

2018 General Assembly Session: Action Alliance Crossover Report



February 13th, 2018 was cross over for the Virginia General Assembly. This is the time when the House and Senate must complete action on their own bills. After cross over, the Senate takes action on all the bills that passed the House and the House takes action on all the bills the passed the Senate. Bills must pass both the House and Senate and then be approved by the Governor to become law.

Below is an update on the Action Alliance's priorities and other key legislation of interest to our constituency. 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 provide links only for legislation that is still active.

STATUS ON BILLS THAT THE ACTION ALLIANCE SUPPORTS

✓ CLOSE THE FUNDING GAP FOR SEXUAL & DOMESTIC VIOLENCE AGENCIES

The Senate and House released their budgets on February 18, 2018. Unfortunately, neither of these budgets included our proposed \$1.5 million increase in DCJS funding for sexual and domestic violence victim services. This funding is essential for local agencies to meet federal match requirements. On a positive note, the House's budget does include \$1 million in TANF monies for Domestic Violence programs and an additional \$600,000 in TANF for Child Advocacy Centers, but those monies cannot be used to match the VOCA funds. We will continue to work with budget conferees and the Governor's office to advocate for a \$1.5 million increase to DCJS funds for sexual and domestic violence victim services in budget negotiations.

✓ INCREASE VICTIM SAFETY: REDUCE OFFENDER ACCESS TO FIREARMS

HB 405 (Del. Levine) – Not heard in House Courts of Justice. Because there were so many bills and such little time to review them all, the House determined which bills would have significant fiscal impact and set these aside - not to be heard by a Committee during the 2018 session.

*This bill would have prohibited a person who has been convicted of misdemeanor sexual battery or assault and battery where the victim is a family or household member from purchasing, possessing, or transporting a firearm.

✓ **PROMOTE EVIDENCE-INFORMED, AGE-APPROPRIATE, COMPREHENSIVE APPROACHES TO HEALTHY RELATIONSHIPS AND CONSENT EDUCATION**

HB 44 (Del. Filler-Corn) – Defeated in House Subcommittee.

*This bill would have required 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 law and meaning of consent, including instruction that increases student awareness of the fact that consent is required before sexual activity. Under current law, such elements are permitted but not required to be incorporated into such curricula.

SB 101 (Sen. McClellan) – Passed in Senate, referred to House Education Committee.

*This bill 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 consequences of nonconsensual sexual activity, conduct, or touching. The bill permits any family life education curriculum offered by a local school division to incorporate age-appropriate elements of effective and evidence-based programs on (i) the dangers and repercussions of using electronic means or social media to (a) engage in sexually explicit communications or (b) send or display sexually explicit images and (ii) the prevention, recognition, and awareness of child abduction, child abuse, child sexual exploitation, and child sexual abuse.

HB 45 (Del. Filler-Corn) – Passed in House and Senate Public Ed Subcommittee.

*This bill requires any family life education curriculum offered in any elementary, middle, or high school to include age-appropriate and evidence-based instruction on personal privacy and boundaries, including tools for skills-building in these areas of development.

HB 159 (Del. Rasoul) – Defeated in Subcommittee.

*This bill would have required each local school board to implement a comprehensive, sequential family life education curriculum in grades K-12 that is consistent with FLE standards of learning and removes from such standards and guidelines messaging on value of marriage, abstinence education, value of postponing sexual activity, and the benefits of adoption in event of unwanted pregnancy.

✓ **PROMOTE ACCESS TO CONFIDENTIAL AND TRAUMA-INFORMED RESPONSES ON COLLEGE CAMPUSES**
INCREASE SAFE REPORTING ON COLLEGE CAMPUSES

HB 522 (Del. Sullivan) – Defeated in Subcommittee.

*This bill would have established an affirmative defense to prosecution of an individual for (i) simple possession of a controlled substance, marijuana, or controlled paraphernalia; (ii)

intoxication in public; or (iii) the unlawful purchase, possession, or consumption of alcohol if such individual reports to a law-enforcement officer that he was the victim of or witness to a criminal sexual assault that occurred. The bill provided further that no disciplinary action, including expulsion, shall be taken against a student for any conduct involving alcohol, marijuana, a controlled substance, or an imitation controlled substance on a school bus, school property, or at a school-sponsored activity if, concurrent to such conduct, the student was a victim of or witness to a criminal sexual assault.

