

New Laws 2014

Procedure

Bond Hearing

§ 19.2-158 - *Absent good cause shown, a hearing on bail or conditions of release shall be held as soon as practicable but in no event later than three calendar days, excluding Saturdays, Sundays, and legal holidays, following the making of such motion.*

Recording the Hearing

§ 16.1-69.35:2 - An audio recording of proceedings in a general district court may be made by a party or his counsel. HB161

§ 17.1-128.1 - *In any misdemeanor case in circuit court for which no recording verbatim of the evidence and incidents of trial either by a court reporter or by mechanical or electronic devices approved by the court will be used, the court shall allow the defendant, the Commonwealth, or both to record the evidence and incidents of trial by mechanical or electronic device to aid counsel in producing a thorough, complete, and accurate written statement of facts in lieu of transcript for purposes of any appeal. The recording shall not be made a part of the record unless otherwise permitted.* HB704

Juvenile Social History

§ 16.1-278.8(A)(14) & (17) – Before a juvenile can be committed the social history must be completed and considered, unless waived by the Commonwealth, juvenile, and defense attorney. SB128 HB183

§ 16.1-272(A) – A circuit court is not required to review a social history. SB128 HB183

Conditional Misdemeanor Guilty Plea

§ 19.2-254 A defendant can enter a conditional plea of guilty to a misdemeanor in order to appeal a specific pre-trial finding. Judge and Commonwealth must agree. HB080

Administrative Subpoena

§ 19.2-10.2(A)(1) – A Commonwealth Attorney can get an administrative subpoena if he certifies that “there is reason to believe” the information is relevant to an investigation involving abduction or prostitution. HB485

SOL / Forging Patient Records

§ 19.2-8 – The statute of limitations on falsifying patient records (18.2-260.1: class 1 misdemeanor) is extended to 3 years. HB661

Witness Protection

§ 19.2-11.2 – A witness in a drug distribution charge or a violent crime can require that her residence, phone number, and place of employment not be made public. SB640

§ 19.2-267 - In a criminal case a summons for a witness may be issued by the attorney for the Commonwealth or other attorney charged with the responsibility for the prosecution of a violation of any ordinance or by the attorney for the defendant; however, any attorney who issues such a summons shall, at the time of the issuance, file with the clerk of the court the names and addresses of such witnesses *except to the extent protected under § 19.2-11.2*. SB640

Issuing Process

§ 16.1-69.25 - A general district court judge can issue warrants, summons, and subpoenas valid throughout the entire Commonwealth (as opposed to just his court area). HB138

§ 19.2-44 - A magistrate can exercise his powers throughout the entire Commonwealth. HB138 SB485

Judicial Recusal / Pleas

§ 16.1-277.2. Upon rejecting a plea agreement in any delinquency matter, a judge shall immediately recuse himself from any further proceedings on the same matter unless the parties agree otherwise. HB452

FOIA and Discovery

§ 2.2-3703.1 – FOIA disclosure rules do not affect court admissibility of information (which is governed by its own rules of evidence). HB380

Sentencing

§ 9.1-902(H) – If an offense requires registration if the victim is a minor, physically helpless, or mentally incapacitated *and the indictment does not allege the victim to be so*, the judge shall determine if the victim is and inform the defendant of the finding and inform the defendant of his right to make a motion to withdraw his plea (does not state contingent upon the finding & changes from absolute right to withdraw the guilty plea). If the judge grants such a motion the case would be heard by another judge. SB537

Certificates of Analysis

§ 19.2-187 – Certificates of analysis can be electronically signed. HB518

Incompetent

§ 19.2-169(D) – If a person is found incompetent, the report must state whether inpatient or outpatient treatment is recommended. HB584

§ 19.2-169.2(A) – If a person is declared incompetent the requisite paperwork must be gotten to the treatment facility within 96 hours. HB585 SB541

