

2019 General Assembly Report: Action Alliance Legislative Update



The following is an update on the Action Alliance's policy priorities and other key legislation of interest to our constituency. The 2019 General Assembly adjourned on February 24th, 2019 having [introduced 2,362 bills and passing 950 of them](#). Legislation must pass the both chambers (House and Senate) and be approved by the Governor before becoming law.

When available, we have noted the Action Alliance's position on 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. To learn more about any of the bills, please visit <http://lis.virginia.gov/> and click on "Bills & Resolutions" to search by bill number. Unless noted in the law, legislation becomes effective July 1, 2019. For more information on bills of interest and news from this past session, see the Public Policy section of the Action Alliance's website.

STATUS ON BILLS THAT THE ACTION ALLIANCE SUPPORTED

✓ INCREASE SURVIVOR SAFETY: REDUCE OFFENDER ACCESS TO FIREARMS

SB 1078 (Sen. Howell) – Defeated in Senate Finance.

* This bill would have expanded firearm prohibitions to permanent protective orders and applied a penalty for non-compliance with firearm surrender/seizure processes.

HB 1763 (Del. Sullivan) – Defeated in House Subcommittee.

* This bill would have established emergency substantial risk orders whereby any attorney for the Commonwealth or any law-enforcement officer could apply to a general district court, circuit court, or juvenile and domestic relations district court judge or magistrate for an order to prohibit a person who poses a substantial risk of injury to themselves or others from purchasing, possessing, or transporting a firearm.

SB 1476 (Sen. Saslaw) – Defeated in Senate Committee.

* This bill would have expanded firearm prohibitions to permanent protective orders and established a standardized firearm surrender and seizure process for those subject to protective orders including certification of firearm surrender.

HB 2777 (Del. Herring) – Defeated in House Subcommittee.

* This bill would have directed the Department of Criminal Justice Services to develop guidance documents and instructions on the surrender or transfer of firearms by a person who is subject to a family abuse protective order and prohibited from possessing a firearm while the order is in effect.

✓ **PREVENT VIOLENCE BEFORE IT HAPPENS:**

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

SB 2205 (Del. Filler-Corn) – Passed and sent to Governor for signature.

*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 law and meaning of consent. Under current law, such elements are permissive in any high school family life education curriculum.

HB 1854 (Del. Rasoul) – Defeated in Subcommittee.

*This bill would have required the Department of Education to convene a workgroup to make recommendations for the effective implementation of social and emotional learning in public elementary and secondary schools.

✓ **PROMOTE REPRODUCTIVE & SEXUAL HEALTH FOR SURVIVORS**

HB 2207 (Del. Filler-Corn) – Defeated in Subcommittee.

*This bill would have required health insurance carriers to provide coverage, under any health insurance policy, contract, or plan that includes coverage for prescription drugs on an outpatient basis, for any prescribed contraceptive drug, contraceptive device, or contraceptive procedure. Currently, health insurance carriers are required to offer and make available such coverage.

HB 1863 (Del. Rodman) – Defeated in Subcommittee.

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

HB 2491 (Del. Tran) – Defeated in Subcommittee.

*This bill would have eliminated the requirement that an abortion in the second trimester of pregnancy and prior to the third trimester be performed in a hospital, including removing language classifying facilities that perform five or more first-trimester abortions per month as hospitals. This bill also would have eliminated the requirement for the performance of an ultrasound as well as the current process of certification by three physicians (reducing this to one physician) that a third trimester abortion is necessary to prevent the woman's death or impairment of their mental or physical health.

HB 2120 (Del. Caroll-Foy) – Defeated in Subcommittee.

*This bill would have required the Virginia Employment Commission to establish and administer a paid family and medical leave program with benefits. Under the program, benefits are paid to eligible employees for family and medical leave.

✓ PROMOTING SAFETY & JUSTICE FOR IMMIGRANT SURVIVORS

SB 1640 and SB 1055 (Sen. Boysko and Sen. Marsden) – Defeated in Senate Finance.

*These bills would have declared that, absent congressional intent to the contrary, any individual currently granted Deferred Action for Childhood Arrivals (DACA) by U.S. Citizenship and Immigration Services has the capacity to intend to remain in the Commonwealth indefinitely and is therefore eligible to establish domicile and receive in-state tuition charges at any public institution of higher education in the Commonwealth.

HB 2025 and HB 1843 (Del. Tran and Del. Bloxom) – Defeated in Subcommittee.

* These bills would have authorized the issuance of new driver privilege cards by the Department of Motor Vehicles to an applicant who (i) has reported income from Virginia sources on an individual tax return filed with the Commonwealth in the preceding 12 months and (ii) is not in violation of the insurance requirements for the registration of an uninsured motor vehicle. The bill provides that driver privilege cards shall confer the same privileges and shall be subject to the same provisions as driver's licenses and permits; however, driver privilege cards shall not (a) confer voting privileges, (b) permit an individual to waive any part of the driver examination, or (c) have their issuance be contingent upon the applicant's ability to produce proof of legal presence in the United States.

