NEW 2019 VIRGINIA LAW
A legal guide for sexual & domestic violence advocates & survivors in Virginia

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Greetings!

It looks like the dust is settling with another General Assembly Session behind us. The House and Senate adjourned on February 24th, 2019 with the Governor’s veto session having wrapped up in early May. This year, there was certainly no shortage of bills filed or hot topics to debate. Legislators introduced 2,362 bills and passed 950 of them.

The field of sexual and domestic violence advocacy saw several wins in 2019 – including the initiation of a statewide forensic nursing access study and the inclusion of education on the meaning of consent in high school family life education curricula – meanwhile issues like restricting offender access to firearms, promoting reproductive and sexual health, and immigrant safety and justice still require our energy and advocacy. **Though our work is far from over, we want to pause and celebrate our collective accomplishments and thank you for your steadfast advocacy at the general assembly (and beyond!).** Without your support, none of our successes in advocating for survivors in the legislature would be possible.

This document is a run-down of those bills, signed into law, that impact the sexual and domestic violence field. Unless noted, legislation becomes effective July 1, 2019. For more information on bills of interest, the Action Alliance’s policy priorities, and news from the 2019 General Assembly Session, see the Public Policy section of the Action Alliance’s website at [http://vsdvalliance.org/public-policy-media/legislative-session](http://vsdvalliance.org/public-policy-media/legislative-session) or read our session recap blog post at [https://allianceinaction.org/2019/03/06/an-advocates-guide-to-the-2019-general-assembly-session/](https://allianceinaction.org/2019/03/06/an-advocates-guide-to-the-2019-general-assembly-session/).

Thank you for your ongoing work to support survivors and build thriving communities across the Commonwealth! If you have any feedback, questions, or would like to get involved, feel free to drop us a line at policy@vsdvalliance.org

Onward,

*The Action Alliance Policy Staff*
ANIMAL CRUELTY IN THE CONTEXT OF DOMESTIC VIOLENCE

Tommie’s Law creates a Class 6 felony penalty for animal cruelty

A person who cruelly or unnecessarily beats, maims, mutilates, or kills a dog or cat is guilty of a Class 6 felony. 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.

- Passed as: SB 1604
- VA Code Section to be changed: Va. Code § 3.26569, § 3.2-6570, § 18.2-403.2
**CHILD ABUSE**

An out-of-court statement made by a child 14 years or younger describing sexual acts with or on the child may be admissible as evidence

This bill 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 also 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.

- Passed as: **HB 1622**
- VA Code Section to be changed: **Va. Code § 63.2-1522 and § 63.2-1523**

**Change of Address Notification for subjects of child abuse investigations**

Requires any individual who is the subject of a child abuse or neglect investigation or family assessment to notify the local department of social services prior to changing his place of residence and provide the local department with the address of his new residence. The bill also requires the Department of Social Services to document and report to the Governor and the General Assembly by November 1, 2020, the number of individuals who notified a local department of social services of a change in address and provided updated contact information between July 1, 2019, and July 1, 2020.

- Passed as: **HB 2743**
- VA Code Section to be changed: **Va. Code § 63.2-1505 and § 63.2-1506**

**Local boards of social services to request a search of the child abuse and neglect registry when investigating certain individuals**

This bill 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.

- Passed as: HB 1671
- VA Code Section to be changed: Va. Code § 63.2-1505 and § 63.2-1506

Clergy as mandatory reporters of child abuse and neglect.

Adds to the list of persons who are required to report suspected child abuse or neglect ministers, priests, rabbis, imams, and duly accredited practitioners of any religious organization or denomination usually referred to as a church; however, the bill exempts such clergy members from the mandatory reporting requirement when the information supporting the suspicion of child abuse or neglect (i) is required by the doctrine of the religious organization or denomination to be kept confidential or (ii) would be subject to the exemptions set forth in § 8.01-400 or 19.2-271.3 if offered as evidence in court.

