

University of Richmond

## UR Scholarship Repository

---

Law Student Publications

School of Law

---

2023

### The Legislative Graveyard: A Review of Virginia's 2022 Regular General Assembly Session

Kaylin Cecchini

*University of Richmond - School of Law*

Haley Edmonds

*University of Richmond - School of Law*

Follow this and additional works at: <https://scholarship.richmond.edu/law-student-publications>



Part of the [Public Law and Legal Theory Commons](#)

---

#### Recommended Citation

Kaylin Cecchini & Haley Edmonds, *The Legislative Graveyard: A Review of Virginia's 2022 Regular General Assembly Session*, 26 Rich. Pub. Int. L. Rev. 1 (2023). Available at: <https://scholarship.richmond.edu/pilr/vol26/iss1/3>

This Article is brought to you for free and open access by the School of Law at UR Scholarship Repository. It has been accepted for inclusion in Law Student Publications by an authorized administrator of UR Scholarship Repository. For more information, please contact [scholarshiprepository@richmond.edu](mailto:scholarshiprepository@richmond.edu).

THE LEGISLATIVE GRAVEYARD: A REVIEW OF VIRGINIA'S  
2022 REGULAR GENERAL ASSEMBLY SESSION

*Kaylin Cecchini*<sup>\*</sup> & *Haley Edmonds*<sup>\*\*</sup>

---

<sup>\*</sup> Kaylin Cecchini is third-year law student at University of Richmond School of Law. Ms. Cecchini plans to pursue a career as a Public Defender upon graduation. As a student, she serves as the General Assembly co-editor on Public Interest Law Review, a 3L Representative on the Student Bar Association, the Symposium Co-Chair for Richmond Virginia Bar Association, the Co-President of the National Lawyers Guild Richmond Chapter, and a long term Student Attorney in the Children's Defense Clinic. Ms. Cecchini has interned in both civil and criminal public interest spaces which included a summer with the Chesterfield Public Defender's Office and a semester in the Housing Unit of the Legal Aid Justice Center. Her previous work history is centered around policy and advocacy work through the General Assembly and Virginia politics

<sup>\*\*</sup> Haley Edmonds is a third-year law student at the University of Richmond School of Law pursuing a career in environmental public interest work. In addition to her legal work with the Office of the Attorney General's Environmental Section and the Environmental Integrity Project, Ms. Edmonds has explored the policy side of public interest work through serving as the General Assembly co-editor on PILR, and volunteering with the Virginia Poverty Law Center as a legislative intern during the 2022 General Assembly Session

## ABSTRACT

*In 2019, Democrats won a majority in the House of Delegates and the Senate, and the Commonwealth was led by a Democratic Governor. The Democrats' majority trifecta, which they had obtained for the first time since 1992, was once again lost on November 2, 2021, when Virginians voted to renew the Republican leadership in the Office of the Governor and in the House of Delegates. Under this once again bifurcated, yet unusually polarized, assembly, legislators on either side of the political aisle faced an uphill battle getting legislation passed, with the majority of bills ending in a stalemate. As a result, the 2022 General Assembly Session is better defined by what did not happen, as opposed to what did. This article briefly surveys the most prominent bills laid to rest in this year's "legislative graveyard," in ten key areas of law: education, environment, criminal justice, housing, transportation, voting, taxation, healthcare, firearms, and Virginia culture and history.*

## INTRODUCTION

When session began in January of 2022, Virginia Democrats had to navigate a political landscape that they hoped they would not see again. In the 2019 state elections, Virginia became a solidly blue state: Democrats had a majority in the House of Delegates and the Senate, and Virginia was led by a Democratic Governor.<sup>1</sup> Their majority trifecta, which Democrats had obtained for the first time since 1992, was suddenly lost.<sup>2</sup> On November 2, 2021, Virginians voted to renew the Republican leadership in the Office of the Governor and in the House of Delegates.<sup>3</sup>

The Democrats faced an uphill battle in some ways that were to be expected, and other ways that were unprecedented in the recent history of Virginia politics. As expected, about two thirds of the bills introduced by Democrats in the now Republican-controlled House of Delegates failed or were continued to 2023.<sup>4</sup> The real surprise came from the shocking number of vetoes issued by newly-minted Governor Youngkin, resulting in a total of

---

<sup>1</sup> *Party Control of Virginia State Government*, BALLOTEDIA, [https://ballotpedia.org/Party\\_control\\_of\\_Virginia\\_state\\_government](https://ballotpedia.org/Party_control_of_Virginia_state_government) (last visited Oct. 23, 2022).

<sup>2</sup> *Id.*

<sup>3</sup> *Virginia House of Delegates Elections, 2021*, BALLOTEDIA, [https://ballotpedia.org/Virginia\\_House\\_of\\_Delegates\\_elections\\_2021](https://ballotpedia.org/Virginia_House_of_Delegates_elections_2021) (last visited Oct. 20, 2022); *Virginia Gubernatorial Election, 2021*, BALLOTEDIA, [https://ballotpedia.org/Virginia\\_gubernatorial\\_election\\_2021](https://ballotpedia.org/Virginia_gubernatorial_election_2021) (last visited Oct. 23, 2022).

<sup>4</sup> *2022 Session: Session Statistics*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+oth+STA> (last visited Oct. 23, 2022).

thirty-three bipartisan bills killed by him alone.<sup>5</sup> All but one were introduced by a Democratic Delegate or Senator.<sup>6</sup> By comparison, Youngkin's Democratic predecessor, Ralph Northam, vetoed only twenty in his first year and fifty-eight bills total throughout his entire tenure.<sup>7</sup> It has been more than twenty years since a governor issued as many vetoes in his first year in office as Governor Youngkin.<sup>8</sup> Additionally, the Governor amended more than 100 bills that reached passage through bipartisan agreement.<sup>9</sup>

Governor Youngkin's strong hand is representative of the strategy of his party this year, as is evidenced by the large number of failed, continued, or vetoed bills—amounting to 1,409 bills in total at the time this article was written.<sup>10</sup> This article will explore some of the most notable legislation put forth and defeated, by vote or veto, in the following ten categories: education, environment, criminal justice, housing, transportation, voting, taxation, healthcare, firearms, and Virginia culture and history.

## I. EDUCATION

### A. *No Transcripts for Debtors*

Virginia legislators had hoped to remove one of many barriers that students who are enrolled in public universities frequently shoulder: the ability of a public academic institution to withhold a student's transcript or diploma on the grounds that the student owes a debt.<sup>11</sup> This change would apply to both current and former students of these institutions.<sup>12</sup>

At the direction of the General Assembly, the State Council for Higher Education in Virginia ("SCHEV") obtained data from a congressional study

<sup>5</sup> See generally *2022 Session: Bill List: Vetoed by Governor*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+lst+VET> (last visited Oct. 23, 2022) (providing the list of bills vetoed by the governor in 2022).

<sup>6</sup> See generally *id.*

<sup>7</sup> *Northam Vetoes Disappear*, 2022, VA. PUB. ACCESS PROJ., <https://www.vpap.org/visuals/visual/northam-vetoes-disappear/> (last visited Oct. 23, 2022).

<sup>8</sup> *Del. Clark's Statement on Gov. Youngkin's Veto of Legislation to Provide Medical Debt Relief to Thousands of Virginians*, NADARIUS CLARK FOR DEL. (Apr. 12, 2022), <https://www.clarkfordelegate.com/vetohb573>.

<sup>9</sup> Nicole Del Rosario, *Virginia Gov. Youngkin Amends more than 100 Bills, Vetoes 25 Others*, WSL'S NEWS (Apr. 11, 2022), <https://www.wsls.com/news/2022/04/12/virginia-gov-youngkin-amends-more-than-100-bills-vetoes-25-others/>.

<sup>10</sup> *2022 Session: Session Statistics*, *supra* note 4.

<sup>11</sup> *HB 732 Higher Educational Institutions, Public; Debt Collection, Transcripts and Diplomas*, VA.'S LEGIS. INFO. SYS. (Feb. 2, 2022), <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=hb732> (last visited Oct. 23, 2022).

<sup>12</sup> *Id.*

on this matter, finding that since 2016, the transcripts of over 200 Virginia students had been withheld for a debt balance below \$1,000.<sup>13</sup> Norfolk State University, a historically Black college, is reported to have withheld transcripts for as little as \$50 in outstanding student debt.<sup>14</sup> SCHEV was unable to obtain all existing data for Virginia schools; for example, they could see that the University of Virginia alone withheld 450 student transcripts in the last five years, but were unable to view the amount of debt the students owed.<sup>15</sup> Senator Ghazala Hashmi and Delegate Betsy Carr, both Democrats, worked with other organizations and non-profit organizations, including Virginia21 and the Virginia Poverty Law Center, to move the needle on this legislative effort, but were unable to succeed during this session.<sup>16</sup>

Hashmi and Carr introduced parallel bills in the Virginia House of Delegates, HB732, and the Virginia Senate, SB159.<sup>17</sup> Hashmi garnered the most media attention for this bill, as she is a former professor of literature at J. Sargeant Reynolds Community College.<sup>18</sup> When speaking about this bill, Hashmi noted her experience with students, many of whom are first-generation college students like her, who see this debt as a barrier and give up on receiving proof of their work.<sup>19</sup> In a previous speech, Hashmi has remarked that fear is a natural reaction to debt, that navigating financial systems can be complex and intimidating, and that this is a serious issue for students who hope to transfer to another school or obtain a job.<sup>20</sup> Withholding transcripts because of debt prevents students from registering for future classes, often resulting in them simply abandoning their pursuit of higher education.<sup>21</sup>

---

<sup>13</sup> Megan Pauly, *A Virginia Legislator Wants to Ban a Practice Holding Back Students with College Debt*, VPM NEWS (Jan. 5, 2022), <https://vpm.org/news/articles/28616/a-virginia-legislator-wants-to-ban-a-practice-holding-back-students-with#:~:text=Virginia%20Sen.%20Ghazala%20Hashmi%20%28D-Chesterfield%29%20is%20sponsoring%20legislation,students%20until%20they've%20paid%20direct-to-school%20debt%20in%20full>; Press Release, H. Comm. on Oversight and Reform, Chairman Krishnamoorthi Investigates Practice of Withholding Student Transcripts Due to Unpaid Bills (Oct. 6, 2021).

