

2014 Legislative Update - New Laws Related to Domestic and Sexual Violence and Stalking (Effective July 1, 2014)

Protective Orders

HB 335(Robert Bell)/SB 151 (Stuart) - Family abuse protective orders; Exclusive use and possession of motor vehicles - Modifies the provision in family abuse protective orders specifying that the court may grant the petitioner temporary exclusive possession or use of a motor vehicle owned by the petitioner or jointly owned by the parties to provide that the court may direct a respondent to maintain insurance, registration, and taxes on a motor vehicle and enjoin the respondent from terminating such insurance, registration, and taxes.

HB 972(Cline) - Protective Orders; Possession of companion animals - Permits a court to include in a protective order a provision granting to the petitioner possession of a companion animal if the petitioner is the owner of the animal.

HB 285(Robert Bell)/SB 71 (Stuart) - Emergency Protective Orders; Definition of Law Enforcement Officer - Amends the definition of law-enforcement officer to include a special conservator of the peace who has met the certification requirements for a law-enforcement officer for the purposes of obtaining an emergency protective order and for making arrests for assault and battery against a family or household member, stalking, or violation of a protective order.

Domestic Violence

HB 708 (Gilbert) - Assault and battery against a family or household member; Enhanced penalty for previous convictions - Adds unlawful wounding in violation of § 18.2-51 and strangulation in violation of § 18.2-51.6 to the list of offenses that, if a person has been previously convicted of two such offenses within a 20-year period and such offenses occurred on different dates, enhance the penalty of assault and battery against a family or household member from a Class 1 misdemeanor to a Class 6 felony.

Sexual Violence/Sexual Offenses

HB 235(Robert Bell)/SB 454 (Obenshain) - Sex Offender and Crimes Against Minors Registry Act; Solicitation of prostitution or pandering involving minors - Amends the Sex Offender and Crimes Against Minors Registry Act to add solicitation of prostitution from a minor and pandering involving a minor as offenses for which an offender is required to register as a sex offender. The legislation also provides that a person who engages in pandering involving a minor is guilty of a Class 4 felony.

HB 326 (Robert Bell) - Unlawful dissemination or sale of images of another; Penalty - Provides that a person is guilty of a Class 1 misdemeanor if he, with the intent to coerce, harass, or

intimidate the depicted person, maliciously disseminates or sells any videographic or still image created by any means whatsoever that depicts another person who is totally nude or in a state of undress so as to expose the genitals, pubic area, buttocks, or female breasts, where such person knows or has reason to know that he is not licensed or authorized to do so. The bill also amends the crime of creating an image of a nonconsenting person by substituting the term "videographic or still image created by any means whatsoever" for the current term "videotape, photograph, or film."

HB 403 (Robert Bell) - Conviction of prior sex offenses admissible in evidence; Sex crimes against child - Provides that in a criminal case in which the defendant is accused of a felony sexual offense involving a child victim, evidence of the defendant's conviction of another sexual offense or offenses is admissible and may be considered for its bearing on any matter to which it is relevant. The Commonwealth shall provide notice of its intent to introduce such evidence to the defendant. This provision is to be applied in conjunction with the Virginia Rules of Evidence.

HB 567 (Watts) - Sexual battery by touching a person's intimate parts; Penalty for multiple offenses or multiple victims within a two year period - Provides that a person is guilty of sexual battery (punishable as a Class 1 misdemeanor) if he sexually abuses within a two-year period more than one complaining witness or one complaining witness on more than one occasion intentionally and without the consent of the complaining witness.

SB 331 (Howell) - Investigation of cases involving alleged sexual abuse of a child; Qualifications of investigator - Prohibits any individual who has not previously participated in DSS/CPS investigations of alleged abuse or neglect of a child from participating in investigations of cases of alleged sexual abuse of a child unless he has completed a training program for investigation of cases involving alleged sexual abuse of a child or is directly supervised by a person who has completed such training. The bill also prohibits individuals who have not completed training for investigation of cases involving alleged sexual abuse of a child from making dispositional findings in such cases.

SB 332 (Howell)/HB 405 (Robert Bell) - Suspected abuse or neglect of a child; Reports by local social services agency to local Commonwealth's attorney and law-enforcement agency - Requires the local department of social services to notify the local Commonwealth's attorney and the local law-enforcement agency of all complaints of suspected child abuse and neglect involving certain injuries or criminal acts immediately upon receipt of the complaint, but in no case more than two hours from receipt of the complaint. The bill also requires the local department to complete a written report on a form provided by the Board of Social Services for such purpose for each case in which a local law-enforcement agency is notified of a case of suspected child abuse or neglect.