- Passed as: HB 1659
- VA Code Section to be changed: Va. Code § 63.2-1509

Emergency clause for provisions of bill relating to employees, volunteers, and contractors providing services to juveniles at children’s residential facilities

This bill 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 of employees, volunteers at, and contractors providing services to juveniles at children’s residential facilities.

- Passed as: HB 2014
- VA Code Section to be changed: Va. Code § 16.1-228, § 16.1-281, § 16.1-282.1, § 16.1-282.2, § 37.2-408.1, § 63.2-100, and § 63.2-1726

Jurisdiction of juvenile and domestic relations district courts for state or federal benefits.

Grants the juvenile and domestic relations district court’s jurisdiction to make specific findings of fact required by state or federal law to enable a child to apply for or receive a state or federal benefit.

- Passed as: HB 2679
Use of seclusion and restraint in public schools.

Requires the Board of Education, in its regulations regarding the use of seclusion and restraint in public schools, to specifically identify and prohibit the use of any method of restraint or seclusion that it determines poses a significant danger to the student and establish safety standards for seclusion.

- Passed as: HB 2599
- VA Code Section to be changed: Va. Code § 22.1-279.1:1
Court may order the exchange of a child take place at an appropriate meeting place with a designated third party

This bill 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.

- Passed as: [HB 2317](https://www.codeva.gov/bill/hb2317)
- VA Code Section to be changed: [Va. Code § 20-124.3](https://www.state.va.us/va_code/va_code_20_124_3)
Establishment of the Community Corrections alternative program

Repeals the boot camp incarceration program, diversion center incarceration program, and detention center incarceration program established and maintained by the Department of Corrections and replaces them with the community corrections alternative program that will be established and maintained by the Department of Corrections for probationers and parolees whose identified risks and needs cannot be addressed by conventional probation or parole supervision. The program shall include components for providing access to counseling, substance abuse testing and treatment, remedial education, and career and occupational assessment; providing assistance in securing and maintaining employment; ensuring compliance with terms and conditions of probation or parole; ensuring restitution and performance of community service; payment of fines and costs of court; and providing other programs that will assist the probationer or parolee in returning to society as a productive citizen.

- Passed as: HB 2605
- VA Code Section to be changed: Va. Code §§ 19.2-298.01, 46.2-357, 46.2-391, 53.1-10, 53.1-67.6, 60.2-219, and 60.2-618 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 18 of Title 19.2 an article numbered 6, consisting of a section numbered 19.2-316.4, and by adding in Chapter 2 of Title 53.1 an article numbered 9, consisting of a section numbered 53.1-67.9; and to repeal Articles 3 (§ 19.2-316.1), 4 (§ 19.2-316.2), and 5 (§ 19.2-316.3) of Chapter 18 of Title 19.2 and Articles 5 (§ 53.1-67.1), 7 (§ 53.1-67.7), and 8 (§ 53.1-67.8) of Chapter 2 of Title 53.1
ELECTORAL ACCESS

Absentee voting; no-excuse in-person voting available beginning on second Saturday immediately preceding election.

Allows for any registered voter to vote by absentee ballot in person beginning on the second Saturday immediately preceding any election in which he is qualified to vote without providing a reason or making prior application for an absentee ballot. The bill makes absentee voting in person available beginning on the forty-fifth day prior to the election and ending at 5:00 p.m. on the Saturday immediately preceding the election. The bill retains the current provisions for voting with an absentee ballot by mail or in person prior to the second Saturday immediately preceding the election, including the application requirement and the list of statutory reasons for absentee voting. The provisions of the bill do not become effective until the November 3, 2020, general election, and the State Board of Elections is required to submit a report on the procedures and instructions it promulgates for conducting absentee voting pursuant to the provisions of the bill.