<sup>14</sup> Megan Pauly, *Bill to Ban Transcript Withholding at Public Universities Passes Virginia Senate*, VPM NEWS (Feb. 2, 2022), <https://vpm.org/news/articles/29415/bill-to-ban-transcript-withholding-at-public-universities-passes-virginia>.

<sup>15</sup> Pauly, *supra* note 13.

<sup>16</sup> *Id.*

<sup>17</sup> *HB 732 Higher Educational Institutions, Public; Debt Collection, Transcripts and Diplomas*, *supra* note 11; *S.B. 159 Higher Educational Institutions, Public; Debt Collection, Transcripts and Diplomas*, VA.'S LEGIS. INFO. SYS. (Jan. 27, 2022), <https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+SB159>; H.D. 732, 2022 Gen. Assemb., Reg. Sess. (Va. 2022); S. 159, 2022 Gen. Assemb., Reg. Sess. (Va. 2022).

<sup>18</sup> *See* Pauly, *supra* note 13.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

Carr's bill made it through its first education subcommittee consideration, where a substitute bill was created and "reported" (won) on a near party-line vote.<sup>22</sup> From there, it was recommended to be moved to the House Appropriations Committee, but the substitute was first reconsidered by the subcommittee and "laid on the table," or killed.<sup>23</sup> This decision was made by a 6-2 vote, with only Carr herself and one other legislator voting to keep it alive.<sup>24</sup> One Democrat joined the vote to stop its progress and one Republican was not present to vote; the remaining six votes were Republicans.<sup>25</sup> The substitute bill was referred to the House Appropriations Committee, but was "left," or never considered.

Similarly, Senator Hashmi's companion senate bill ultimately met the same fate—the bill was considered in the Senate's version of the same education subcommittee, a substitute was created, and it reported on party-line vote of 9-4.<sup>26</sup> The major difference with Hashmi's bill is that it was read on the floor and passed by the full Senate by a 25-15 vote, even garnering some Republican votes.<sup>27</sup> It was in reaching the House of Delegates for consideration that it was once again defeated, but not before reporting out of the full education committee, which is Democrat-controlled.<sup>28</sup> Once again, this committee referred it to appropriations for consideration, but it was "left" there.<sup>29</sup>

### B. Banning Books: Wins and Losses

Parental control over student curriculum was a major touchstone of Governor Youngkin's campaign.<sup>30</sup> In light of his success, some Republican legislators created bills to represent these campaign promises. Both of the bills discussed in this section pertain to literature in schools containing sexually explicit material. SB 275, sponsored by Republican Senator Bill

<sup>22</sup> *Voting History of HB 732 Higher Educational Institutions, Public; Debt Collection, Transcripts and Diplomas.*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+H0902V0018+HB0732> (last visited on Oct. 23, 2022).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Voting History of SB 159 Higher Educational Institutions, Public; Debt Collection, Transcripts and Degrees.*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+S04V0051+SB0159> (last visited Oct. 23, 2022).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *SB. 159 Higher Educational Institutions, Public; Debt Collection, Transcripts and Degrees*, *supra* note 17.

<sup>30</sup> Dean Mirshahi, *Youngkin Signs Bill Allowing Virginia Parents to Review Sexually Explicit Classroom Material*, WRIC (Apr. 8, 2022), <https://www.wric.com/news/politics/capitol-connection/youngkin-signs-bill-allowing-virginia-parents-to-review-sexually-explicit-classroom-material/>.

DeSteph, garnered the attention of national media outlets in early 2022.<sup>31</sup>

The initial bill required parents to have a say in whether or not a book was permitted to be carried by a school library, but the bill was later amended to allow all books to be carried in the library and simply require written permission from a parent before a student could check out a book.<sup>32</sup> The bill was narrowly defeated by a 8-7 near party-line vote in the Senate Education and Health Committee.<sup>33</sup> Only one Democratic Senator, who is known to sometimes side with Republicans, voted outside the party block: Senator Lynwood Lewis.<sup>34</sup>

A similar bill, SB 656, which was signed into law by the Governor, was carried by Senator Siobhan Dunnivant.<sup>35</sup> SB 656 directs the Virginia Board of Education to create model policies for parental notification of any instructional material that contains sexually explicit material.<sup>36</sup> Every local school board has until January 1, 2023, to adopt these policies.<sup>37</sup> In another 8-7 vote, Democratic Senator Lewis was joined by another moderate Democrat, Chap Petersen, to carry this bill over the finish line.<sup>38</sup> From there, it passed through the Senate floor by a 20-18 vote with the help of Democratic Senators Lewis and Mason.<sup>39</sup> Surprisingly, Petersen did not support the bill on the floor as he had in the committee.<sup>40</sup> After the Senate, the bill passed through the House Education Committee unanimously, and finally, through the House floor in a 52-46 vote.<sup>41</sup>

---

<sup>31</sup> See e.g., Matthew Barakat, *Bill to Regulate Explicit Books in Virginia School Libraries Killed*, NBC (Jan. 27, 2022), <https://www.nbcwashington.com/news/politics/first-read-dmv/bill-to-regulate-explicit-books-in-virginia-school-libraries-killed/2951392/>.

<sup>32</sup> *Id.*

<sup>33</sup> *Voting History of SB. 275 Public School Libraries; Printed and Audiovisual Materials, Selection, Evaluation, Checkout, Etc.*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+S04V0046+SB0275> (last visited Oct. 23, 2022).

<sup>34</sup> Barakat, *supra* note 31.

<sup>35</sup> *S.B. 656 Sexually Explicit Content; DOE Shall Develop Model Policies, Parental Notification*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+SB656> (last visited Oct. 23, 2022).

<sup>36</sup> *Id.*

<sup>37</sup> S. 656, 2022 Gen. Assemb., Reg. Sess. (Va. 2022).

<sup>38</sup> *S.B. 656 Sexually Explicit Content; DOE Shall Develop Model Policies, Parental Notification*, *supra* note 35.

<sup>39</sup> *Third Reading and Voting of SB 656 Sexually Explicit Content; DOE Shall Develop Model Policies, Parental Notification*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+SV0286SB0656+SB0656> (last visited Oct. 23, 2022).

<sup>40</sup> *Id.*

<sup>41</sup> *Reported from Education of SB 656 Sexually Explicit Content; DOE Shall Develop Model Policies, Parental Notification*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+H09V0166+SB0656> (last visited Oct. 23, 2022); *Voting in House for SB 656 Sexually Explicit Content; DOE Shall Develop Model Policies, Parental Notification*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+HV1233+SB0656> (last visited Oct. 23, 2022).

## II. ENVIRONMENT

### *A. Elimination of Virginia's Potential Green Infrastructure Bank*

Green banks are part of a newly popular legislative advocacy movement for environmentalists. These banks are “designed to speed up and expand the reach of clean energy projects by leveraging limited public dollars to attract private capital.”<sup>42</sup> This essentially means the first contributions to the bank are publicly funded through the state—thus the necessity of this bill—with the objective of attracting private investors later.<sup>43</sup> These funds go toward innovative green energy efforts for the state that creates it.<sup>44</sup> The first green bank in the nation was created in 2011 in Connecticut, but fourteen other states and the District of Columbia have since joined the movement.<sup>45</sup> Virginia had similarly hoped to engage private investors in funding clean energy through this measure. Delegate Alfonso Lopez introduced HB 903 which promised to “create the Virginia Green Infrastructure Bank, an authority to promote and catalyze investment in qualified projects that reduce greenhouse gas emissions, assist climate-impacted communities, and promote environmental justice.”<sup>46</sup>

HB 903 was first heard in the Commerce and Energy House subcommittee on February 8.<sup>47</sup> The bill was before the nine member subcommittee for only four minutes before failing to report out.<sup>48</sup> The entire discussion consisted of Lopez explaining the purpose of the bill, parallel legislation in other states, and the bill’s anticipated benefits, and Chair Delegate O’Quinn reminding members that it must be referred to the Appropriations Committee if it did not report out.<sup>49</sup> Delegate Keam made a motion to report the bill out and a

<sup>42</sup> Elizabeth McGowan, *Meet the New State Official Supporting the Roll-Out of Green Banks in Virginia*, ENERGY NEWS NETWORK (June 28, 2021), <https://energynews.us/2021/06/28/meet-the-new-state-official-supporting-the-rollout-of-green-banks-in-virginia/>.

<sup>43</sup> Tamara George & Laurie Stone, *Green Banks 101*, RMI (May 28, 2020), <https://rmi.org/green-banks-101/#:~:text=How%20Green%20Banks%20Work%20Green%20banks%20do%20what,projects%20need%20specific%20financial%20tools%20to%20get%20underway.>

<sup>44</sup> *Id.*

<sup>45</sup> McGowan, *supra* note 42.

<sup>46</sup> *HB 903 Virginia Green Infrastructure Bank; Created*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=hb903> (last visited Oct. 23, 2022).

<sup>47</sup> *Id.*

<sup>48</sup> *Commerce and Energy Subcommittees - Full Committee (HCR)*, VA. H.D VIDEO STREAMING (Feb. 8, 2022), [https://sg001-harmony.sliq.net/00304/Harmony/en/PowerBrowser/PowerBrowserV2/20221008/-1/14243#info\\_](https://sg001-harmony.sliq.net/00304/Harmony/en/PowerBrowser/PowerBrowserV2/20221008/-1/14243#info_) (advance video to 4:04:08-4:08:08).

<sup>49</sup> *Id.*



vote of 3-5 was taken to kill the bill.<sup>50</sup> The three Democratic delegates in support were Keam, Kory, and Scott.<sup>51</sup> The five Republican delegates standing opposed were O’Quinn, Kilgore, Marshall, Wilt, and Batten, and Republican Delegate Byron did not vote.<sup>52</sup> Nothing further came of this bill, and as of February 15, 2022, it was officially marked as “left.”<sup>53</sup>

*B. No Energy Optimization for Marginalized Groups*

It is not often that the governor exercises power to overturn the unanimous or near-unanimous vote of both legislative chambers, but Governor Youngkin exercised that power in relation to SB 347.<sup>54</sup> Senator John Bell introduced SB 347 in an effort to require the State Corporation Commission (“SCC”) to “establish for Dominion Energy Virginia annual energy efficiency savings targets for customers who are low-income, elderly, disabled, or veterans of military service.”<sup>55</sup> The bill would further ask the Commission to “seek to optimize energy efficiency and the health and safety benefits of utility energy efficiency programs.”<sup>56</sup>

SB 347 made its way through a subcommittee, full committee, and the full floor of the Senate with unanimous approval.<sup>57</sup> Once the bill reached the House, it passed through the full Commerce and Energy House Committee with full bipartisan support.<sup>58</sup> On the House floor, some amendments were made to the bill in order to allow passage.<sup>59</sup> With the new amendments, the House passed the bill with 75% support of its members.<sup>60</sup> Though the remaining 25% of members that voted against the bill were Republican members, there were many Republicans who joined in bipartisan support.<sup>61</sup> The Senate took no issue with the amendments made by the House and accepted the new version unanimously again.<sup>62</sup>

Governor Youngkin issued a statement to support his veto of this bill,

<sup>50</sup> *HB 903 Virginia Green Infrastructure Bank; Created, supra note 46.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *See SB 347 Electric Utilities; SCC To Establish Certain Utilities Annual Energy Efficiency Savings Targets*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=sb347> (last visited Oct. 23, 2022).

