adds the Title IX coordinator; representatives from the office of student affairs, human resources, and counseling services; and a representative of campus security of any institution of higher education in the jurisdiction to the list of persons invited to participate in the annual meeting of a sexual assault response team. The bill also excludes the records in which individual cases are discussed by any sexual assault response team from mandatory disclosure under the Virginia Freedom of Information Act. Any findings of the team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals. Action Alliance Supports.

[HB 1321](#) (Del. Massie) —Approved by Governor.

Clarifies that nonprofit private institutions of higher education that have security departments instead of campus police forces are required to enter into a memorandum of understanding with a law-enforcement agency that requires such agency to notify the local attorney for the Commonwealth within 48 hours of beginning any investigation involving felony criminal sexual assault occurring on campus property or other property related to the institution.

Sexual Assault

[HB 510](#) (Del. Herring) and [SB 354](#) (Sen. Deeds)—Approved by Governor.

Extends the statute of limitations to one year after the victim reaches 18 years of age for misdemeanor violations of the following crimes: carnal knowledge of offender by employee of bail bond company, sexual battery, infected sexual battery, sexual abuse of a child age 13 or 14 by an adult, attempted sexual battery, and tongue penetration by adult of mouth of child under age 13. Under existing law, there is a one-year statute of limitations on most misdemeanors. This bill is a recommendation of the Virginia State Crime Commission.

[HB 1102](#) (Del. Filler-Corn) —Approved by Governor.

Requires the Department of Criminal Justice Services, in consultation with the State Council of Higher Education for Virginia and the Virginia Association of Campus Law Enforcement Administrators, to develop multidisciplinary curricula on trauma-informed sexual assault investigation.

[SB 248](#) (Sen. Black) —Approved by Governor.

Provides that if a parent or guardian of a minor refuses to consent to a physical evidence recovery kit examination of the minor, the minor may consent.

Custody and Spousal Support

[HB 668](#) (Del. Peace) —Approved by Governor.

Provides that a court shall consider convictions of certain crimes (assault, bodily woundings and criminal sexual assault) by one spouse against another when determining the nature, amount, and duration of spousal support awards. Action Alliance Supports.

Fatality Review

[SB 162](#) (Sen. Howell)—Approved by Governor.

Allows local fatality review teams to review fatalities that occurred or that are suspected of having occurred in the context of abuse between family members or intimate partners. Currently, teams can only review homicide or suicides that occur in the context of family abuse. Action Alliance Supports.

Domestic Violence and Protective Orders

[HB 1087](#) (Del. Gilbert) & [SB 323](#) (Sen. Favola) —Approved by Governor.

Provides that any person who violates any provision of a Family Abuse or Acts of Violence protective order while armed with a firearm or other deadly weapon would be guilty of a Class 6 felony. Currently, violation of a protective order is a Class 1 misdemeanor. Action Alliance Supports.

HB485 (Del. McClellan) —Approved by Governor.

Provides that a first offense of simple assault against a family or household member may be subject to deferral and dismissal. Under current law, first offender status is only available to a person who commits assault and battery against a family or household member. Action Alliance Supports.

HB 588 (Del. Campbell) —Approved by Governor.

Provides that an emergency protective order may prohibit the respondent from being in the physical presence of the petitioner or the petitioner's family or household members. The bill provides that the term "physical presence" includes (i) intentionally maintaining direct visual contact with the petitioner or (ii) being within 100 feet from the petitioner's residence or place of employment. Action Alliance Supports.

HB 610 (Del. Rob Bell) —Approved by Governor.

Provides that it is a Class 6 felony to stalk a party protected by protective order or to commit an assault and battery upon a party protected by a protective order if such assault and battery results in bodily injury. Currently, the Class 6 felony is only applicable if the person commits an assault and battery that results in serious bodily injury to the protected party. Action Alliance Supports.

HB711 (Del. Watts) —Approved by Governor.