- Passed as: SB 1026
- VA Code Section to be changed: §§ 24.2-452, 24.2-612, 24.2-700, 24.2-701, 24.2-702.1, 24.2-703.1, 24.2-703.2, 24.2-706, 24.2-707, 24.2-709, and 24.2-1004 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-701.1
HUMAN TRAFFICKING

Any person who commits an act of aiding prostitution or illicit sexual intercourse or using a vehicle to promote prostitution or unlawful sexual intercourse, when such act involves a minor, is guilty of a Class 6 felony.

Under current law, such acts are only punishable as a Class 1 misdemeanor. The bill adds two new felony offenses to (i) the definition of “violent felony” for the purposes of sentencing guidelines, (ii) the definition of barrier crimes for the purposes of background checks for employees or volunteers providing care to children or the elderly or disabled, (iii) the definition of predicate criminal acts for street gangs, (iv) the definition of racketeering activity under the Virginia Racketeer Influence and Corrupt Organization Act, (v) the list of violations that a multi-jurisdiction grand jury is responsible for investigating, and (vi) the list of offenses requiring registration in the Sex Offender and Crimes Against Minors Registry. The bill also adds felony prostitution and felony human trafficking offenses to the definition of “violent felony” for the purposes of sentencing guidelines. The bill also provides that each violation of commercial sex trafficking is a separate and distinct felony. This bill is a recommendation of the Virginia State Crime Commission.

- Passed as: **HB 2586**

Board of Education in its curriculum guidelines for family life education must include instruction on the prevention of human trafficking

This bill requires the Board of Education to include in its curriculum guidelines for family life education, to include instruction on the prevention of human trafficking. Additionally, the bill requires any high school family life education program offered in a local school division to incorporate age-appropriate elements of effective and evidence-based programs on the prevention of human trafficking.

- Passed as: **SB 1141**
- VA Code Section to be changed: [Va. Code § 22.1-207.1 and § 22.1-207.1:1](#)
Local departments of social services must conduct a sex trafficking assessment upon receiving a compliant of allegations of child sex trafficking

This bill requires a local department of social services to conduct a sex trafficking assessment upon receiving a complaint of suspected child abuse that is based upon information and allegations that a child is a victim of sex trafficking, provided that the local department has not determined that a separate investigation or family assessment is required. The bill also allows the local department to maintain custody of the child for up to 72 hours without prior approval of a parent or guardian. This bill was a recommendation of the Virginia State Crime Commission.

- Passed as: **HB 2597**
- VA Code Section to be changed: **Va. Code § 63.2-1508 and § 63.2-1517**

Virginia Prevention of Sex Trafficking Fund established for the purpose of promoting awareness of and preventative training and education relating to sex trafficking

This fund is to be administered by the Department of Criminal Justice Services. The bill requires persons convicted of misdemeanor violations of prostitution, aiding prostitution, and using vehicles to promote prostitution to pay a $100 fee and persons convicted of certain felony violations of abduction with the intent to extort money or for immoral purpose, placing or leaving wife for prostitution, or felony violations of the laws pertaining to commercial sex trafficking or prostitution offenses, with the exception of violations of crimes against nature, to pay a $500 fee. Such fees are to be paid into the Virginia Prevention of Sex Trafficking Fund. As introduced, this bill was a recommendation of the Virginia State Crime Commission.

- Passed as: **HB 2651**
- VA Code Section to be changed: **Va. Code § 9.1-116.4 (adding Article 1 of Chapter 1 of Title 9.1) and by adding § 16.1-69.48:6 and § 17.1-275.13**

Creating Sex Trafficking Response Coordinator position and definition of duties.