✓ A NEW FRAMEWORK FOR CRIMINAL SEXUAL ASSAULT CODE IN VIRGINIA

HB 208 (Del. Mullin) – Not heard in House Courts of Justice. Because there were so many bills and such little time to review them all, the House determined which bills would have significant fiscal impact and set these aside - not to be heard by a Committee during the 2018 session.

*This bill would have removed requirement that sexual battery be committed by force, threat, intimidation, or ruse; focusing determination and prosecution of such cases on the presence (or absence) of consent. Also eliminated a provision, rendered superfluous by such removal, that makes a person guilty of sexual battery who, within a two-year period, sexually abuses more than one complaining witness or one complaining witness on more than one occasion.

HB 1062 (Del. Tran) - Not heard in House Courts of Justice. Because there were so many bills and such little time to review them all, the House determined which bills would have significant fiscal impact and set these aside - not to be heard by a Committee during the 2018 session.

*This bill would have eliminated the statute of limitations for prosecuting misdemeanor violations of the following crimes: female genital mutilation, 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.

✓ END THE TRAUMA TO PRISON PIPELINE: PROMOTE CONDITIONS THAT ENSURE EVERY CHILD HAS THE OPPORTUNITY TO REACH THEIR FULL POTENTIAL

SB 170 (Sen. Stanley & McClellan) – Passed in Senate, referred to House.

*This bill prohibits students in preschool through grade three from being suspended or expelled except for drug offenses, firearm offenses, or certain criminal acts.

HB 296 (Del. Dicky Bell & Bourne) - Defeated in Subcommittee.

*This bill would have prohibited students in preschool through grade three from being suspended or expelled except for drug offenses, firearm offenses, or certain criminal acts.

SB 476 (Sen. Reeves) - Passed in Senate, referred to House Courts of Justice.

*This bill provides that school principals are not required to report criminal misdemeanors or status offenses to law enforcement if in the principal's discretion, based on a totality of the circumstances and consistent with Board of Education guidelines, such report is not warranted. The bill requires the Board of Education, in consultation with the Department of Juvenile Justice, the Office of the Attorney General, and any interested stakeholders, to update its Student Conduct Policy Guidelines to provide guidance for principals in exercising such discretion.

HB1600 (Del. Bourne) – Passed in House and Senate Public Ed Subcommittee.

*This bill reduces the maximum length of a long-term suspension from 364 calendar days to 45 school days. The bill permits a long-term suspension to extend beyond a 45-school-day period but prohibits such a suspension from exceeding 364 calendar days if (i) the school board or division superintendent or his designee finds that aggravating circumstances exist, as defined by the local school board in a written policy, or (ii) the long-term suspension is preceded by another long-term suspension in the same school year.

✓ **PROMOTE RACIAL AND REPRODUCTIVE JUSTICE IN VA:
EXPAND ACCESS TO HEALTH & SAFETY FOR ALL SURVIVORS**

HB 83 (Del. Kory) - Passed in House, referred to Senate.

*Provides that feminine hygiene products shall be provided to female prisoners and inmates at no cost.

HB 10 (Del. Kory) – Defeated in Subcommittee.

*This bill would have added disability, gender, gender identity, and sexual orientation to the categories of victims whose intentional selection for a hate crime involving assault, assault and battery, or trespass for the purpose of damaging another's property results in a higher criminal penalty for the offense.

HB 450 (Del. Rodman) – Defeated in Subcommittee.

*This bill would have repealed the statutory requirements that a physician obtain a pregnant woman's informed written consent and perform fetal transabdominal ultrasound imaging before performing an abortion.

HB 21 (Del. Kory) – Defeated in Subcommittee.

*This bill would have required health benefit plans to cover the costs of specified health care services, drugs, devices, products, and procedures related to reproductive health, including (i) well-woman preventive visits; (ii) counseling for sexually transmitted infections; (iii) screening for certain conditions; (iv) folic acid supplements; (v) breastfeeding support,

counseling, and supplies; (vi) breast cancer chemoprevention counseling; (vii) contraceptive drugs, devices, or products; (viii) voluntary sterilization; and (ix) any additional preventive services for women that must be covered without cost sharing under federal law.