Provides that in a protective order in the case of family abuse, a person, who is not a tenant or authorized occupant in the dwelling unit and who has obtained a protective order from a court of competent jurisdiction granting such person possession of the premises to the exclusion of one or more co-tenants or authorized occupants, may provide a copy of such order to the landlord and submit a rental application to become a tenant in such dwelling unit within 10 days of the entry of such order. If such person's rental application meets the landlord's tenant selection criteria, such person may become a tenant in such dwelling unit under a written rental agreement. If such person submits a rental application and does not meet the landlord's tenant selection criteria, such person shall vacate the dwelling unit no later than 30 days of the date the landlord gives such person written notice that his rental application has been rejected. If such person does not provide a copy of the protective order to the landlord and submit a rental application to the landlord within 10 days as required by this section, such person shall vacate the dwelling unit no later than 30 days of the date of the entry of such order. Such person shall be liable to the landlord for failure to vacate the dwelling unit as required in this section. The bill provides that any tenant obligated on a rental agreement shall pay the rent and otherwise comply with any and all requirements of the rental agreement, and any applicable laws and regulations. The landlord may pursue all of its remedies under the rental agreement and applicable laws and regulations, including filing an unlawful detainer action to obtain a money judgment and to evict any persons residing in such dwelling unit. The bill contains a technical amendment. Action Alliance Supports.

HB 1334 (Del. Cline) —Approved by Governor.

Requires a court to order a person placed on first offender status for assault and battery against a family or household member (i) be placed with a local community-based probation services

agency and complete all education and treatment programs required by the agency or (ii) complete any education or treatment program that the court determines is best suited to the needs of the person. Under current law, the court may order that the person complete such education or treatment programs, but is not required to do so. Action Alliance Supports.

Stalking

[SB 339](#) (Sen. Reeves) & [HB 752](#) (Del. Bell) —Approved by Governor.

Provides that contacting or following or attempting to contact or follow the person at whom stalking conduct is directed after being given actual notice that the person does not want to be contacted or followed, is prima facie evidence that the person intended to place the other person, or reasonably should have known that the other person was placed, in fear of death, criminal sexual assault, or bodily injury to himself or a family or household member. The introduced bill was a recommendation of the Virginia State Crime Commission. Action Alliance Supports.

[HB 886](#) (Del. Albo) —Approved by Governor.

Provides that a second offense of stalking committed within five years of a prior stalking conviction is punishable as a Class 6 felony. Under current law, a second offense of stalking only qualifies for the Class 6 penalty if the person convicted had also been convicted of certain offenses involving assaults or bodily woundings or of violating a protective order. Action Alliance Supports.

Victim Rights/Compensation

[HB 373](#) (Del. Yancey & Del. Bulova) & [SB 253](#) (Sen. DeSteph) —Approved by Governor.

Provides that, in order to ensure the safety of any adult or child victim of a violation of § 18.2-48, 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1 and their families, programs and individuals providing services to such victims shall protect the confidentiality and privacy of persons receiving services by limiting the disclosure of information about such victims. The bill also clarifies that a person is a victim for purposes of such confidentiality and privacy protections regardless of whether any person has been charged with or convicted of any offense. The bill also provides that an alleged abuser of a minor or incapacitated person or of the minor's other parent may not consent to the release of confidential information. This, in essence, expands confidentiality protections that currently exist for sexual and domestic violence victims to victims of human trafficking as defined in Virginia law. Action Alliance Supports.

[HB 667](#) (Del. Peace) —Approved by Governor.

Technical amendment to address compensation claim eligibility for victims who have expenses resulting from a “cold hit” on an old case. Allows the Criminal Injuries Compensation Fund to consider expenses and loss of earnings that the victim accrued after the date of the newly discovered evidence was discovered. Currently, consideration could be given only to those expenses that accrued after the date the Commission received notification from the attorney for the Commonwealth that the crime was being investigated for newly discovered evidence. Action Alliance Supports.

Prevention

[HB 659](#) (Del. Filler-Corn) — Approved by Governor.

Requires any high school family life education curriculum offered by a local school division to incorporate age-appropriate elements of effective and evidence-based programs on the prevention of dating violence, domestic abuse, sexual harassment, and sexual violence. Action Alliance Supports.