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Recent Legislation

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RECENT LEGISLATION

*J. Rodney Johnson**

The 1972 session of the General Assembly was especially active in the areas of wills, trusts, and estates. Much of this legislation deals with fine points not affecting the average lawyer in his practice. However, the following items of legislation should be of general interest to the attorney whose practice involves probate work or estate planning, even though he does not hold himself out as a specialist in these areas.

THE DISCLAIMER ACT

First, one should note a very valuable post-mortem estate planning tool now available—the Disclaimer Act, which will appear as Sections 64.1-188 through 64.1-196 of the Code. Though this act is technical, mastery of it will not require an inordinate amount of time, and potential benefits can accrue in the form of substantial gift tax savings. Although the federal estate and gift taxes are excise taxes imposed on the transfer of property, one can now, in certain cases, make what for all practical purposes is a transfer of property but which will not be construed as a “transfer” for federal estate or gift tax purposes. The key language, found in Internal Revenue Regulation 25.2511-1(c), provides:

[w]here the law governing the administration of the decedent's estate gives a beneficiary, heir, or next-of-kin a right to completely and unqualifiedly refuse to accept ownership of property transferred from a decedent, a refusal to accept ownership does not constitute the making of a gift if the refusal is made within a reasonable time.

Presently, the law in every state permits a beneficiary under a will to renounce his gift. However, the common law did not recognize the possibility of renouncing an intestate share in a decedent's estate, since the inheritance was seen to vest by operation of law immediately upon the death of the ancestor. Thus a purported “renunciation” would take effect as a transfer from the one renouncing to the ultimate taker. While this two-stage transfer has caused no real problems in the actual passage of the property, it has resulted in the payment of an extra tax. This problem is now a matter of

* The *Review* acknowledges this contribution of Professor J. Rodney Johnson. Professor Johnson also has an article on the abolition of dower in the Articles section of this issue. The comments here are taken from the text of Professor Johnson's presentation on Law Day 1972.

history because the Act provides for renunciation of testate, intestate, and inter vivos gifts.

How can one make practical use of the Disclaimer Act? First, one should note that the Act takes the lapse approach, treating a disclaimer as if the disclaimant had predeceased the decedent. Thus, in cases of intestacy the ultimate takers will be determined by general intestate succession law, Code § 64.1-1. In testate cases, one would look first to any controlling provision in the will, then the anti-lapse statute, Code § 64.1-65, then the residuary clause, and finally back to Code § 64.1-1.

Case 1. Suppose a beneficiary decides that he has no need for a bequest and gives it to his children. He has made a taxable gift, and should he die within three years thereafter it will be presumed to have been a gift in contemplation of death, includible in his gross estate for estate tax purposes unless the presumption can be rebutted. If, instead of accepting the bequest and giving it to his children, he disclaims it, the bequest would pass to his issue as intended with no possible gift or estate tax consequences on his part. Similarly, if there should be an inheritance instead of a bequest, the disclaimed inheritance would pass to the disclaimant's descendants with no tax consequences on his part.

Case 2. Suppose that a husband, mindful of his obligation to his wife, and desiring to aid his alma mater, leaves half of his adjusted gross estate to his wife outright, gives her a life estate in the other half, and leaves the remainder to the school on her death. The husband's estate will not pay any tax on the half given outright to the wife because of the marital deduction, but it will pay a tax in connection with the other half. However, due to the altered circumstances existing at the time of the husband's death (age of the wife, size of estate, etc.), perhaps the wife does not need the life estate in the second half. If she disclaims the life estate, then the entire second half will go to charity and no taxes will be payable by the husband's estate.

Case 3. The husband dies intestate survived by his wife and two adult children who have no children. Assume that the husband leaves a \$300,000 estate equally consisting of realty and personalty, and that his wife is 60 years old at his death. The wife will receive one-third of the personalty and dower in the realty. This is substantially less than the maximum marital deduction. However the two adult children can disclaim a part of their inheritance, which will then pass to the deceased's wife, with a consequent swelling of the marital deduction and lowering of the tax burden on the estate by approximately \$22,500. Were the estate half this size, the estate tax savings would remain in excess of \$6,500.

While space limitations prevent a discussion of the many possible uses of this act, one should realize that it permits the personal representative of a decedent to disclaim, and that it requires that the disclaimer be made within

ten months of death (delivery in inter vivos cases), or vesting, if that be later. Draftsmen of spendthrift trusts should be aware of one caveat. As the beneficiary of a spendthrift provision expressly has the right to disclaim, one must provide for some kind of gift over on disclaiming to prevent the spendthrift beneficiary from defeating the intention of the transferor.