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

citing the effort as an “arbitrary declaration of the public interest.”<sup>63</sup> He shared his concern that the bill would increase costs for other Virginians and “unnecessarily restrict the constitutional authority of the SCC.”<sup>64</sup> The Washington Post published an opinion article about Youngkin’s veto choices generally, specifically pointing out the “incoherent” nature of Youngkin’s veto of this particular bill.<sup>65</sup> Similarly, the article noted the bipartisan support and lack of controversy all throughout the legislative process.<sup>66</sup>

### III. CRIMINAL JUSTICE

#### *A. Witnesses in Criminal Proceedings Remain “Request Only”*

As Virginia law currently stands, witness information in criminal proceedings is only available to defense attorneys upon a discovery request to the Commonwealth. This disclosure is governed by Rule 3A:11 and comes with certain privacy protections for fearful witnesses and their families.<sup>67</sup> SB 464, introduced by Democratic Senator Scott Surovell, sought to require the Commonwealth attorney to file a copy of witness subpoenas with the clerk of the court and provide copies to the defendant and their attorney.<sup>68</sup>

This bill passed unanimously through the Senate Judiciary Committee and the full Senate floor.<sup>69</sup> Once SB 464 made it to the House, it passed through its first subcommittee, under Courts of Justice, unanimously.<sup>70</sup> It faced its first inkling of resistance in the full Courts of Justice Committee with two Republican members, Delegates Nicholas Freitas and Timothy Anderson, voting against it.<sup>71</sup> Despite the two votes to defeat the bill, the remaining eighteen committee members overwhelmingly approved the bill with

---

<sup>63</sup> *Governor Youngkin's Remarks in Governor's Veto of SB 347 Introduced During 2022 Session*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+amd+SB347AG> (last visited Oct. 23, 2022).

<sup>64</sup> *Id.*

<sup>65</sup> Walton C. Shepherd, *Youngkin's Hyperpartisan Veto Undermines His Own Agenda*, WASH. POST (Apr. 25, 2022), <https://www.washingtonpost.com/opinions/2022/04/25/youngkins-hyperpartisan-veto-undermines-his-own-agenda/>.

<sup>66</sup> *Id.*

<sup>67</sup> *Governor Youngkin's Remarks in Governor's Veto of SB 464 Introduced During 2022 Session*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+amd+SB464AG> (last visited Oct. 23, 2022).

<sup>68</sup> *SB 464 Witnesses; Summons in a Criminal Matter, Requirements*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=sb464> (last visited Oct. 23, 2022).

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *House: Reported from Courts of Justice for S. 464*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+H08V0246+SB0464> (last visited Oct. 23, 2022).

bipartisan support.<sup>72</sup> In another unanimous vote, the full House voted to pass the bill.<sup>73</sup> However, on April 11, the final deadline for action from the Governor, SB 464 was vetoed.<sup>74</sup>

According to Youngkin, there were three major concerns which led to his decision.<sup>75</sup> The first was an explanation that the “majority” of witnesses for criminal proceedings in circuit court were already published with all relevant information.<sup>76</sup> Second, Youngkin reiterated that existing law, which allows defense attorneys to request the names of witnesses through discovery, renders this proposed law superfluous.<sup>77</sup> Finally, he stated that this mandate would have subjected prosecutors to “frivolous” criminal penalties, and “cast false doubt on prosecutors’ adherence to legitimate due process protections already established in Virginia law.”<sup>78</sup>

After a veto has been issued by the Governor, the bill may be sent back to the chamber from which it originated for reconsideration.<sup>79</sup> If it is reconsidered, the veto can be overridden by a two-thirds vote of the members present and sent for the same vote to the other chamber.<sup>80</sup> If both chambers reach two-thirds support, the bill will become law without a signature from the Governor.<sup>81</sup> In this case, SB 464 was sent back to the Senate for reconsideration but was passed by for the day and no further action has been taken since.<sup>82</sup>

### *B. Any Age Adjudication Continues*

In Virginia, any person under the age of eighteen is considered a child for purposes of criminal proceedings.<sup>83</sup> Adults who are called to court to answer for an alleged violation of a law will be “convicted” if found guilty, whereas children will be “adjudicated delinquent.”<sup>84</sup> The phrase “adjudicated delinquent” simply means that the child has committed an act that would be

<sup>72</sup> *Id.*

<sup>73</sup> *House: Vote of S. 464, Introduced in 2022 Reg. Sess.*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+HV1524+SB0464> (last visited Oct. 23, 2022).

<sup>74</sup> *Id.*

<sup>75</sup> *Governor’s Veto of S. 464, Introduced in 2022 Reg. Sess.*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+amd+SB464AG> (last visited Oct. 23, 2022).

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> VA. CONST. art. V, § 6(b)(ii).

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *SB 464 Witnesses; Summons in a Criminal Matter, Requirements*, 2022 Sess., *supra* note 68.

<sup>83</sup> *Virginia Courts in Brief*, VACOURTS.GOV (Sept. 2021), <https://www.vacourts.gov/courts/cib.pdf#:~:text=courtordered%20blood%20testing%20of%20minors%20in%20Virginia%2C%20a,be%20a%20crime%20if%20committed%20by%20an%20adult>.

<sup>84</sup> *Id.*

a crime if it were committed by an adult; it is materially similar to a conviction for an adult.<sup>85</sup>

As current law stands, there is no minimum age for a child to be adjudicated delinquent.<sup>86</sup> Delegate Vivian Watts introduced HB 1248 in hopes of creating a minimum of eleven years of age for adjudication.<sup>87</sup> James Dold, CEO and founder of the prominent non-profit organization Human Rights for Kids, testified in favor of the bill.<sup>88</sup> In his testimony, Dold referenced statistics compiled by the Department of Juvenile Justice (“DJJ”) for juvenile intake complaints for youth under twelve years old in Virginia.<sup>89</sup> The DJJ data also showed that 61.4% of the total charges opened against a child were for misdemeanors.<sup>90</sup> The vast majority resulted in favorable outcomes for the juveniles—73.4% were dismissed or nolle prossed and 2.3% resulted in a “not guilty” final disposition.<sup>91</sup> The same report showed that male juveniles under twelve years old had complaints brought against them anywhere from twice to seven times as often as female juveniles.<sup>92</sup>

Several other proponents arrived either in person or virtually to testify in favor of HB 1248 including Valerie Slater, on behalf of RISE for Youth and the NAACPVA; Dr. Liz Barnett, an associate professor at the UCLA School of Medicine; and Julie McConnell, on behalf of the Children’s Defense Clinic at The University of Richmond School of Law.<sup>93</sup> There was no testimony from any person taking a position against the bill. Following all public testimony, Republican Delegate Robert Bell made a motion to lay the bill on the table.<sup>94</sup> The motion was seconded and approved by a 5-3 party-line vote signaling the bill’s defeat.<sup>95</sup>

---

<sup>85</sup> *Id.*

<sup>86</sup> *HB 1248 Juveniles; adjudication of delinquency*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=hb1248> (last visited Oct. 23, 2022).

<sup>87</sup> *Id.*

<sup>88</sup> *Courts Subcommittee #1*, VA. H.D. VIDEO STREAMING (Feb. 7, 2022), <https://virginiageneralassembly.gov/house/chamber/chamberstream.php> (advance video to 04:52:14).

<sup>89</sup> Valerie P. Boykin, *Data Resource Guide*, 2019 VA. DEP’T OF JUV. JUST. 1, 4, [https://www.djj.virginia.gov/documents/about-djj/drg/FY19\\_DRG.pdf](https://www.djj.virginia.gov/documents/about-djj/drg/FY19_DRG.pdf).

<sup>90</sup> Boykin, *supra* note 89, at 26.

<sup>91</sup> *Id.* at 78.

<sup>92</sup> *Id.* at 23.

<sup>93</sup> *Courts Subcommittee #1*, VA. H.D. VIDEO STREAMING (Feb. 7, 2022), <https://virginiageneralassembly.gov/house/chamber/chamberstream.php> (advance video to 04:50:08).

<sup>94</sup> *Id.*

<sup>95</sup> *Vote to Lay HB 1248, Introduced in 2022 Session*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+H0801V0343+HB1248> (last visited Oct. 23, 2022).

## IV. HOUSING

*A. Unsafe Living Conditions Remain a Tenant Responsibility*

Democratic Delegate Marcia “Cia” Price authored HB 802 in hopes of expanding the Virginia Residential and Landlord Tenant Act.<sup>96</sup> Proposing an additional section under Article 6 of the Act, the “Retaliatory Action” section, this bill would have empowered localities to bring lawsuits against landlords who violate the existing law requiring them to maintain a “fit and habitable” rental dwelling.<sup>97</sup>

Current law only allows tenants, not localities, to bring an action against a landlord to remedy any threats to health and safety, or to use “Repair and Deduct” to remedy threats themselves.<sup>98</sup> Proponents of the bill argue that either option comes at a cost to tenants. In order to request that a landlord fix a violation, the tenant must be up to date on rent, and the “Repair and Deduct” method requires the tenant to initially shoulder the cost of necessary repairs.<sup>99</sup>

Originating in the House, HB 802 passed through the General Laws Subcommittee and Committee unanimously, save for one vote from Delegate Knight, then continued through the House floor, where it passed with a 58-42 vote.<sup>100</sup> In the Senate, it passed through the General Laws and Technology Committee similarly with full support, save for one abstention from Senator Jennifer Kiggans.<sup>101</sup> Finally, it passed the Senate floor in a 26-14 vote.