Multi-Jurisdictional Grand Juries

§ 19.2-215.1 - A multi-jurisdictional grand jury can investigate illegal cigarette sales/smuggling. HB853 & SB366

§ 19.2-192 – Adds multi-jurisdictional grand juries to those which must be kept secret

and Commonwealth attorneys, special counsel, and sworn investigators to those who must keep the proceedings secret. HB056

§ 19.2-215.1(2) – Functions of a multi-jurisdictional grand jury: Allows the multi-jurisdictional grand jury to report its results to to *the chief law-enforcement officer of any jurisdiction where such offense could be prosecuted or investigated, or to a sworn investigator*. HB56

§ 19.2-215.5 – (1) Requires a multi-jurisdictional grand jury to subpoena through the special counsel and (2) allows the special counsel to decide whether a custodian of records must appear with evidence subpoenaed. HB56

§ 19.2-215.6 – At request of special counsel the judge **shall** designate investigators for the grand jury. These investigators cannot be present during deliberations. HB56

§ 19.2-215.9(C) - The testimony and the evidence produced by the defendant **voluntarily** before the multi-jurisdiction grand jury shall then be admissible in the trial of the criminal offense with which the defendant is charged, **(i) to establish a charge of perjury in the Commonwealth's case-in-chief on the basis of his testimony before the multi-jurisdiction grand jury and (ii)** for the purpose of impeaching the defendant **in the trial of any other criminal matter, provided the testimony or evidence being used for impeachment was produced by the defendant voluntarily before the multi-jurisdiction grand jury**. NOTE: Removes requirement that the testimony was voluntary in order to establish perjury. HB56

Cooperative Police / Undercover Car

§ 15.2-1726 – Cooperative agreements between police departments can allow for the loan of unmarked police vehicles. HB872

SUBSTANCE

Violence

Felony Domestic A&B

§ 18.2-57.2(B) – Adds unlawful wounding and strangulation convictions (against a household or family member) as prior offenses which can be used to raise domestic A&B to a class 6 felony (if two prior within 20 years). HB708

Accessory Murder

§ 18.2-19 – An accessory after the fact of a homicide punishable by death or a class 2 felony is guilty of a class 6 felony. HB976

Protective Orders

§ 16.1-253(L) – Emergency Protective Order: *Except as provided in § 16.1-253.2 (prohibiting contact with the person or going on prohibited land), a violation of a protective order issued under this section shall constitute contempt of court.* HB972

§ 19.2-123(A)(2) – As a condition of bond a judge can restrict contact with household members for a *specified* period of time (previously limited to 72 hours). SB501

§ 16.1-279.1 – A family abuse protective order can require the party protected against to maintain insurance, registration, and tax payments on a vehicle given to the petitioner under the protective order. HB335 SB151

§§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-279.1, 19.2-152.8, 19.2-152.9, and 19.2-152.10 – A protective order can order possession of a pet to the petitioner. HB972

Battery / School Employees

§ 18.2-57(D) – Battery of any primary or secondary school employee has mandatory 15 day sentence 2 days of which are mandatory minimum (with firearm on school property 6 months). Previously stated specific employee positions. HB851 SB570

DSS / Abuse and Neglect

§ 63.2-1505(B)(5) – Local DSS may extend an abuse and neglect determination to 90 days (regularly 45/60 days) if cooperating with a law enforcement investigation.
HB709

Sex

Revenge Porn Statute

§ 18.2-386.2 - A. Any person who, with the intent to coerce, harass, or intimidate, 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 breast, where such person knows or has reason to know that he is not licensed or authorized to disseminate or sell such videographic or still image is guilty of a Class 1 misdemeanor.