Creates, within the Department of Criminal Justice Services, a Sex Trafficking Response Coordinator (the Coordinator) who shall (i) create a statewide plan for local and state agencies to identify and respond to victims of sex trafficking; (ii) coordinate the development of standards and guidelines for treatment programs for victims of sex trafficking; (iii) maintain a list of programs that provide treatment or specialized services to victims of sex trafficking and
make such list available to law-enforcement agencies, attorneys for the Commonwealth, crime victim and witness assistance programs, the Department of Juvenile Justice, the Department of Social Services, the Department of Education, and school divisions; (iv) oversee the development of a curriculum to be completed by persons convicted of solicitation of prostitution; and (v) promote strategies for the awareness of sex trafficking, for education and training related to sex trafficking, and for the reduction of demand for commercial sex. The bill requires the Coordinator to report annually to the Governor and the General Assembly and include a summary of activities for the year and any recommendations to address sex trafficking within the Commonwealth. The bill as introduced was a recommendation of the Virginia State Crime Commission.

- Passed as: **HB 2576**
- VA Code Section to be changed: adding in Article 1 of Chapter 1 of Title 9.1 a section numbered § 9.1-116.4

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**Penalty for promoting travel for prostitution**

Makes it a Class 1 misdemeanor for any travel agent to knowingly promote travel services for the purposes of prostitution or certain offenses involving minors that require registration on the Sex Offender and Crimes Against Minors Registry.

- Passed as: **HB 1817**
- VA Code Section to be changed: Va. Code § 2.2-515.2, § 8.01-42.4, § 18.2-513, § 19.2-10.2, § 19.2-386.16, and § 19.2-386.35

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**Posting human trafficking hotline information.**

Requires the Virginia Alcoholic Beverage Control Authority and the Virginia Employment Commission to post notice of the existence of a human trafficking hotline in government stores, except for government stores established on a distiller’s licensed premises, and in employment offices, respectively, to alert possible witnesses or victims of human trafficking to the availability of a means to report crimes or gain assistance.

- Passed as: **HB 1887**
- VA Code Section to be changed: adding sections numbered § 4.1-119.1 and § 60.2-400.1
Testimony by child victims and witnesses of commercial sex trafficking and prostitution offenses using two-way closed-circuit television.

 Allows a court to order, upon application by the attorney for the Commonwealth or the defendant, that the testimony of a child victim of an offense of commercial sex trafficking or prostitution, if such child is 14 years of age or younger at the time of the offense and 16 years of age or younger at the time of the trial, be taken by two-way closed-circuit television. The bill allows the same for child witnesses of such offenses who are 14 years of age or younger at the time of the trial. This bill is a recommendation of the Virginia State Crime Commission.

- Passed as: HB 2464
- VA Code Section to be changed: Va. Code § 18.2-67.9
MATERNAL MORTALITY

State Maternal Mortality Review Team to develop and implement procedures to ensure that maternal deaths occurring in the Commonwealth are analyzed in a systematic way

This bill requires the state Maternal Death Review Team (the Team) to (i) develop and revise as necessary operating procedures for maternal death reviews, including identification of cases to be reviewed and procedures for coordinating among the agencies and professionals involved; (ii) improve the identification of, and data collection and record keeping related to, causes of maternal deaths; and (iv) recommend training to improve the review of maternal deaths. The bill also requires the Team to compile triennial statistical data regarding maternal deaths and to make such data available to the Governor and the General Assembly. The bill provides that information and records obtained or created by the Team and portions of meetings of the Team at which individual maternal deaths are discussed shall be confidential.

- Passed as: HB 2546
- VA Code Section to be changed: Va. Code § 2.2-3705.5, § 2.2-3711, and § 2.2-4002
High school family Life education required to teach the law and meaning of consent

Any high school family life education curriculum offered by a local school division is required to incorporate age-appropriate elements of effective and evidence-based programs on the law and meaning of consent. Under current law, these elements are permissive but not required.

- Passed as: SB 2205
- VA Code Section to be changed: Va. Code § 22.1-207.1:1
PROTECTIVE ORDERS

Courts that are lawfully closed and such closure prevents the full hearing of a preliminary protective order from being held within 15 days of the issuance of the preliminary order, the hearing will be held on the next day that courts are open.

Provides that if the court is closed the hearing shall be held on the next day not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed.