Once again, Governor Youngkin vetoed the bill and issued an explanation.<sup>102</sup> Youngkin claimed that the bill was duplicative and unnecessary, since the Virginia Uniform Statewide Building Code (“USBC”) effectively grants localities powers for enforcement.<sup>103</sup> He also noted that HB 802 only created an enforcement mechanism against landlords, not against

---

<sup>96</sup> *HB 802 Virginia Residential Landlord and Tenant Act; Enforcement by Localities*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=hb802> (last visited Oct. 23, 2022).

<sup>97</sup> *Id.*

<sup>98</sup> VA. CODE §§ 55.1-1244.1(B), (C) (2020).

<sup>99</sup> *Id.* at § 55.1-1244.1(C).

<sup>100</sup> *HB 802 Virginia Residential Landlord and Tenant Act; Enforcement by Localities, supra* note 96; *Voting on HB 802, Introduced in 2022*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+H11V0097+HB0802>, (last visited Oct. 23, 2022).

<sup>101</sup> *General Law and Technology Committee Vote on H.D. 802, Introduced in 2022*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+S12V0146+HB0802> (last visited Oct. 23, 2022); *Senate Vote on HB 802, Introduced in 2022 Session*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+SV0655HB0802+HB0802> (last visited Oct. 23, 2022).

<sup>102</sup> *Governor’s Veto of HB 802 Introduced During 2022 Session*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+amd+HB802AG> (last visited Oct. 23, 2022).

<sup>103</sup> *Id.*

landlords *and* tenants, which, according to him, does not reflect the shared responsibility of both parties to maintain safe living conditions.<sup>104</sup>

In response to Youngkin's veto and purported justification, proponents of the bill argue that Youngkin failed to consider that the USBC only applies to structural issues with a building, while the language of this bill also encompassed "a fire hazard or serious threat to the life, health, or safety of tenants."<sup>105</sup> The House of Delegates, however, was not convinced. After being sent back for reconsideration, the chamber failed to amass the two-thirds majority necessary to start the veto override process.<sup>106</sup> The final vote taken on HB 802 was 48-52, resulting in its defeat.<sup>107</sup>

### *B. Indigent Tenants Afforded No Extra Help*

Democratic Delegate Jeffrey Bourne and Senator Jennifer McClellan teamed up to introduce identical bills in their respective chambers.<sup>108</sup> Both of these bills sought to relieve what the legislators saw as a potential cost barrier in unlawful detainer actions, a type of eviction action brought against indigent Virginians.<sup>109</sup> The Code of Virginia defines "indigent" in several ways for different circumstances, but applicable here is the following: "'Indigent' means a person who (i) is eligible for or receiving state-funded or federally-funded public assistance benefits whose eligibility for such benefits is based in whole or part upon an evaluation of their income against federal poverty guidelines."<sup>110</sup>

HB 614 and SB 474 were intended as extensions of unlawful detainer reforms passed by the General Assembly in 2019.<sup>111</sup> Prior to 2019, any person attempting to appeal an eviction for the nonpayment of rent had to pay a bond amounting to up to twelve months of future rent and up to three months of

<sup>104</sup> *Id.*

<sup>105</sup> Ben Paviour, *Youngkin Vetoes Bipartisan Bill Designed to Rein in Slumlords*, VPM NEWS (Apr. 19, 2022), <https://vpm.org/news/articles/31445/youngkin-vetoes-bipartisan-bill-designed-to-rein-in-slumlords>; H.D. 802, 2022 Gen Assemb., Reg. Sess. (Va. 2022).

<sup>106</sup> *HB 802 Virginia Residential Landlord and Tenant Act; Enforcement by Localities*, *supra* note 96.

<sup>107</sup> *House: Vote on 2022 Session: HB 802*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+HV1934+HB0802> (last visited Oct. 23, 2022).

<sup>108</sup> *HB 614 Appeals Bond; Removes Requirement for Indigent Parties to Post, Appeal of Unlawful Detainer*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+HB614> (last visited Oct. 23, 2022); *SB 474 Appeals Bond; Removes Requirement For Indigent Parties To Post, Appeal Of Unlawful Detainer*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+SB474> (last visited Oct. 23, 2022).

<sup>109</sup> H.D. 614, 2022 Gen. Assemb., Reg. Sess., (Va. 2022). S. 474, 2022 Gen. Assemb., Reg. Sess., (Va. 2022).

<sup>110</sup> 22 Va. Admin. Code § 30-70-10 (2021).

<sup>111</sup> Michelle Yearick, *2019 Amend. to the Va. Residential Landlord Tenant Act Benefit Va. Renters*, GEO. MASON ANTONIN SCALIA L. SCH.: MASON VETERANS AND SERVICEMEMBERS LEGAL CLINIC (May 2020), <https://myvets.law.gmu.edu/2020/05/19/2019-amendments-to-the-virginia-residential-landlord-tenant-act-benefit-virginia-renters/>.

future damages.<sup>112</sup> Since 2019, the tenant is only required to pay an appeal bond for the amount of judgment.<sup>113</sup> The aim of HB 614 and SB 474, respectively, was to take this a step further and completely eliminate the bond for indigent tenants.<sup>114</sup>

HB 614 faced minor opposition in the Courts of Justice Subcommittee and Committee, earning a 6-2 and 13-7 vote to report respectively.<sup>115</sup> On the House floor, the bill garnered a significant amount of bipartisan support with a 60-39 vote to send it over for consideration by the Senate.<sup>116</sup> Once crossed over, a 9-6 vote passed it through the Senate Judiciary Committee a 24-15 vote to succeed on the Senate floor.<sup>117</sup>

Companion bill SB 474 received the same vote as HB 614 in the Judiciary Committee and a similar vote of 23-17 on the Senate floor.<sup>118</sup> Though identical to Bourne's bill and considered by the same subcommittee and full committee, the votes changed to 5-3 and 12-8 respectively, still ultimately reporting to the full floor.<sup>119</sup> Heard once again on the House floor, the bill garnered even more support with a vote of 66-34 in favor.<sup>120</sup>

Both bills were communicated to Governor Youngkin, who provided the same recommendations for amendments to each chamber. His recommendation changed the bill to remove the appeal bond waiver for indigent clients and replaced it with the fee being paid in equal monthly installments to the landlord over a period of six months.<sup>121</sup> Some community stakeholders who advocated for the passage of the bill argue that this would be even more harmful to tenants than the existing law, as payments would be made to a party of the suit rather than a neutral third party, the court.<sup>122</sup>

In the end, the Senate rejected the Governor's proposed amendments by a

---

<sup>112</sup> VA. CODE ANN. § 8.01-129 (2018).

<sup>113</sup> *Id.* at § 16.1-107 (2021).

<sup>114</sup> H.D. 614, 2022 Gen. Assemb., Reg. Sess., (Va. 2022). S. 474, 2022 Gen. Assemb., Reg. Sess., (Va. 2022).

<sup>115</sup> *HB 614 Appeals Bond; Removes Requirement For Indigent Parties To Post, Appeal Of Unlawful Detainer*, *supra* note 108.

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> *SB 474 Appeals Bond: Removes Requirement for Indigent Parties to Post, Appeal of Unlawful Detainer*, *supra* note 108.

<sup>119</sup> *Id.*

<sup>120</sup> *Governor's Veto of SB 474 Introduced During 2022 Session*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+HV1360+SB0474> (last visited Oct. 23, 2022).

<sup>121</sup> *Id.*

<sup>122</sup> *Governor's Veto of HB 614 Introduced During 2022 Session*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+amd+HB614AG> (last visited Oct. 23, 2022).

vote of 19-21.<sup>123</sup> The House also rejected the proposed amendments in a 33-67 vote.<sup>124</sup> As a result, Governor Youngkin vetoed both bills citing the rejection of his recommendation as his only reasoning.<sup>125</sup>

## V. TRANSPORTATION

### *A. Study on Transit Equity for Virginians with Disabilities Defeated*

In a joint resolution, nineteen Democratic members of the House and Senate requested that the Department of Transportation study transit equity and modernization in the Commonwealth, with an emphasis on transit services and engagement opportunities for people with disabilities.<sup>126</sup> This resolution would require VDOT to 1) convene relevant stakeholders, 2) consider the entire transit network, including "last-mile" services,<sup>127</sup> 3) develop recommendations to improve transit services and engagement opportunities for people with disabilities, and 4) identify funding sources to implement such recommendations.<sup>128</sup> These findings would then be due to the General Assembly and the Governor by the start of next year's regular session.<sup>129</sup>

According to Delegate Candi Mundon King, the sponsor of HJ 112 and the parent of a child with a disability, one of the biggest challenges to disabled people in the Commonwealth has always been transportation.<sup>130</sup> However, there has yet to be any comprehensive study to understand the scope of the issue and outline a solution.<sup>131</sup> In fact, the Virginia census does not even ask who in a household has access to a vehicle or the ability to drive.<sup>132</sup>

<sup>123</sup> *Senate Vote on Governor Youngkin's Amendments to SB 474 Introduced During 2022 Session*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+SV1217SB0474+SB0474> (last visited Oct. 23, 2022).

<sup>124</sup> *House: Vote on Adoption of HB 614 Introduced During 2022 Session*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+HV1896+HB0614> (last visited Oct. 23, 2022).

<sup>125</sup> *Governor's Veto of SB 614 Introduced During 2022 Session*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+amd+SB474AG> (last visited Oct. 23, 2022).

<sup>126</sup> H.D.J. Res. 112, 2022 Reg. Sess. (Va. 2022).

<sup>127</sup> *See id.* "Last-mile" services refers to the final leg of a journey, between a transportation hub (e.g. a bus stop) and final destination (e.g. home).

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> *Rules Study Subcommittee*, VA. H. DEL.'S (Feb. 7, 2022), <https://viriniageneralassembly.gov/house/chamber/chamberstream.php> (advance video to 9:02:34-9:06:25).

<sup>131</sup> Wyatt Gordon, *Why a Study on Transportation Access for Virginians With Disabilities Died in Committee*, GREATER GREATER WASH. (Mar. 22, 2022) <https://ggwash.org/view/84141/why-a-study-on-transportation-access-for-virginians-with-disabilities-died-in-committee>.