UNIFORM GIFT TO MINORS ACT

Many attorneys often provide for contingent trusts in wills when in fact they do not desire to do so. For instance, assume a young married couple with several children and an estate of \$20,000. They want a typical disposition—all to the surviving spouse then all to the children. What happens if both parents die before the children attain the age of majority? Who will manage the children's property for them? If no provision has been made, the court will appoint a guardian, the worst possible manner in most cases to manage a minor's property. Thus, one has no alternative but to provide a contingent testamentary trust for the minor children. While this is preferable to a guardianship, it can involve annual accountings, filing of fiduciary tax returns, court approval of termination, possible construction proceedings, fiduciary bonds, and the unlimited throwback rule of the Tax Reform Act of 1969. Although the expense of these incidents isn't grossly oppressive, relative to a large trust, such fixed expenses can be extremely burdensome to a small trust, because they consume a disproportionate amount of the income.

Code § 31-27(d), an addition to the Uniform Gift to Minors Act (UGMA), gives relief by providing that a testator or settlor may authorize his fiduciary to make distribution for a minor to a custodian for the minor under the UGMA. The custodian will have sufficient discretion and flexibility under the UGMA to make whatever distributions are desirable for the benefit of the children during their minority, and the trust expenses mentioned above could be eliminated, leaving more funds to be used for the children's benefit. Appropriately, one should note here that while an infant attains his majority at age 18 for most purposes, he attains it at 21 for purposes of the UGMA.

INCORPORATION BY REFERENCE

In drafting a will or trust agreement, one must enumerate certain powers that he wishes his fiduciary to have. Increasingly, lawyers in Virginia are working with Code § 64.1-57 which provides for the incorporation by reference of certain powers of fiduciaries into wills or trust instruments. This section contains nineteen clauses of well-designed boilerplate waiting for incorporation. Paragraph (p) of this section has been amended by the

addition of new sub-paragraph (4) that empowers the fiduciary to distribute to a minor under the UGMA. Thus it is possible to use the UGMA directly as previously mentioned, or indirectly by incorporating the statutory boilerplate that gives the fiduciary the discretion to make this form of distribution should he think it advisable.

Code § 64.1-57 has been amended also by the addition of a new paragraph (c)(1) that gives the fiduciary discretion to invest the assets in mutual funds or investment trusts, and permits him to change investments from realty to personalty and vice versa.

A final amendment to Code § 64.1-57, expressly stated to be declaratory of existing law, provides that the section may be made applicable to decedent's estates as well as trusts.

SELF-PROVING WILL

One familiar incident of probating a will is locating the attesting witnesses and arranging for them to accompany the executor to the clerk's office to prove the will. This time-consuming and cumbersome ritual can be avoided now by utilizing Code § 64.1-87.1, which provides for a self-proving will. This section sets out the form of an affidavit that contains the facts that the witnesses would be required to testify to in court to prove the will. If the testator acknowledges his will and the witnesses execute this affidavit, all before an official authorized to administer oaths, either at the time the will is executed or later, then the witnesses' statement "shall be accepted by the court as if it had been taken ore tenus before such court."

TOTTEN TRUSTS

Code § 6.1-73, a new section, authorizes any bank or trust company to pay out deposits made in trust form to the named beneficiary on the death of the trustee, without the intervention of a guardian if (1) the institution has no notice of the trust terms, (2) the deposit doesn't exceed \$5,000, and (3) the beneficiary is 18 years of age or older. Those desiring to place more than \$5,000 in a Totten Trust may utilize the rather obvious expedient of multiple accounts, or may establish an account in a savings and loan association, because existing Code § 6.1-149 doesn't contain any maximum balance limitation.

AGE OF MAJORITY

Code § 1-13.42(b), which best summarizes the net effect of the age of majority legislation, provides:

[f]or the purposes of all laws of the Commonwealth including com-

mon law, case law and statutory law, unless an exception is specifically provided in this Code, a person shall be an adult, shall be of full age and shall reach the age of majority when he becomes eighteen years of age.

As previously noted, twenty-one remains the age of majority for purposes of the Uniform Gift to Minors Act which contains its own definitions of "adult" and "minor."