- Passed as: HB 1673
- VA Code Section to be changed: Va. Code § 16.1-253.1 and § 19.2-152.9

Any principal who receives notice of a protective order for the protection of a child enrolled at a public elementary school or secondary school must notify relevant school personnel.

This bill 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 school or secondary school where such principal is employed, or any other order prohibiting contact with such child, including an order issued as a condition or pretrial or post-trial supervision, to subsequently notify certain school personnel that such order has been issued. Also requires the Board of Education to establish guidelines and develop model policies to aid school boards in the implementation of such notification.

- Passed as: HB 1997
- VA Code Section to be changed: Va. Code § 22.1-279.3:2

When a preliminary protective order is issued in an ex parte hearing, not supported by an affidavit, the court must state the basis of the order, summary of allegations, and the court’s findings.

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. 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.

- Passed as: **SB 1540**

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Adds preliminary protective order hearings to the list of hearings where 24-hour written notice of intention to present medical evidence is required.

This bill adds 10-day written notice and 24-hour pre-trial/hearing notice requirement for medical evidence brought in Child Protective Orders pursuant to §16.1-253. Under current law, notice of 24 hours is permitted only in preliminary removal hearings or in preliminary protective orders in cases of family abuse.

- Passed as: **SB 1429**
- VA Code Section to be changed: **Va. Code § 16.1-253**
RACIAL JUSTICE

Acknowledging with profound regret the existence and acceptance of lynching within the Commonwealth.

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.

- Passed as: SJ 297
SEXUAL ASSAULT SERVICES & RESPONSE

Virginia Freedom of Information Act (FOIA) shall not apply to sexual assault response teams.

The Virginia 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.

- Passed as: **SB 1184**
- VA Code Section to be changed: **Va. Code § 2.2-3703, § 2.2-3705.7, § 2.2-3711**

Virginia State Crime Commission must study current access to forensic nursing programs

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.

- Passed as: **HJ 614**
- No code section changed; letter written to Crime Commission & Joint Commission on Healthcare to study issue.

Employers may not conceal claims of sexual assault

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.

- Passed as: **HB 1820**
- VA Code Section to be changed: **Va. Code § 40.1-28.01**
Physical Evidence recovery kit tracking system

This bill provides that the Department of Forensic Science (Department) shall maintain a statewide electronic trafficking system for physical evidence recovery kits where such kits will be assigned a unique identification number to track each kit from its distribution as an uncollected kit to the health care provider through its destruction. The bill provides that the Department shall provide access to the tracking system to health care providers, law-enforcement agencies, the Division of Consolidated Laboratory Services, and the Office of the Chief Medical Examiner. The bill also provides that a health care provider shall inform the victim of sexual assault of the unique identification number assigned to the physical evidence recovery kit utilized by the health care provider during the forensic medical examination and provide the victim with information regarding the physical evidence recovery kit tracking system. The bill provides that records entered into the physical evidence recovery kit tracking system are confidential and are not subject to disclosure under the Freedom of Information Act. The bill has a delayed effective date of July 1, 2020.

- Passed as: HB 2080
- VA Code Section to be changed: Va. Code § 19.2-11.13 (adding in Chapter 1.2 or Title 19.2)
(ENDING THE) TRAUMA TO PRISON PIPELINE

Minimum training requirements for school resource officers.

Requires the Department of Criminal Justice Services to establish every full-time or part-time law-enforcement officer employed as a school resource officer after July 1, 2020, to comply with compulsory minimum training standards for law-enforcement officers serving as school resource officers. The bill requires the training provided by the Department pursuant to such standards to be specific to the role and responsibility of a law-enforcement officer working with students in a school environment and to be available throughout the Commonwealth. The bill requires each school board to ensure that every public school it supervises employs at least one school administrator who has completed, either in-person or online, school safety training for public school personnel conducted by the Virginia Center for School and Campus Safety, unless such training is not available online.

- Passed as: HB 2609
- VA Code Section to be changed: Va. Code § 9.1-102 and § 22.1-279.8