<sup>132</sup> *Id.*



Matthew Shapiro—founder and CEO of 6 Wheels Consulting LLC, a Richmond-based firm that assists institutions in becoming more disability-friendly—points out that the lack of accessible transportation is not a problem that only affects those who currently have disabilities.<sup>133</sup> “Disability is the only minority group that any of us can join in the blink of an eye and the only group that all of us will eventually join as we age into health challenges.”<sup>134</sup> This is especially a problem Virginia must take seriously, as baby boomers continue to age out of driving.<sup>135</sup> By 2030, one in five Virginians will be sixty-five or older.<sup>136</sup> Approximately 18.4 to 31.9% of those Virginians will develop travel-limiting disabilities.<sup>137</sup> This means that Virginia’s aging population will face “real challenges” should they decide to age in Virginia’s car-dependent communities.<sup>138</sup>

Despite recognizing the need for such a study, HJ 112 was laid on the table by the House Rules Committee by a vote of 4-2 on party lines.

*B. Virginia Pumps the Brakes on its Transition Towards Electric Transit*

Sponsored by Democratic Senator Jennifer McClellan, SB 488 would have provided competitive grants to state, regional, and local public entities to support their transition towards zero-emission bus fleets.<sup>139</sup> This grant, called the Transit Transition Fund, would not have gone towards the purchase of electric buses, but rather would have funded support initiatives, such as training programs to help transit workers shift to the new bus models, research initiatives on how to transition towards zero-emission transit most effectively, and financial assistance for the development of charging station infrastructure.<sup>140</sup> Supporters of this bill, including the Virginia Transit Association and the Virginia Conservation Network, believe this bill would have signaled to manufacturers that Virginia is open to hosting an electric vehicle market, and to the public that Virginia is taking its net-zero carbon goals seriously.<sup>141</sup>

The bill passed the Senate with unanimous support. However, the bill

---

<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> *SB 488 Transit Transition Fund and Program; Established, Report*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=SB488&submit=GO> (last visited Oct. 23, 2022).

<sup>140</sup> S. 488, 2022 Gen Assemb., Reg. Sess. (Va. 2022).

<sup>141</sup> *Transportation Subcommittee 1*, VA. H.D VIDEO STREAMING (Mar. 1, 2022), <https://sg001-harmony.sliq.net/00304/Harmony/en/PowerBrowser/PowerBrowserV2/20220301/-/1/14353> (advance video to 8:24:06-8:24:36).

failed to gain enough momentum in the House to make it out of committee.<sup>142</sup> The bill remains sidelined in the House Transportation Committee due to funding issues.<sup>143</sup> In the original iteration of the bill, funding would have come from tax revenues from sports betting.<sup>144</sup> In an amended draft of the bill, funding was left unspecified.<sup>145</sup> Proponents of the bill claim that although the amended version would not provide a source of funding just yet, it would provide a framework for funding so that the program can begin immediately when funding is secured.<sup>146</sup> This forward-thinking perhaps did not carry enough of a sense of urgency for the committee to take action on this initiative.

## VI. VOTING

### *A. Constitutional Amendment for the Right to Vote*

A constitutional amendment that would entitle citizens convicted of a felony to an automatic restoration of voting rights upon release from prison has once again failed.<sup>147</sup> HB 416—introduced by Democratic Delegate Charniele Herring—is one of many identical bills to come through the General Assembly over the course of a decade-long push for voting rights restoration.<sup>148</sup> HB 416 would have changed the language of Article II, Section 1 of the Virginia Constitution to create a fundamental right to vote for all adult citizens, unless a person 1) is presently incarcerated for a felony, or 2) presently “lack[s] the capacity to understand the act of voting.”<sup>149</sup> Currently, Virginia and Kentucky are the only two states in the nation to permanently take away an ex-felon’s right to vote, even after they have completed their sentence.<sup>150</sup> This provision has been regarded by critics as a form of “double

<sup>142</sup> *SB 488 Transit Transition Fund and Program; Established, Report, supra* note 139.

<sup>143</sup> *Id.*

<sup>144</sup> S. 488, 2022 Reg. Sess. (Va. 2022).

<sup>145</sup> *Id.* (proposed by the Senate Committee on Finance and Appropriations on Feb. 1, 2022).

<sup>146</sup> *Transportation Subcommittee I*, VA. H.D. VIDEO STREAMING (Mar. 1, 2022), <https://sg001-harmony.sliq.net/00304/Harmony/en/PowerBrowser/PowerBrowserV2/20220301/-1/14353> (advance video to 8:20:06-8:20:27).

<sup>147</sup> *HB 416 Constitutional Amendment; Qualifications of Voters and the Right to Vote (Voter Referendum)*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=Hb416&submit=GO> (Last visited Oct. 23, 2022).

<sup>148</sup> *E.g.* H.D. 130, 2022 Gen. Assemb., Reg. Sess. (Va. 2022); H.D. 795, 2022 Gen. Assemb., Reg. Sess. (Va. 2022); S.B. 21, 2022 Gen. Assemb., Reg. Sess. (Va. 2022); S.J. 1, 2022 Gen. Assemb., Reg. Sess. (Va. 2022); H.J. 9, 2022 Gen. Assemb., Reg. Sess. (Va. 2022); H.J. 28, 2022 Gen. Assemb., Reg. Sess. (Va. 2022); H.J. 72, 2022 Gen. Assemb., Reg. Sess. (Va. 2022).

<sup>149</sup> H.D. 416, 2022 Gen. Assemb., Reg. Sess. (Va. 2022).

<sup>150</sup> *Felony Disenfranchisement Laws (Map)*, ACLU VA., <https://www.aclu.org/issues/voting-rights/voter-restoration/felony-disenfranchisement-laws-map> (last visited Oct. 23, 2022).

jeopardy” that continues to punish people for crimes for which they have already paid their debt.<sup>151</sup> It also is argued to be a relic of the Jim Crow era, as Virginia’s felon disenfranchisement provision was added to the 1902 constitution for the express purpose of keeping black people from the ballot box, and it continues to deprive over 250,000 majority black and brown ex-felons from voting to this day.<sup>152</sup> This provision remains intact, despite evidence that over 65% of Virginian’s support restoring the rights of ex-felons, and evidence that formerly incarcerated people who regain the ability to vote have shown a much lower rate of recidivism.<sup>153</sup>

In the 2021 session, the amendment passed the General Assembly with a bipartisan majority, giving a beacon of hope to this movement.<sup>154</sup> However, for a constitutional amendment to be approved in Virginia, the General Assembly must pass the amendment twice, in two consecutive sessions, before the amendment can appear on the ballot and be decided through a statewide referendum.<sup>155</sup> On March 1, 2022, a House Privileges and Elections subcommittee voted down the constitutional amendment, putting this amendment back at square one.<sup>156</sup>

Without a constitutional amendment, the only way people with a felony conviction can gain access to Virginia’s ballot box is through a governor restoring their rights.<sup>157</sup> Though both Democratic and Republican governors have made great strides to restore voting rights to disenfranchised citizens in recent years, this process is cumbersome and inconsistent, could be eliminated by future governors, and tends to give preference to restoring the rights of white citizens.<sup>158</sup>

<sup>151</sup> *Right to Vote Amendment*, ACLU VA., <https://www.acluva.org/en/righttovoteamendment> (last visited Oct. 23, 2022).

<sup>152</sup> Matt Ford, *The Racist Roots of Virginia’s Felon Disenfranchisement*, THE ATLANTIC (Apr. 27, 2016), <https://www.theatlantic.com/politics/archive/2016/04/virginia-felon-disenfranchisement/480072/>.  
ACLU of Virginia, *Let People Vote: It Could be Your Neighbors*, YOUTUBE (Jan. 11, 2022), <https://www.youtube.com/watch?v=irRt0ehgvS4&t=1s>.

<sup>153</sup> *Right to Vote Amendment*, *supra* note 151.

<sup>154</sup> H.J.R. 555, 2021 Gen Assemb., Reg. Sess. (Va. 2021), S.J. 272, 2021 Gen Assemb., Spec. Sess. I (Va. 2021) (passed after receiving a simple majority vote in each chamber in two sessions).

<sup>155</sup> Graham Moomaw, *Virginia Democrats Push to end Constitutional Rule Stripping Felons of Voting Rights*, VA. MERCURY (Jan. 11, 2021), <https://www.virginiamercury.com/2021/01/11/virginia-democrats-push-to-end-constitutional-rule-stripping-felons-of-voting-rights>.

<sup>156</sup> *Virginia Felon Voting Rights Restoration Amendment (2022)*, BALLOTEDIA, [https://ballotpedia.org/Virginia\\_Felon\\_Voting\\_Rights\\_Restoration\\_Amendment\\_\(2022\)](https://ballotpedia.org/Virginia_Felon_Voting_Rights_Restoration_Amendment_(2022)) (last visited Oct. 23, 2022).

<sup>157</sup> *Right To Vote Amendment*, *supra* note 151.

<sup>158</sup> *Id.*

*B. Permissive Ranked Choice Voting Isn't Virginia's First Choice*

HB 129, sponsored by Republican Delegate Glenn Davis,<sup>159</sup> and HB 603, sponsored by Democratic Delegate Sally Hudson,<sup>160</sup> would have permitted ranked choice voting (“RCV”) in party primaries and all local general elections, respectively. RCV is a voting system that allows voters to rank candidates in order of preference, and then uses a round-by-round count of ballots to eliminate the candidates with the least support, until a majority is reached.<sup>161</sup> If a majority is reached after the first choice round, a second choice round is not conducted. This strategy ensures that the candidate with majority support wins, encourages political civility, and minimizes wasted votes.<sup>162</sup> Both RCV bills were tabled in the Privileges and Elections Committee, effectively killing them.

Ranked choice voting is already available in city council and county board elections, resulting from two bipartisan RCV bills passed in 2020.<sup>163</sup> HB 603 would have extended the RCV option to all local elections, including elections for local school boards and constitutional offices, which were left out of the 2020 bills.<sup>164</sup> Skeptics worry that RCV is too complicated and cumbersome, and have doubts that the transition to this new system would be smooth, especially after the deep mistrust the 2020 “stop the steal” fiasco engendered in the electorate.<sup>165</sup> As a likely result of this skepticism, no city or county in Virginia has been brave enough to be the first to implement this

<sup>159</sup> *HB 129 Elections; primaries for local offices, ranked choice voting, conduct of election.*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=Hb129&submit=GO> (last visited Oct. 23, 2022).