SMALL FUNDS STATUTE

Code § 6.1-71, authorizing a bank or trust company to pay to the next of kin the balance a decedent had on hand at his death provided (1) 120 days have elapsed since the time of death, (2) no qualification is had on the estate, and (3) the balance in the account is \$1,000 or less, has been amended to increase the amount to \$2,500. A corresponding change in Code § 6.1-153 renders the same result for accounts in savings and loan associations.

MISCELLANEOUS

The filing deadline for the Virginia inheritance tax return is changed from four to nine months after the decedent's death. Code § 58-166. The time for payment of inheritance taxes is changed from twelve to nine months after the decedent's death. Code § 58-176.

The statement in lieu of settlement of accounts by a personal representative who is the sole distributee or sole beneficiary is enlarged to cover those cases where there are two personal representatives who are the only distributees or beneficiaries. Code § 26-20.1.

Stepchildren are now included in Class A for gift tax purposes. Code § 58-219.

Page two of the form required for reporting inventories to the commissioners of accounts, dealing with "other property of the estate of which the fiduciary has knowledge," has been deleted. Code § 26-12.1.

GENERAL PROVISIONS—AGE OF MAJORITY. *Va. Code Ann.* §§ 18.1-62.1, 18.1-273, 20-48, 20-49, 32-137, 32-353.19, 37.1-65, 40.1-25, 44-3, 46.1-170, 46.1-357, 63.1-222, 63.1-225, 63.1-236 [Amendments]; § 32-364.2:1 [Repealed].

The age of majority shall be eighteen years in the areas of the law that require consent or permission.

Va. Code Ann. § 1-13.42 [New statute].

This section designates the definitions of “infant,” “child,” “minor,” “juvenile,” “adult,” “infancy,” and “person under disability.”

Va. Code Ann. §§ 3.1-972, 28.1-41, 32-303, 40.1-13, 40.1-80, 40.1-84, 40.1-100, 40.1-104, 40.1-110, 47-3, 54-28, 54-60, 54-89, 54-170, 54-174, 54-200.9, 54-260.23, 54-260.27, 54-305, 54-306, 54-308, 54-308.5, 54-308.6, 54-382, 54-398.15, 54-524.21, 54-524.123, 54-729.03, 54-750, 54-788.1, 54-859.6, 54-910, 59.1-138, 60.1-14, 63.1-149 [Amendments].

These amendments provide that the age of majority shall be eighteen years as related to professions, employment, and jobs.

Va. Code Ann. §§ 6.1-207, 8-15, 8-654.1, 8-654.1:1, 8-686, 11-8, 26-50, 31-9, 34-10, 34-24, 38.1-638.28, 38.1-638.29, 55-44, 57-9, 58-20, 64.1-27, 64.1-47, 64.1-70, 64.1-71, 64.1-90, 65.1-76 [Amendments]; §§ 47-4, 54-61, 54-398.18 [Repealed].

The age of majority shall be eighteen years relating to the laws of real and personal property.

Although the General Assembly refused a proposal allowing eighteen year olds to purchase liquor at ABC stores or restaurants, the general effect of the above provisions gives full adult rights to eighteen year olds in all other areas, except the right to serve on juries.

GENERAL PROVISIONS—AGE OF MAJORITY. *Acts of Assembly, Chapter 868.*

House Joint Resolution No. 36 proposes an amendment to the Constitution of Virginia to lower the minimum age for voting from twenty-one to eighteen years of age.

ADMINISTRATION OF GOVERNMENT—REGISTRATION OF STATE MOTTOES OR SLOGANS. *Va. Code Ann.* §§ 2.1-81.1 through 2.1-81.4 [New statutes].

Any department, division, board, commission, agency, or facility of the Commonwealth which develops a motto or slogan for its use shall register

it with the Secretary of the Commonwealth. Upon such registration, no individual, partnership, association, or corporation shall use the motto or slogan or any recognizable variation thereof on any article offered for sale to the public at a price above the actual cost of production without the express consent of the registrant. If such consent is given, the registrant may require payment of a reasonable fee or royalty for the use of the motto or slogan.

Violation of these sections shall be a misdemeanor punishable by a fine not exceeding one thousand dollars, and each succeeding day shall constitute a separate offense.

The primary purpose of these statutes is to protect the slogan "Virginia Is For Lovers" which is specifically included and registered as the slogan of the Virginia State Travel Service.

AGRICULTURE—HAZARDOUS HOUSEHOLD SUBSTANCES. *Va. Code Ann. §§ 3.1-250 through 3.1-259 [Amendments].*

The amendments specify new categories of hazardous substances, including those of the electrical, mechanical, and thermal variety. Regulations have been enacted affecting children's toys, and the new laws empower the Board of Agriculture and Commerce to ban hazardous substances and remove them from the market.