Evidence / Prior Sexual Convictions

§ 18.2-67.7:1 – If the Commonwealth gives 14 days notice, in a sexual case involving a child victim the Commonwealth can introduce prior sexual offense convictions “bearing on any matter to which it is relevant”, but this introduction is subject to Rule 2:403 (overly prejudicial or confusing). HB403

Expanding Definitions

§§ 17.1-275.12, 18.2-67.5:1, 18.2-346, 18.2-348, 18.2-356, 18.2-359, 18.2-361, 18.2-368, 18.2-370, 18.2-370.1, 18.2-371, and 18.2-374.3 – Various sexual crimes with minors amended so they add to sexual intercourse the acts of “anal intercourse, cunnilingus, fellatio, or anilingus.” SB14

Incest

§ 18.2-366(C) – Incest : *For the purposes of this section, parent includes step-parent, grandparent includes step-grandparent, child includes a step-child, and grandchild includes a step-grandchild.* SB476

Minors / CWA

§ 15.2-1627.5 – The attorney for the Commonwealth in each jurisdiction in the Commonwealth shall establish a multidisciplinary child sexual abuse response team, which will meet and review child sexual investigations at least every 60 days. HB334 SB421

Sexual Battery

§ 18.2-67.4(A) Sexual battery: An accused is guilty of sexual battery if he sexually abuses . . . (ii) *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.* HB567

Prostitution: Minors

§ 18.2-355 - (4) *For purposes of prostitution, takes any minor into, or persuades, encourages, or causes any minor to enter, a bawdy place, or takes or causes such person to be taken to any place for such purposes;* is guilty of pandering, and shall be guilty of a Class 4 felony. HB235

§ 9.1-902 - Soliciting prostitution from a minor and violating § 18.2-355(4) are offenses requiring registration. HB235 SB454

Forfeit of Property

§ 19.2-386.35 – Properties may be forfeited if they are involved in abduction, prostitution, failure to pay wages, making underage pornography, or child endangerment. Real property cannot be forfeited unless the minimum punishment is 5 years. HB660

Registration / Name Change

§ 9.1-903 – Persons required to register must notify local law enforcement within three days of a name change and the registry shall include both his new and old name. HB1251

§ 9.1-908 - *Persons confined in a federal, state, or local correctional facility or civilly committed . . . shall notify the Registry within three days following any change of*

name. HB1251

§ 8.01- 217(D & E) - Probationers, people on the sex offender list, and those incarcerated cannot change their names without good cause shown to a judge and an opportunity for the Commonwealth to file an objection. HB233

DSS Report

§ 63.2-1503(D) – Local DSS must report to the Commonwealth Attorney and law enforcement, ***within two hours*** any complaints of suspected child abuse involving death, injury, sexual offenses, drug offenses and contributing to the delinquency of a minor. Within two days it must file a written report of the incident signed by someone from local DSS and the law enforcement agent who received the notification. HB405 SB332

Theft

None

Weapons

Mishandling a Weapon

§ 18.2-56.1(A1) - *Any person who handles any firearm in a manner so gross, wanton, and culpable as to show a reckless disregard for human life and causes the serious bodily injury of another person resulting in permanent and significant physical impairment is guilty of a Class 6 felony.* HB810 SB65

Students

§ 22.1-277.07 - Expulsion of student for bringing firearm to school: *Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.* HB196

§ 22.1-277.07 – A student who brings a firearm to school is not required to be expelled. HB752 SB441

Concealed Waiver

§ 18.2-308(C)(7) – A retired member of the enforcement division of the Department of Motor Vehicles does not need a concealed carry permit. HB1169 SB279

Drugs

Synthetics

§ 18.2-250(A)(a) – Possession of a cannabimimetic agent is a class 1 misdemeanor. HB1112

§§ 54.1-3401, 54.1-3443, & 54.1-3456 – After 30 days notice and a hearing, the Department of Forensic Science can declare a substance a schedule I or II drug as a controlled substance analog for 18 months. Thereafter, if the General Assembly has not acted, the substance is descheduled. A controlled substance analog is prosecuted as a schedule I or II drug. HB1112