<sup>160</sup> *HB 603 Local or Constitutional Office; Elections Allowed to be Conducted by Ranked Choice Voting.*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=Hb603&submit=GO> (last visited Oct. 23, 2022).

<sup>161</sup> Deb Otis, *Best Practices For Releasing RCV Elections Results*, FAIRVOTE (Aug. 10, 2022), [https://fairvote.org/report/best\\_practices\\_for\\_releasing\\_rcv\\_election\\_results/](https://fairvote.org/report/best_practices_for_releasing_rcv_election_results/) (The best way to explain this voting system is by a hypothetical. Take, for example, a scenario where 40% of the electorate voted for Candidate A, 35% voted for Candidate B, and 25% voted for Candidate C. In a traditional plurality race, Candidate A would win since they had the most votes, even though the majority of voters didn’t pick them. #But in a RCV race, the candidate with the least votes would instead be eliminated (here, Candidate C), and those who ranked that losing candidate first would have their votes redistributed to their next choice. Therefore, if all of the 25% of people who ranked Candidate C first put Candidate B as their second choice, Candidate B would be the winner, with 60% of the vote).

<sup>162</sup> *Id.*

<sup>163</sup> Graham Moomaw, *OneVirginia2021 Relaunches as UpVote Virginia with New Focus on Ranked-Choice Voting*, VA. MERCURY (Aug. 16), <https://www.virginiamercury.com/2022/08/16/onevirginia2021-relaunches-as-upvote-virginia-with-new-focus-on-ranked-choice-voting/>.

<sup>164</sup> H.D. 603, 2022 Gen. Assemb., Reg. Sess. (Va. 2022).

<sup>165</sup> Moomaw, *supra* note 163; Ben Paviour, *Virginia Tests the Water on Ranked-Choice Voting*, VPM NEWS (Apr. 15, 2021), <https://vpm.org/news/articles/21695/virginia-tests-the-water-on-ranked-choice-voting>.

new system since it was put on the books in 2020.<sup>166</sup>

However, there has been some momentum in Virginia, implying that a shift towards RCV may not be far off. For example, RCV has been successfully implemented in several party nominating conventions—in fact, the Virginia GOP’s use of RCV during the 2021 Republican convention resulted in the election of Governor Youngkin.<sup>167</sup> Arlington County has also expressed interest in making the switch to RCV in its general elections in the near future.<sup>168</sup>

## VII. TAXATION

### *A. Hold Onto Your Coupons, the Grocery Tax Isn’t Going Anywhere*

Youngkin’s campaign promise to kick the grocery tax will have to wait. As it was originally proposed, HB 90 would have eliminated Virginia’s state, regional, and local sales tax on groceries starting on July 1 of this year.<sup>169</sup> However, after the bill was repeatedly amended and passed back and forth between the two houses, the General Assembly finally agreed on a continuance of a stripped-down version of the bill.<sup>170</sup> Under this legislative compromise, HB 90 will no longer eliminate the 2.5% grocery tax entirely, but will instead trim this tax down to a more manageable 1%.<sup>171</sup> Additionally, this 1.5% tax break will be delayed by six months, becoming effective January 1, 2023, instead of July 1, 2022.<sup>172</sup> In its current form, this bill will still give Virginians a 1.5% tax reduction in the new year on not only food, but also “essential personal hygiene products,” such as tampons and diapers.<sup>173</sup> This would amount to \$1.50 saved for every \$100 spent, or about \$200 in annual savings for an average family of four.<sup>174</sup> These curtailments

---

<sup>166</sup> Moomaw, *supra* note 163.

<sup>167</sup> *Id.*

<sup>168</sup> David Kaplan, *Arlington County to Consider Ranked Choice Voting Method for 2023 Election*, FOX 5 DC (Sept. 23, 2022), <https://www.fox5dc.com/news/arlington-county-to-consider-ranked-choice-voting-method-for-2023-election>.

<sup>169</sup> H.D. 90, 2022 Gen. Assemb., Reg. Sess. (Va. 2022).

<sup>170</sup> See *HB 90 Sales Tax; Exemption for Food Purchased for Human Consumption & Essential Personal Hygiene Products*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+HB90> (last visited Oct. 23, 2022) (listing the steps in legislative history of this bill).

<sup>171</sup> H.D. 90, 2022 Gen. Assemb., Reg. Sess. (Va. 2022).

<sup>172</sup> *Id.*

<sup>173</sup> *Id.*

<sup>174</sup> See Jackie DeFusco, *Virginia Cuts Grocery Tax for 2023: ‘Better Late Than Never,’ Shopper Says*, WRIC NEWS (June 20, 2022), <https://www.wric.com/news/virginia-news/virginia-cuts-grocery-tax-but-not-until-next-year-better-later-than-never/> (stating that the delays in tax cuts come as inflation is straining Virginians’ budgets).

on HB 90 are allegedly a result of inflation, which ironically was the same grievance that led to the bill's creation.<sup>175</sup>

Of the 1.5% tax revenue that will be eliminated on January 1, 1% presently goes to the state to support K-12 education, and the other 0.5% funds transportation.<sup>176</sup> After HB 90 goes into effect, the 1% funding for public schools will be replaced through the state budget.<sup>177</sup> However, there is currently no plan in place to make up for the 0.5% loss in funding for transportation.<sup>178</sup> This was a deal breaker for Democratic Delegate Danica Roem, the only legislator who voted against the compromise.<sup>179</sup> “This is far too important an issue for us to just let it go because it’s such a politically popular vote to take,” said Delegate Roem during a floor debate. “We need to put ourselves on record of making sure, when we take a hit on something as significant to our constituent’s safety as transportation, that we come back and we do it right.”<sup>180</sup>

### *B. 'Tis Not the Season For Youngkin's Gas Tax Holiday*

During this year’s first Special Session, the General Assembly considered, and ultimately laid to rest, a three-month gas tax holiday to help alleviate the “pain at the pump” Virginians experienced this past spring and summer.<sup>181</sup> This bill, HB 6001, was introduced in April 2022 by Republican Delegate Tara Durant at the request of Governor Youngkin, and ultimately was left in the Appropriations Committee.<sup>182</sup>

HB 6001 would have suspended Virginia’s \$0.26/gallon tax for gasoline and \$0.27/gallon tax for diesel from May to July, phasing it back slowly over the course of August and September.<sup>183</sup> This would have amounted to savings of about \$15 a month, or \$45 total, for the average driver. This tax break also

<sup>175</sup> *Id.*

<sup>176</sup> Dean Mirshahi, *Repealing Virginia's Grocery Tax – a Look at the Proposals and Revenue Loss*, WRIC NEWS (Mar. 23, 2022), <https://www.wric.com/news/politics/capitol-connection/repealing-virginias-grocery-tax-a-look-at-the-proposals-and-whats-at-stake/#:~:text=Virginia%20is%20one%20of%2013,to%20the%20commonwealth's%20transportation%20fund.>

<sup>177</sup> DeFusco, *supra* note 174.

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> *Id.*

<sup>181</sup> *Committee on Finance Hearing*, VA. GEN. ASSEMB. (Apr. 19, 2022), <https://viriniageneralassembly.gov/house/chamber/chamberstream.php> (last visited Oct. 13, 2022) (advance video to 01:10:13); *HB 6001 Motor Fuel Tax; Limits Rate of Taxation.*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?222+sum+HB6001> (last visited Oct. 23, 2022).

<sup>182</sup> *HB 6001 Motor Fuel Tax; Limits Rate of Taxation.*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?222+sum+HB6001> (last visited Oct. 23, 2022).

<sup>183</sup> *Committee on Finance Hearing, Tuesday, April 19, 2022*, VA. GEN. ASSEMB., <https://viriniageneralassembly.gov/house/chamber/chamberstream.php> (last visited Oct. 23, 2022) (advance video to 01:10:13).

would have resulted in an over \$400 million loss in transportation funding, which proponents claim would be paid back eventually using the state's \$1.129 billion surplus, though this payback plan was not made entirely clear.<sup>184</sup>

Democrats worried that this tax would not actually help Virginia consumers as intended, as a large portion of this relief would go to the millions of out-of-staters traveling through Virginia during peak travel season.<sup>185</sup> In response, Delegate Joseph McNamara argued that when the out-of-staters flood Virginia's gas stations to fill up on our tax-free gas, they will also "go buy a hotdog from the Virginia hot dog man...and buy a stuffed animal from the convenience store."<sup>186</sup> Therefore, Virginia's small business owners will benefit in the process. In contrast, Delegate Candi Mundon King raised concerns about how this bill would impact her constituents' transportation needs in the long term: "How does this help those in Stafford County who are driving over potholes and...[waiting] in 23 traffic jams per day? How does this help... those of us who are not just looking at the next three months, but the future of transportation in our area?"<sup>187</sup>

Other opponents echoed this worry that a gas tax is not the most effective way to get this much-needed relief to consumers. During public testimony (which Finance Committee Chair Roxann Robinson had to cap at twenty minutes due to the overwhelming interest in this bill), one member of the public stated:

When we weigh the limited benefits of less than 50 cents a day for the average driver, and that's assuming 100% of the saving are passed along to the customer,...something even the governor has admitted we cannot guarantee, [against the \$400+ million loss in funding for all modes of transportation], this long term cost... clearly outweighs the benefits.<sup>188</sup>

However, speaking in favor of the bill, another member of the public reminded the delegates that any relief is better than no relief, and advised: "Don't let the perfect be the enemy of the good."<sup>189</sup>

---

<sup>184</sup> COMMONWEALTH OF VA. DEP'T OF PLAN & BUDGET, 2022 FISCAL IMPACT STATEMENT H.B. 6001, SPECIAL SESS. I, at 1 (2022), <https://lis.virginia.gov/cgi-bin/legp604.exe?222+oth+HB6001F122+PDF>.

<sup>185</sup> *Committee on Finance Hearing, Tuesday, April 19, 2022*, VA. GEN. ASSEMB., <https://viriniageneralassembly.gov/house/chamber/chamberstream.php> (last visited Oct. 23, 2022) (advance video to 01:26:04).

<sup>186</sup> *Id.* (advance video to 01:30:37).

<sup>187</sup> *Id.* (advance video to 01:35:20).

<sup>188</sup> *Id.* (advance video to 01:42:03).