SB 476 (Norment) - Incest; Definitions - Provides that for the purposes of the crime of incest, "parent" includes stepparent, "grandparent" includes step-grandparent, "child" includes stepchild, and "grandchild" includes step-grandchild.

SB 14 (Garrett) - Certain sex crimes; Clarification of prohibited behavior - Adds the words "anal intercourse, cunnilingus, fellatio, and anilingus" to numerous Code sections criminalizing certain conduct to clarify the behaviors that are prohibited. The bill also clarifies the sex crimes that are prohibited by the crimes against nature statute. The bill also increases the additional fee placed upon each felony or misdemeanor conviction assessed as court costs and deposited into the state treasury and credited to the Internet Crimes Against Children Fund. The bill states that an emergency exists and it is in force from its passage (April 23, 2014).

Stalking

HB 1233 (Toscano) - Address Confidentiality Program; Participation by victims of stalking - Makes victims of stalking eligible for participation in the Address Confidentiality Program. The bill also allows the Office of the Attorney General to cancel a program participant's certification if the participant obtains a name change through an order of the court and does not provide notice and a copy of the order to the Office of the Attorney General within seven days after entry of the order.

Crime Victims' Rights

HB 171(Farrell) - Crime victim rights; Offenses by juveniles - Expands the list of offenses for which a victim of a delinquent act committed by a juvenile may request that the victim be informed of the charge brought, the findings of the court, and the disposition of the case to include violations of assault and battery, stalking, violation of a protective order, sexual battery, or attempted sexual battery that would be misdemeanors if committed by an adult. The bill also provides that the definition of "victim" for purposes of the Crime Victim and Witness Rights Act includes victims of certain delinquent acts.

SB 186 (McDougle) - Criminal Injuries Compensation Fund; Extension of time for filing a claim - Allows the Fund to extend the time for filing a claim in certain cases if the Commonwealth's attorney submits written notice that the crime is being investigated as a result of newly discovered evidence. The bill applies to crimes committed on or after July 1, 1977, to July 1, 2001.

HB 885(Peace) - Criminal Injuries Compensation Fund; Extension of time for filing a claim - Allows the Fund to extend the time for filing a claim in certain cases if the Commonwealth's attorney submits written notice that the crime is being investigated as a result of newly discovered evidence. The bill applies to crimes committed on or after July 1, 1977, to July 1, 2001. The bill also raises from \$2,000 to \$3,000 the maximum amount of an emergency award, from \$1,000 to \$2,000 the maximum moving expenses, and from \$2,500 to \$3,500 the maximum reimbursement for mental health counseling for relatives of homicide victims. The bill also requires the Virginia State Crime Commission to convene a stakeholder workgroup to support an efficient and comprehensive streamlining of current federal and state sexual and domestic violence victim service agency funding.

Human Trafficking

SB 654 (Obenshain) - Department of Criminal Justice Services (DCJS); Human trafficking policy

- Requires DCJS to publish and disseminate a model policy or guideline for law-enforcement personnel involved in criminal investigations or assigned to vehicle or street patrol duties to ensure that law-enforcement personnel are sensitive to and aware of human trafficking offenses and the identification of victims of human trafficking offenses.

Other Relevant Bills

HB 1248 (Surovell) - 911 emergency service call records as evidence - Provides that recordings and records of 911 emergency service calls shall be deemed authentic transcriptions or recordings of the original statements if they are accompanied by a certificate that authenticates them as true copies and the certificate contains the date and time of the incoming call and, if available, the incoming phone number.

Effective July 1, 2015

HB 334 (Robert Bell)/SB 421 (McDougle) - Local multidisciplinary child sexual abuse response teams - Requires every Commonwealth's attorney to establish a multidisciplinary child sexual abuse response team to conduct regular reviews of cases involving felony sex offenses involving children. Such teams may also review other reports of child abuse and neglect or sex offenses involving children in the jurisdiction. The bill has a delayed effective date of July 1, 2015.

For more information on legislation passed during the 2014 General Assembly Session, or for full bill text, please visit <http://lis.virginia.gov/>.