§ 54.1-3446 – New Schedule I drugs: (1) Alpha-pyrrolidinobutiophenone (other name: alpha-PBP), & (2) Any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers. HB1112

§ 18.2-248.1:1 – REPEALED – Former statute concerning cannabinoids. HB1112

Dextromethorphan

§ 18.2-265.20 – Any minor who buys Dextromethorphan (cough suppressant which causes hallucinations when abused) is subject to a \$25 fine and a pharmacy which sells to a minor gets a \$25 fine the second time it is caught. HB505 SB213

§ 18.2-265.21 – An unlicensed distributor of unfinished dextromethorphan (powder form?) is guilty of a class 1 misdemeanor. HB505

Newly Scheduled Drugs

§ 54.1-3446 – New Schedule I drugs: (1) Alpha-pyrrolidinobutiophenone (other name: alpha-PBP), & (2) Any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers. HB1112

§ 54.1-3450 – New Schedule III Drug: Perampanel [2-(2-oxo-1-phenyl-5-pyridin-2-yl-1,2-dihydropyridin-3-yl) benxonitrile], including its salts, isomers, and salts of isomers **[Anti-epileptic drug]** HB575

§ 54.1-3452 – New Schedule IV Drug: Lorcaserin **[weight loss drug]** HB575

Students

§ 22.1-277.08 - Expulsion of a student for bringing drugs to school: *Nothing in this section shall be construed to require a student's expulsion regardless of the facts of the particular situation.* HB196

§ 22.1-277.08 – The principal or school board can decide not to discipline a student for bringing drugs to school, or to use another punishment. HB751

§ 22.1-277.08 – A student who brings drugs to school is not required to be expelled. HB752 SB441

Vehicles

Speed Limits

§ 46.2-870 – US Route 23 & US Alternate Route 58 can have speed limits up to 60mph. HB1164

Moped

46.2-600 – A moped is a motor vehicle and must have a registration and title.

46.2-613 – On 01 July 2014, mopeds will have to have registration, title, and plates.

46.2-662 – A person bringing moped licensed and registered in another state to Virginia has 30 days to change to Virginia license and registration.

46.2-711 – (A) DMV shall issue plate for mopeds.
(D) DMV shall issue plates for slow speed vehicles.

46.2-715 – Moped license plates will only be attached to the rear of the moped.

46.2-914 – A moped driver must have a government issued photographic ID on him.

46.2-915.2 – (1) Every person operating a moped shall wear a face shield, safety glasses, or goggles of a type approved by the Superintendent or have his moped equipped with safety glass or a windshield at all times while operating such vehicle, and (2) operators and passengers thereon, if any, shall wear protective helmets of a type approved by the Superintendent. (max \$50 fine).

DUI

§ 18.2-270(C)(3) – 4th or subsequent DUI – Removes the following requirement: ~~Unless otherwise modified by the court, the defendant shall remain on probation and under the terms of any suspended sentence for the same period as his operator's license was suspended, not to exceed three years.~~ SB482

§ 46.2-391.01 – If a judge does not require an ignition interlock system for DUI the DMV is required to. SB482

§ 46.2-391.2 – Adds refusal to submit to a blood draw to the requirement that a refusal causes an automatic 7 days suspension by DMV (previously stated only if breath test refused). SB482

Mature License

§ 46.2-330(A) – A license issued to someone 75 or older shall expire in 5 years. HB282: Effective 01JAN15.

§ 46.2-330(C) – A person 75 or older must prove his vision satisfactory to get a license renewal. HB282: Effective 01JAN15.

§§ 16.1-69.48:1, 17.1-275, 46.2-330, and 46.2-505 – Establishes that courts can send defendants to “a mature driver motor vehicle crash prevention course” (undefined). Treated the same in the statutes as a driver improvement clinic. HB282: Effective 01JAN15.