✓ PROMOTING GENDER EQUITY:

RATIFICATION OF THE EQUAL RIGHTS AMENDMENT (ERA)

SJ 284 (Sen. Sturtevant) – Passed Senate, Defeated in House.

*This bill would have ratified the Equal Rights Amendment to the Constitution of the United States that was proposed by Congress in 1972. The joint resolution advocates the position that the 1972 Equal Rights Amendment remains viable and may be ratified notwithstanding the expiration of the 10-year ratification period set out in the resolving clause, as amended, in the proposal adopted by Congress.

✓ POLICIES IMPACTING SEXUAL ASSAULT SURVIVORS AND ADVOCATES

HJ 614 (Del. Delaney) – Action Taken by House: Letter written to VA State Crime Commission.

* Directs the Virginia State Crime Commission to study current access to forensic nursing programs across the Commonwealth, determine the costs associated with establishing additional programs in regions that lack coverage, identify funding sources for forensic nursing programs to assist with the costs of recovering evidence and providing expert testimony, identify opportunities to increase availability of forensic nursing certifications, evaluate existing forensic nursing programs in other states, and identify best practices that could be utilized in the Commonwealth.

SB 1184 (Sen. Stuart) – Passed and sent to Governor for signature.

* Provides that the Virginia Freedom of Information Act (FOIA) shall not apply to sexual assault response teams, with the exception of records relating to (i) protocols and policies of the sexual assault response team and (ii) guidelines for the community's response established by the sexual assault

response team, which the bill provides shall be public records and subject to the provisions of FOIA. The bill also provides that FOIA shall not apply to multidisciplinary child sexual abuse response teams. This bill is a recommendation of the Freedom of Information Advisory Council.

[HB 1820](#) (Del. Delaney) – Passed and signed by Governor.

* Prohibits an employer from requiring an employee or a prospective employee to execute or renew any provision in a nondisclosure or confidentiality agreement that has the purpose or effect of concealing the details relating to a claim of sexual assault as a condition of employment.

HB 2525 (Del. Tran) – Not heard/Defeated in Subcommittee.

* This bill would have increased the statute of limitations for prosecuting misdemeanor violations where the victim is a minor from one year after the victim reaches the age of majority to five years after the victim reaches the age of majority for the following misdemeanor violations: carnal knowledge of offender by employee of bail bond company, sexual battery, attempted sexual battery, infected sexual battery, sexual abuse of a child age 13 or 14 by an adult, and tongue penetration by adult of mouth of child under age 13 with lascivious intent.

HB 2429 (Del. Levine) – Defeated in House Subcommittee.

* This bill would have allowed for a full hearing resulting from the issuance of a preliminary protective order to be heard on the same hearing or trial date as a related criminal offense if such hearing or trial date has already been set for a date later than 15 days after the issuance of the preliminary protective order. Current law requires that a full hearing be held within 15 days of the issuance of a preliminary protective order in every instance, regardless of other pending criminal or civil cases.

✓ **RECOGNIZING ANIMAL CRUELTY IN THE CONTEXT OF DOMESTIC VIOLENCE**

[SB 1276](#) (Sen. Ebbin & Sen. Stanley) – Passed and incorporated into [SB 1604](#), sent to Gov for signing.

*The original bill made any violation relating to cruelty to an animal a Class 6 felony when such violation is carried out with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member. The incorporated, final bill creates a Class 6 felony penalty for cruelly or unnecessarily beating, maiming, mutilating, or killing a dog or cat. Current law requires that the dog or cat die as a direct result of torture, or inhumane injury or pain, before the violation is a Class 6 felony.

STATUS ON BILLS THAT THE ACTION ALLIANCE OPPOSED

○ POLICIES THAT ARE POTENTIALLY HARMFUL TO SURVIVORS AND ADVOCATES

HB 1830 and HB1831 (Del. Lindsey) – Defeated in Subcommittee.

* These bills would have required Virginia institutions of higher education to include in their sexual violence policies and disciplinary policies certain rights of each student who alleges a violation of such policy and each student who is alleged to have violated such policy, including notice, an opportunity to be heard, and assistance by a licensed attorney, an advocate supervised by a licensed attorney, or another trained advocate in any disciplinary proceeding relating to the alleged violation. The bill required the State Council of Higher Education for Virginia (the Council) (i) in consultation with state and local bar associations and legal services providers with experience and expertise in disciplinary proceedings relating to alleged violations of the sexual violence policies of such institutions, to generate and maintain a list of attorneys and advocates who are qualified and willing to provide such assistance to students on a pro bono basis or at a reduced-fee rate equivalent to the fee charged by the Legal Services Corporation of Virginia to provide such assistance and (ii) to provide to any attorney or advocate retained by a student funds to provide such assistance at such reduced-fee rate. Find Action Alliance [talking points here](#).

HB 1653 and HB 2650 (Del. Collins and Del. Levine) - Defeated in Subcommittee.