<sup>189</sup> *Id.* (advance video to 01:58:58).

## VIII. HEALTHCARE

*A. Abortion Still Legal after 20 Weeks*

SB 710, or the Pain-Capable Unborn Child Protection Act, would have banned abortion after twenty weeks of gestation, except upon risk of death or serious physical harm to the mother.<sup>190</sup> This would narrow women's time frame to receive a legal abortion by six weeks, as Virginia law currently allows women to receive an abortion up until twenty-six weeks. Governor Youngkin pushed for an even tighter timeframe of fifteen weeks, but opted for a more "moderate" approach to attract more consensus in the Capitol.<sup>191</sup> However, this plan too failed, as the bill was swiftly defeated in the Senate Education and Health Committee 6-9, predictably along party lines.<sup>192</sup>

The twenty-week ban has been one of the most prevalent abortion ban models among pro-life Republicans—it has been passed in over seventeen states, and is currently being considered by Congress.<sup>193</sup> Proponents of the bill set the cut-off at twenty weeks because they believe this is the point at which fetuses can feel pain, and are therefore viable, though this theory is hotly contested.<sup>194</sup>

Nearly 99% of abortions occur before twenty-one weeks.<sup>195</sup> This means that pro-life legislators' twenty-week ban is doing little to prevent most elective abortions. However, the ban does shut the door on the remaining 1% of women who often had the full intention of bringing their child to term, but are no longer able to do so due to severe fetal abnormalities that were only made apparent after twenty weeks, or because they have become aware of their own serious and debilitating medical conditions that do not quite rise to the level of life threatening.<sup>196</sup>

---

<sup>190</sup> *SB 710 Pain-Capable Unborn Child Protection Act; Created, Penalty*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=SB710&submit=GO> (last visited Oct. 23, 2022).

<sup>191</sup> Laura Vozzella & Jenna Portnoy, *What Happens to Abortion Rights in Virginia, Post-Roe?*, WASH. POST (May 6, 2022), <https://www.washingtonpost.com/dc-md-va/2022/05/06/virginia-abortion-laws-legal-youngkin/>.

<sup>192</sup> *SB 710 Pain-Capable Unborn Child Protection Act; Created, Penalty*, *supra* note 190.

<sup>193</sup> *Abortion Bans: The Facts*, NAT'L ORG. FOR WOMEN 1, <https://now.org/wp-content/uploads/2017/10/20-week-abortion-bans-3.pdf> (last visited Oct. 23, 2022).

<sup>194</sup> *Id.*

<sup>195</sup> *Bans on Abortion at 20 Weeks*, PLANNED PARENTHOOD, <https://www.plannedparenthoodaction.org/issues/abortion/federal-and-state-bans-and-restrictions-abortion/20-week-bans> (last visited Oct. 23, 2022).

<sup>196</sup> S. 710, 2022 Gen. Assemb., Reg. Sess. (Va. 2022); *Bans on Abortion at 20 Weeks*, PLANNED PARENTHOOD, <https://www.plannedparenthoodaction.org/issues/abortion/federal-and-state-bans-and-restrictions-abortion/20-week-bans>.



*B. Virginians are Still Haunted by Medical Debts from Their Pasts*

After clearing the House and Senate with little opposition, freshman Delegate Nadarius Clark's bill to reduce the statute of limitations for medical debts by two years was vetoed by Governor Youngkin.<sup>197</sup> This bill, HB 573, would have limited the time frame in which medical providers can collect debts from their patients from five years to three years. This bill would help people struggling to make ends meet to no longer live in fear of being hit with medical bills from their distant past.<sup>198</sup> Jay Speer at the Virginia Poverty Law Center says these so-called "ghost bills" are "a huge problem" for Virginians, and are "all over people's credit reports."<sup>199</sup> Delegate Clark said that when a person has ghost bills that come back to haunt them several years later through legal judgements and wage garnishments, "it was completely out of their mind and out of their thoughts, and now they are struck with a burden."<sup>200</sup>

In Governor Youngkin's explanation for his veto of HB 573, he wrote: "Medical debt significantly impacts many individuals in our Commonwealth, and I am committed to reducing this burden on Virginians. Unfortunately, this legislation would create unintended consequences and have significant implications on financial regulations in the Commonwealth by inadvertently capturing other forms of debt other than medical debt."<sup>201</sup> The unintended consequences Governor Youngkin was referring to remain unclear. As Senator Scott Surovell explained to his fellow senators during committee, "there's [been] a bunch of smart people looking at this to ensure we don't have any unintended consequences...[and] we've got it about as tight as we can get it."<sup>202</sup> This seal of approval was apparently enough to gain the confidence of all fifteen members of the Judiciary Committee, who moved to report the bill in unison.<sup>203</sup> However, these grueling rounds of edits were not enough for the Governor.

---

<sup>197</sup> *HB 573 Statute of Limitations; Collection of Medical Debt*, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+sum+HB573> (last visited Oct. 23, 2022).

<sup>198</sup> Michael Pope, *Medical Debt Bill Likely Headed to Governor Youngkin's Desk*, WVTF PUB. RADIO, (Mar. 2, 2022) <https://www.wvtf.org/news/2022-03-02/medical-debt-bill-likely-headed-to-governor-youngkins-desk>.

<sup>199</sup> *Id.*

<sup>200</sup> *Id.*

<sup>201</sup> Governor's Veto of HB 573, Introduced in 2022 Session, VA.'S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+amd+HB573AG> (last visited Oct. 23, 2022).

<sup>202</sup> VA Senate Live Session Video Stream: Senate Judiciary Committee, VA. GEN. ASSEMB. (Feb. 28, 2022), [https://virginia-senate.granicus.com/ViewPublisher.php?view\\_id=3](https://virginia-senate.granicus.com/ViewPublisher.php?view_id=3) (advance video to 2:18:24 in livestream).

<sup>203</sup> *Id.*

## IX. FIREARMS

*A. Safe Storage Not Necessary*

HB 590, sponsored by Democratic Delegate Schuyler VanValkenburg, would have made it a Class 1 misdemeanor for gun owners to carelessly store firearms in a home where a minor is present.<sup>204</sup> Virginia law presently prohibits anyone from recklessly leaving a loaded, unsecured firearm in such a manner as to endanger the life or limb of any child under the age of fourteen.<sup>205</sup> However, this “reckless handling” statute only deals with how the firearm is handled while in use, not with how it is stored after use.<sup>206</sup> Delegate VanValkenburg’s “safe storage bill” would have filled this gap by requiring gun owners to store unloaded firearms and ammunition in separate locked compartments, and to ensure that the key or combination to these locked compartments is made inaccessible to minors.<sup>207</sup> Exceptions were made for firearms on the owner’s person or under their “immediate control” (i.e., within two feet and within eyesight), as well as for antique firearms.<sup>208</sup>

The bill was intended to reduce the incidence of firearm suicide by minors and accidental shootings in the home. It also purported to reduce the number of school shootings, as evidence has shown that the majority of school shootings have been committed with firearms obtained from the shooter’s home.<sup>209</sup> Inevitably, this bill stirred up partisan contention, with gun-rights proponents labeling the bill a “ban of home-defense for anyone with a minor in the home” and an “end to youth hunting.”<sup>210</sup> As a result of this disagreement, HB 590 was defeated in the House Public Safety Subcommittee #1 on a party line vote, 6 (R)-4 (D).<sup>211</sup>

*B. Virginia Still Says “Don’t Bring Your Gun to Preschool”*

Republican bills are not exempt from failure, as Republican Delegate Mike Cherry’s bid to remove preschools and daycares from the list of institutions at which firearm possession is prohibited has also been left in the 2022

<sup>204</sup> H.D. 590, 2022 Gen. Assemb. (Va. 2022) (left in Public Safety on Feb. 15, 2022).

<sup>205</sup> VA. CODE ANN. § 18.2-56.2 (2020).

<sup>206</sup> See *id.* at §§ 18.2-56.1 & 18.2-56.2.

<sup>207</sup> H.D. 590, *supra* note 204.

<sup>208</sup> *Id.*

<sup>209</sup> *Public Mass Shooting: Database Amasses Details of a Half Century of U.S. Mass Shootings with Firearms, Generating Psychosocial Histories*, NAT’L INST. OF JUST. (Feb. 3, 2022), <https://nij.ojp.gov/topics/articles/public-mass-shootings-database-amasses-details-half-century-us-mass-shootings>.

<sup>210</sup> *Virginia: Extreme Bill Will Ban Home Defense & End Youth Hunting*, NAT’L RIFLE ASS’N INST. FOR LEGIS. ACTION. (Jan. 19, 2022), <https://www.nraila.org/articles/20220119/virginia-extreme-bill-will-ban-home-defense-end-youth-hunting>.

<sup>211</sup> See H.D. 590, 2022 Gen. Assemb., Reg. Sess. (Va. 2022).

legislative graveyard. Delegate Cherry's bill, HB 133, would have permitted the possession of firearms, stun guns, and other weapons at child daycare centers and religious preschools. Virginia law currently makes it a Class 6 felony to possess a weapon on "school property," which the statute presently defines to include child daycare centers, religious preschools, and other private, public, and religious institutions.<sup>212</sup> However, Republican delegates hoped to remove daycares and religious preschools from this list in an effort to chip away at the existence of "Gun Free Zones."

Some legislators believe that establishments where civilian-owned firearms are not allowed (i.e. "Gun Free Zones") are the most frequently targeted locations for mass shootings, because "the only thing that stops a bad guy with a gun is a good guy with a gun."<sup>213</sup> However, several studies have poked holes in this theory.<sup>214</sup> For example, one team of researchers found that allowing more people to carry concealed weapons had "no effect" on the frequency of such incidents.<sup>215</sup> Another research team found that more guns means more violent crimes, including mass shootings.<sup>216</sup> An FBI report also found that of 160 active shootings between 2000 to 2013, only once has an armed civilian stopped a rampage.<sup>217</sup> What exactly the delegates were thinking when they decided on this bill is unknown, as this bill was left in the House Rules Committee without any further discussion.

## X. VIRGINIA CULTURE AND HISTORY

### A. "Green Book" Historic Site Not for Virginia

The *Green Book*, published beginning in 1936 and all throughout the several following decades of segregation, was a compilation of businesses that would accept African American customers.<sup>218</sup> Its namesake comes from

<sup>212</sup> VA. CODE ANN. § 18.2-308.1(b) (2020).