✓ **#METOO**

PROMOTE EFFECTIVE AND TRAUMA-INFORMED COORDINATED COMMUNITY RESPONSES TO SEXUAL AND INTIMATE PARTNER VIOLENCE

HB 1561 (Del. Delaney) – Defeated in Subcommittee.

*This bill would have provided that any provision in a contract or agreement by which a party waives a claim of sexual assault or harassment or agrees to nondisclosure of such a claim is unconscionable and against public policy and void and unenforceable unless the waiver is in writing and the waiving party consulted with counsel who approved the waiver or the court approved the waiver.

HB 371 (Del. Robinson) – Passed in House, referred to Senate Committee on Rules.

* This bill requires General Assembly members, full-time legislative staff of General Assembly members compensated with state appropriations, and full-time employees of each legislative branch agency to complete sexual harassment training once every two calendar years. The training shall be provided by the Office of the Clerk of the House of Delegates and the Office of the Clerk of the Senate for their respective members and their staff. All other legislative branch employees shall complete the sexual harassment training course offered by either Clerk. The training must be available online 24 hours per day, seven days per week and be substantially similar to any sexual harassment training course offered through the Commonwealth of Virginia Learning Center administered by the Department of Human Resource Management. Persons elected to the General Assembly or commencing or recommencing full-time employment in the legislative branch will have 90 days from the election or their dates of hire to complete the training. The bill has a delayed effective date of January 1, 2019. This bill incorporates [HB 1057](#).

SB 796 (Sen. Sturtevant) – Passed in Senate, referred to House.

* This bill requires General Assembly members, full-time legislative staff of General Assembly members compensated with state appropriations, and full-time employees of each legislative branch agency to complete sexual harassment training once every calendar year. The training shall be provided by the Office of the Clerk of the House of Delegates and the Office of the Clerk of the Senate for their respective members and their staff. All other legislative branch employees shall complete the sexual harassment training course offered by either Clerk. The training must be available online 24 hours per day, seven days per week and be exactly the same as any sexual harassment training course offered through the Commonwealth of Virginia Learning Center administered by the Department of Human Resource Management. Persons elected to the General Assembly or commencing or recommencing full-time employment in the legislative branch will have 90 days from the election or their dates of hire to complete the training. The bill has a delayed effective date of January 1, 2019. This bill incorporates [SB 892](#).

HB 1462 (Del. Tran) – Defeated in Subcommittee.

*This bill would have included protection against sexual harassment in the workplace for all individuals of the Commonwealth as part of the Virginia Human Rights Act (§ 2.2-3900 et seq.). The bill requires that all contracting agencies entering into government contracts of over \$10,000 include a provision in the contract requiring (i) the contractor to provide training to all supervisors and employees providing services in the Commonwealth on the contractor's sexual harassment policy and (ii) that the contractor agree to post the contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth owned or leased by the contractor for business purposes or (b) the contractor's employee handbook. The bill also requires the Department of Human Resource Management to develop an online training module addressing sexual harassment in the workplace that shall be available for use by all employees and agencies of the Commonwealth, including contractors for compliance with the Fair Employment Contracting Act (§ 2.2-4200 et seq.), by January 1, 2019.

STATUS ON BILLS THAT THE ACTION ALLIANCE OPPOSES

○ POLICIES THAT ARE POTENTIALLY HARMFUL TO VICTIMS OF SEXUAL AND DOMESTIC VIOLENCE

HB 1074 (Del. Heretick) – Not heard in House Courts of Justice. Because there were so many bills and such little time to review them all, the House determined which bills would have significant fiscal impact and set these aside - not to be heard by a Committee during the 2018 session.

*This bill would have provided that any protective order that prohibits contacts by the respondent with the petitioner may also include a provision prohibiting contacts by the petitioner with the respondent.

HB 478 (Del. Reid) - Not heard in House Courts of Justice. Because there were so many bills and such little time to review them all, the House determined which bills would have significant fiscal impact and set these aside - not to be heard by a Committee during the 2018 session.