* These bills would have introduced new, inconsistent definitions of domestic abuse to civil portions of the code as a requirement for judges when determining the best interests of the child for the purposes of custody and visitation arrangements.

HB 2127 (Del. Davis) – Passed in House with substitute, defeated in Senate.

*This bill would have required courts to assure minors have frequent and continuing contact with both parents to maximize shared parenting time in child custody determinations.

HB 1808 (Del. Gooditis) – Not heard/Defeated in Subcommittee.

*This bill would have provided that any person who commits an assault and battery or assault and battery against a family or household member while (i) in the physical presence of a minor and (ii) knowing or having reason to know that such minor may see or hear such assault and battery is guilty of a Class 1 misdemeanor for a first offense and a Class 6 felony for a second or subsequent offense. While well intentioned, this bill (and similar measures) further criminalizes survival (those who defend, fight back, or commit assault and battery in the context of protecting children, family, and self) and would require prosecutors, judges, and law enforcement to prove these crimes occurred by way of child testimony and/or traumatic processes.

HB 2570 (Del. LaRock) – Passed in House, Defeated in Senate.

*This bill would have prohibited any public elementary or secondary school student from participating in any family life education program without the prior written consent of his parent. Mandating that VA FLE programming become opt-in only and effectively barring many students from instruction on sexuality, relationships, dating violence, etc.

ADDITIONAL BILLS PASSED IMPACTING SURVIVORS & ADVOCATES

HB 1673 (Del. Mullin) – Passed and sent to Governor for signature.

* Provides that if a court is lawfully closed and such closure prevents the full hearing for a preliminary protective order from being held within 15 days of the issuance of the preliminary order, the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed.

HB 1671 (Del. Mullin) – Passed and sent to Governor for signature.

* Requires local boards of social services, when investigating an individual who is the subject of child abuse or neglect allegations or the subject of a family assessment, to determine whether such individual has resided in another state within at least the preceding five years and, if he has resided in another state, to request a search of the child abuse and neglect registry or equivalent registry maintained by such state.

HB 2014 (Del. Peace) – Passed and sent to Governor for signature.

* Aligns the Code of Virginia with the federal Family First Prevention Services Act of 2018. The bill contains an emergency clause for provisions of the bill relating to background checks for employees of, volunteers at, and contractors providing services to juveniles at children's residential facilities.

HB 1622 (Del. Collins) – Passed and sent to Governor for signature.

* Provides that, in any civil proceeding involving the alleged abuse or neglect of a child, an out-of-court statement made by a child 14 years of age or under at the time the statement is offered into evidence describing sexual acts with or on the child by another may be admissible. The bill further provides that in any such civil proceeding, a recorded statement of the alleged victim of the abuse or neglect, made prior to the proceeding, may be admissible if the alleged victim is 14 years of age or younger at the time the statement is offered into evidence. Under current law, such out-of-court and recorded statements may be admissible when the child is 12 years of age or younger.

HB 2042 (Del. Murphy) – Passed and sent to Governor for signature.

* Provides that upon a conviction for assault and battery against a family or household member, where it is alleged in the warrant, petition, information, or indictment on which a person is convicted, that such person has been previously convicted of an offense that occurred within a period of 10 years of the instant offense against a family or household member of (i) assault and battery against a family or household member, (ii) malicious wounding or unlawful wounding, (iii) aggravated malicious wounding, (iv) malicious bodily injury by means of a substance, (v) strangulation, or (vi) an offense under the law of any other jurisdiction which has the same elements of any of the above offenses is guilty of a Class 1 misdemeanor and the sentence of such person shall include a mandatory minimum term of confinement of 60 days.

HB 2317 (Del. Aird) – Passed and sent to Governor for signature.

* Provides that in custody and visitation cases, where a history of family abuse is present and at the request of either party, the court may order that the exchange of a child take place at an appropriate meeting place with a designated third party.

HB 1997 (Del. Price) – Passed and sent to Governor for signature.

* Requires any school principal who receives notice that a circuit court, general district court, juvenile and domestic relations court, or magistrate has issued a protective order for the protection of a child who is enrolled at a public elementary or secondary school where such principal is employed, or any other order prohibiting contact with such a child, including an order issued as a condition of pretrial or posttrial supervision, to subsequently notify certain school personnel that such order has been issued. The bill also requires the Board of Education to establish guidelines and develop model policies to aid school boards in the implementation of such notification.

SB 1540 (Sen. Surovell) – Passed and sent to Governor for signature.

* 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. The bill also requires that an appeal of a permanent protective order be docketed within two business days of receipt of such appeal. Under current law, such appeals are to be given precedence on the docket of the court over other civil appeals but otherwise docketed and processed in the same manner as other civil cases.

SJ 297 (Sen. McClellan) – Passed.

* Expresses the sentiment of the General Assembly in acknowledging with profound regret the existence and acceptance of lynching within the Commonwealth and calling for reconciliation among all Virginians. This resolution is a recommendation of the Dr. Martin Luther King, Jr. Memorial Commission. This resolution is identical to HJ 655



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