<sup>213</sup> Kerry Shaw, *What is a 'Gun-Free Zone,' and What's Behind the Movement to get Rid of Them?*, THE TRACE (Mar. 16, 2017), <https://www.thetrace.org/2017/03/gun-free-zone-facts/>; *Remarks from the NRA Press Conference on Sandy Hook School Shooting, Delivered on Dec. 21, 2012 (Transcript)*, WASH. POST (last visited Oct. 2, 2022), [https://www.washingtonpost.com/politics/remarks-from-the-nra-press-conference-on-sandy-hook-school-shooting-delivered-on-dec-21-2012-transcript/2012/12/21/bd1841fe-4b88-11e2-a6a6-aabac85e8036\\_story.html?utm\\_term=.e9428fb38742](https://www.washingtonpost.com/politics/remarks-from-the-nra-press-conference-on-sandy-hook-school-shooting-delivered-on-dec-21-2012-transcript/2012/12/21/bd1841fe-4b88-11e2-a6a6-aabac85e8036_story.html?utm_term=.e9428fb38742).

<sup>214</sup> See Shaw, *supra* note 213.

<sup>215</sup> *Id.*

<sup>216</sup> Clifton B. Parker, *Right-to-Carry Laws Linked to Increase in Violent Crime, Stanford Research Shows*, STAN. NEWS (Nov. 14, 2014), <https://news.stanford.edu/2014/11/14/donohue-guns-study-111414/>. See Shaw, *supra* note 213.

<sup>217</sup> Shaw, *supra* note 213.

<sup>218</sup> Jeff Wallenfeldt, *The Green Book*, BRITANNICA, <https://www.britannica.com/topic/The-Green-Book-travel-guide> (last visited Oct. 23, 2022).

author Victor Green, a Black postman from New York City.<sup>219</sup> Green was first inspired to create the compilation after making the trip from New York to Richmond, Virginia, the home of his wife, where they learned precisely how difficult it was to travel while being Black during segregation.<sup>220</sup> After much success with the publication, Green began to solicit information from readers.<sup>221</sup> Eventually the book detailed safe, quality “motels, tourist homes, and restaurants, . . . taverns, nightclubs, tailors, barbershops, beauty salons, drug stores, liquor stores, gas stations, and garages” for Black customers.<sup>222</sup>

Many of the locations listed can be found all over the Commonwealth of Virginia.<sup>223</sup> Delegate Jeion Ward was even able to recall a memory from her youth of a hotel listed in the guide near her home in Hampton, Virginia.<sup>224</sup> This hotel does not exist anywhere else beside old copies of the Green Book; Delegate Ward took the liberty of bringing a copy of the 1940 edition onto the House Floor to prove the existence of the hotel from her childhood.<sup>225</sup>

This conversation between colleagues in their downtime inspired Delegate Mike Mullin to introduce HB 508, a bill to “direct the Department of Historic Resources to develop a program to identify, publicize, and educate the public about sites in the Commonwealth featured in the *Green Book*.”<sup>226</sup> Delegate Mullin stressed the importance of historical markers to prevent any further losses of history, like the one illustrated by Delegate Ward.<sup>227</sup> The Library of Virginia does not possess any copies, so the Department of Historic Resources would have to start by locating and compiling each edition outside of the copy presented by Delegate Ward.<sup>228</sup>

This bill initially faced no resistance, passing with unanimous bipartisan support in the Agriculture, Chesapeake, and Natural Resources Subcommittee and full committee.<sup>229</sup> From there, HB 508 was referred to the Commerce, Agriculture, and Natural Resources Subcommittee of

---

<sup>219</sup> *Id.*

<sup>220</sup> *Id.*

<sup>221</sup> *Id.*

<sup>222</sup> *Id.*

<sup>223</sup> See Michael Pope, *The Effort to Identify and Memorialize Virginia Green Book Locations*, WVTF PUB. RADIO (Feb. 2, 2022), <https://www.wvtf.org/news/2022-02-02/the-effort-to-identify-and-memorialize-virginia-green-book-locations>.

<sup>224</sup> *Id.*

<sup>225</sup> *Id.*

<sup>226</sup> HB 508 “Green Book”; historic site designation., VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=hb508> (last visited Oct. 23, 2022).

<sup>227</sup> Pope, *supra* note 223.

<sup>228</sup> *Id.*

<sup>229</sup> *Voting History for HB 508 Introduced in 2022*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=221&typ=bil&val=hb508> (last visited Oct. 23, 2022).

Appropriations, where an unexpected vote was taken to table it.<sup>230</sup> This vote is unusual because it received bipartisan support from sixteen of the twenty-two voting members, and four bipartisan abstentions from the vote—two Democrats and two Republicans.<sup>231</sup> Only two members, Delegates Luke Torian and David Reid, voted against tabling the bill.<sup>232</sup> This is far cry from the outcome reached in the previous committee consideration.

Due to an effort to expand public participation while maintaining public safety in the era of COVID-19, the General Assembly began recording and publishing all meetings whenever possible. Fortunately, the recording for this committee meeting explains why the opinion on the bill changed so drastically. Chair of Appropriations, Delegate Barry Knight, said that the Department of Historic Resources will instead be directed to publish “all of the information online and see how that goes” to determine if the bill should be brought back in 2023.<sup>233</sup> It should be noted that bills can be continued until the following year so that they are automatically reconsidered, but this bill was laid on the table instead. A budget amendment was introduced in the 2022 Special Session to follow through on Delegate Knight’s assurance, but it was not included in the final budget package.

### *B. Sex Trafficking Victims Not a Priority*

Democratic Delegate Emily Brewer proposed a constitutional amendment, HJ 29, providing “an exemption for property seized and forfeited to the Commonwealth for a violation of commercial sex trafficking and commercial sexual conduct crimes from the requirement that all property accruing to the Commonwealth by forfeiture shall be deposited into the Literary Fund.”<sup>234</sup> Essentially, when property is seized by police during an arrest for this type of crime, the value or profit from that seized property will be given to the Literary Fund. Further, the proceeds from the property will be distributed to provide support and services to victims of sex trafficking.<sup>235</sup> A parallel bill was introduced by Republican Senator Jill Vogel, SJ 32. Neither succeeded.<sup>236</sup>

<sup>230</sup> *HB 508 “Green Book”; historic site designation.*, *supra* note 226.

<sup>231</sup> *Voting History of HB 508 Introduced in 2022 (Appropriations)*, VA.’S LEGIS. INFO. SYS., <https://lis.virginia.gov/cgi-bin/legp604.exe?221+vot+H02V0128+HB0508> (last visited Oct. 23, 2022); *House of Delegates Committees Appropriations 2022*, VA. GEN. ASSEMB. (Sept. 7, 2022), <https://viriniageneralassembly.gov/house/members/members.php?committee=H02>.

<sup>232</sup> *Voting History of HB 508 Introduced in 2022 (Appropriations)*, *supra* note 231.

<sup>233</sup> *Appropriations*, VA. H.D. VIDEO STREAMING (Feb. 11, 2022), <https://viriniageneralassembly.gov/house/chamber/chamberstream.php> (advance to 6:53:47)

<sup>234</sup> H.J.R. 29, 2022 Gen. Assemb. Reg. Sess. (Va. 2022).

<sup>235</sup> H.D. 29, 2022 Gen. Assemb. Reg. Sess. (Va. 2022).

<sup>236</sup> *See* H.J.R. 29, 2022 Gen. Assemb., Reg. Sess. (Va 2022). *See* S.J. 32, 2022 Gen. Assemb., Reg. Sess. (Va. 2022).

HJ 29 was never brought forward for consideration in the House Privileges and Elections committee, chaired by Republican Delegate Margaret Ransone.<sup>237</sup> The bill was first referred to the committee on January 11 and it was deemed “left” more than a month later, on February 15.<sup>238</sup> The Senate companion bill was better received, as it was at least considered. On January 25, the Senate Privileges and Elections Committee unanimously voted for the bill to be continued to 2023, including a vote from Senator Vogel herself, the author of the bill.<sup>239</sup> No video recording of the committee exists to provide an explanation for this decision, so it is difficult to know why the bill ultimately failed.

### CONCLUSION

The 2022 General Assembly wrapped up its sixty-day session in March with little to show for its time but a towering heap of unfinished business. With no set budget in place, dozens of bills were kicked down the road for a special session. This budget impasse reflects the new political reality in Virginia’s divided Capitol, where Republicans regained the House and Executive Mansion after two years of living in the shadows, and Democrats struggle to settle into their new position as the political minority.

In an attempt to cling to their last vestige of control, the Democrat-controlled Senate vowed to be a “brick wall”<sup>240</sup> against Republican efforts. And they largely lived up to this promise, rolling back bills to expand gun rights, ban sexually explicit schoolbooks, and grant tax reliefs, to name a few.

Likewise, the Republican-led House attempted to unwind some of the work that Democrats accomplished in their trifecta heyday, and to stop the Senate from pulling the state further to the left—for example, through shutting down Democrats’ constitutional amendment that would have allowed ex-felons to vote. Governor Youngkin also pitched in to this smackdown effort, by vetoing thirty-two Democrat-sponsored bills, including Delegate Clark’s medical debt bill, and Delegate Bourne and Senator McClellan’s sister bills to protect indigent tenants.<sup>241</sup>

As a result of this stalemate, this year’s session was in many ways best

---

<sup>237</sup> See H.J.R. 29, 2022 Gen. Assemb., Reg. Sess. (Va 2022).

<sup>238</sup> *Id.*

<sup>239</sup> S.J. 32, 2022 Gen. Assemb., Reg. Sess. (Va. 2022).

<sup>240</sup> Gregory S. Schneider and Laura Vozzella, *Virginia General Assembly Adjourns with Job Unfinished*, WASH. POST (Mar. 12, 2022), <https://www.washingtonpost.com/dc-md-va/2022/03/12/virginia-general-assembly-adjourns-with-job-unfinished/>.

<sup>241</sup> *HB 614 Appeals Bond; Removes Requirement for Indigent Parties to Post, Appeal of Unlawful Detainer*, *supra* note 108; *HB 573 Statute of Limitations; Collection of Medical Debt*, *supra* note 197.

defined by what did not happen, rather than what did. While many bills were laid to rest in the legislative graveyard that is the 2022 General Assembly, it is possible that some of these bills will rise up from the grave in 2023.