*This bill would have punished a misdemeanor offense of violating a protective order, assault and battery against a family or household member, or stalking as a Class 6 felony if the person charged has been previously convicted of any of these offenses, however punished, or of assault or bodily wounding within the preceding 20 years and the victim of the prior and the instant offenses is the same.

HB 588 (Del. LaRock) – Defeated in Subcommittee.

*This bill would have expanded the definition of "abused or neglected child" to include any child whose parent or caregiver, by other than accidental means, exposes the child to a traumatic event that results in harm to the child's psychological or emotional health or

development.

HB 807 (Del. Levine) – Defeated in Subcommittee.

*This bill would have added a definition of "other violent abuse" and requires the court to consider any history of abuse of persons other than family members when determining the best interests of the child for the purposes of custody and visitation arrangements.

ADDITIONAL BILLS PASSED THAT IMPACT SURVIVORS AND SERVICE-PROVIDERS

HB262 (Del. Miyares) – Passed in House and Senate. Sent to Governor for bill signing.

*This bill provides that as a condition to be imposed by the court on the respondent, a petitioner with a protective order issued in a case that alleges family abuse and, where appropriate, any other family or household member may be granted exclusive use and possession of a cellular telephone number or electronic device. The bill further provides that a respondent may be enjoined from terminating a cellular telephone number or electronic device before the expiration of the contract term with a third-party provider. The bill provides that the court may enjoin the respondent from using a cellular telephone or electronic device to locate the petitioner.

HB840 (Del. Rob Bell) – Passed in House, referred to Senate Courts of Justice.

*This bill provides that upon request of a crime victim or a witness in a criminal prosecution of a violent felony, law enforcement, the attorney for the Commonwealth, counsel for a defendant, and the Department of Corrections are prohibited from disclosing any telephone number or email address of such victim or witness except to the extent that such disclosure is required by law, necessary for law-enforcement purposes, or permitted by the court. The bill also provides that during any criminal proceeding, upon motion of the defendant or the attorney for the Commonwealth, a judge may prohibit testimony as to any telephone number or email address of a victim or witness if the judge determines that this information is not material under the circumstances of the case. This bill is a recommendation of the Virginia State Crime Commission.

HB1580 (Del. Cline) – Passed in House, referred to Senate Courts of Justice.

*This bill expands the offenses for which a conviction of a third or subsequent offense, when the offense is committed within 20 years of the first conviction and when either the instant or one of the prior offenses was based on an act or threat of violence and the instant and prior offenses arise out of separate incidents, is a Class 6 felony with a mandatory minimum term of confinement of six months from violating a protective order to any combination of violating a protective order or stalking.

HB986 (Del. Gilbert) – Passed in House, referred to Senate Courts of Justice.

*This bill requires local boards of social services, prior to placement, to provide to the foster home or residential facility all known information, including whether the child has been the perpetrator of sexual abuse. The bill also requires that the background information provided to the prospective adoptive parents by a child placing agency or local department of social services include all known information regarding whether the child has been the perpetrator of sexual abuse.

HB661 (Del. Murphy) – Passed in House, referred to Senate Courts of Justice.

*This bill provides that the deferral and dismissal of a first offense of assault and battery against a family or household member will be treated as a prior conviction for the purpose of determining whether a person is eligible for the enhanced Class 6 felony penalty for assault and battery against a family or household member, which applies on the basis of a person's prior convictions.

SB426 (Sen. Wexton) – Passed in Senate, referred to House Appropriations.

*This bill provides that upon issuance of an emergency, preliminary, or permanent protective order, the clerk of the court shall make available to the petitioner information that is published by the Department of Criminal Justice Services for victims of domestic violence or for petitioners in protective order cases. The provisions of the bill are contingent on funding in a general appropriation act.

SB85 (Sen. Surovell) – Passed in Senate, referred to House Courts Subcommittee 2.

*This bill provides that if a preliminary protective order is issued in an ex parte hearing where the petition for the order is supported by sworn testimony and not an affidavit or a form completed by a law-enforcement officer that includes a statement of the grounds for the order, the court issuing the order shall state in the order the basis on which the order was entered, including a summary of the allegations made and the court's findings



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