Dirt Road

§ 46.2-873.1 – Unless otherwise signed, the maximum speed limit on a dirt/gravel road is 35 mph. Removed requirement of a local ordinance. HB854 SB470

Parking Ordinance

§ 46.2-1220 – Localities can make parking ordinances including, *but not limited to, the regulation of any vehicle blocking access to and preventing use of curb ramps, fire hydrants, and mailboxes on public or private property.* HB733

Passing Non-Cars

§ 46.2-839 – Bikes, mopeds, animals, and animal drawn vehicles must be passed on the left with 3 feet clearance (changed from 2). SB97

Yellow Lights / Traffic Cams

§ 15.2-968.1(K) - No traffic light signal violation monitoring system shall be implemented or utilized for a traffic signal having a yellow signal phase length of less than three seconds. HB255

Military / Inspection

§ 46.2-1158.1 – When a military service member returns to Virginia from stationing/deployment he has 14 days to get it inspected (changed from 5). HB411 SB138

Weight / Natural Gas

§ 46.2-1129.2 – Vehicles at least partially fueled by natural gas can weigh up to 2,000 lbs. More than the weight limit for other vehicles except on an interstate highway. The owner must have proof the vehicle uses natural gas. HB341

Kitchen Grease Transport

§ 3.2-5512 – A vehicle transporting waste kitchen grease must conspicuously display a decal issued by the Commissioner of Agriculture and Consumer Services (not registered class 3 misdemeanor: civil penalty up to \$5,000). HB795 SB614

Autocycle

§ 46.2-100 - "Autocycle" means a three-wheeled motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride and is manufactured to comply with federal safety requirements for motorcycles. Except as otherwise provided, an autocycle shall not be deemed to be a motorcycle. HB122 SB383

Other

Misuse of Public Funds

§ 18.2-112.1(C) – If an ordinance is adopted, a part time employee of a locality or elected official who misuses public assets in an amount greater than \$1,000 within 12 months is guilty of a class 1 misdemeanor (mirrors the class 4 felony for full timers). HB420

Masks

§ 18.2-422 – Added an “intent to conceal identity” element to the anti-mask statute. HB542

Tax Fraud

§§ 58.1-1814 and 58.1-3907 - *Any person who willfully utilizes a device or software to falsify the electronic records of cash registers or other point-of-sale systems or otherwise manipulates transaction records that affect any state tax liability shall, in addition to any other penalties provided by law, be guilty of a Class 1 misdemeanor.* Also a flat \$20,000 civil penalty is assessed. HB829 SB611

Name Change

§ 8.01- 217(D & E) - Probationers, people on the sex offender list, and those incarcerated cannot change their names without good cause shown to a judge and an opportunity for the Commonwealth to file an objection. HB233

Advertise / No License

§ 9.1-149.1 - Class 1 misdemeanor to advertise services which require a license, certification, or registration when not having fulfilled the requirement. HB280

Hybrid Canines

§ 3.2-6582(D) - A locality can pass an ordinance prohibiting the keeping of hybrid canines. SB444

Sunday Hunting

§ 29.1-521(A)(1) – It is now legal to hunt waterfowl on Sunday and any wild animal on private property with permission. Hunting cannot take place within 200 yards of a place of worship on Sunday. HB1237

Spotlighting

§ 29.1-525(C) – Localities can spotlight deer if they have a permit or written authorization from the Department. HB376

Hunting Orange

§ 29.1-530.1 – (1) Every person with a hunter must have a blaze orange cap or upper body clothing. (2) Anyone hunting deer with a muzzleloader, who is not in a stationary hunting location, must wear a blaze orange cap or upper body clothing. \$25 fine.

Repealed

§ 28.2-304 – REPEALED – People can now take more than 2 channel bass (red drum) longer than 32” in one day. Previously a class 1 misdemeanor. HB909 SB434

Fox / Coyote Hunting

§ 29.1-525.2 – Class 1 misdemeanor to uses dogs to hunt coyotes or foxes within an enclosure (fence). SB42