BANKING AND FINANCE—INVESTMENT OF TRUST FUNDS. *Va. Code Ann. §§ 6.1-23 and 26-45.1 [Amendments].*

Where an instrument, under which a bank or trust company is serving as a fiduciary or co-fiduciary, authorizes such bank or trust company to retain its own stock or securities, it shall also be allowed to retain the stock or securities of a bank holding company of which it is a subsidiary. Also, within the limitations of § 26-45.1, a corporate executor, administrator, trustee, or other corporate fiduciary is authorized to retain as received its own stock or securities, or the stock or securities of a corporation owning eighty per cent or more of its common stock, or any stock or securities received in exchange for any such investments.

BOUNDARIES—JURISDICTION AND OWNERSHIP OF THE COMMONWEALTH OVER OFFSHORE WATERS. *Va. Code Ann. § 7.1-2 [Amendment].*

Previously, the limit of jurisdiction over offshore waters claimed by the Commonwealth was such as may be defined or recognized by the United States. However, Virginia now defines its jurisdiction to include that claimed in the Virginia Constitution of 1776 (100 miles), if not thereafter ceded by action of the General Assembly.

CIVIL PROCEDURE—GUARDIANS AD LITEM. *Va. Code Ann.* § 8-88.1 [New statute].

Notwithstanding the provisions of § 8-88, if an attorney represents and enters an appearance for an infant, insane person, or convict who is a party to any suit, no guardian *ad litem* shall be appointed, unless it is determined by the court that the interests of justice would require such appointment. Any judgment or decree rendered against such person, under the provisions of this section, shall be valid as if the appointment of a guardian *ad litem* had been made.

CIVIL PROCEDURE—COURT ORDERED PHYSICAL OR MENTAL EXAMINATIONS. *Va. Code Ann.* § 8-210.1 [Repealed]; § 8-210.2 [New statute].

In any action if the physical or mental condition of a party is in issue the court may, upon motion by an adverse party, order the party to submit to an examination by one or more physicians. Once the examination has been completed, the written report of such examination shall not be admitted into evidence unless offered by the party who submitted to the examination.

This section supersedes any other law, statute, or rule previously adopted.

CIVIL PROCEDURE—ADMISSIBILITY OF COPIES OF RECORDS OR PAPERS IN PUBLIC OFFICES. *Va. Code Ann.* § 8-266 [Amendment].

An attested copy of any record or paper in a court clerk's office or in certain other public offices shall be admissible in evidence in lieu of the original. Proof of signature or of the official character of the person whose name is signed to it is not required.

CIVIL PROCEDURE—ADMISSIBILITY OF COMPUTER PRINTOUTS OF RECORDS. *Va. Code Ann.* § 8-268 [Amendment].

Any printed reproduction of data electronically recorded on magnetic surfaces shall be admissible in evidence in any court of Virginia, provided such printed reproduction has been duly authenticated by the head of the respective department. When such a computer printout is introduced into evidence, it may be used for any purpose for which the original may have been introduced and with the same effect, provided that the electronic recording equipment is recognized as standard equipment, and that the entries recorded are made in the regular course of operation.

CIVIL PROCEDURE—PRETRIAL DISCOVERY. *Va. Code Ann.* § 8-327.2 [New statute].

In an action for death by wrongful act, or for property damage, or per-

sonal injury, the plaintiff may discover information concerning the insurance coverage the defendant may have; however, this information is not admissible in evidence.

CIVIL PROCEDURE—CIVIL IMMUNITY FOR SCHOOL PERSONNEL. *Va. Code Ann. § 8-631.1 [New statute].*

This statute provides that in addition to any other immunity they may have, school personnel who in good faith, with probable cause, and without malice, report, investigate, or cause any investigation into the activities of any student or any other person in relation to alcohol or drug use in or related to the school or school activities, shall be immune from all civil liability that might be imposed as a result of the report, investigation, or disclosure.

COMMISSIONS, BOARDS AND INSTITUTIONS—COURTROOM SECURITY. *Va. Code Ann. §§ 9-109.1, 53-168.1 [New statutes]; § 9-111 [Amendment].*

Each sheriff must provide security for the courts within his jurisdiction, and courtroom security officers must have special training for this purpose.

CORPORATIONS—FORMATION OF CORPORATIONS. *Va. Code Ann. § 13.1-48 [Amendment].*

Prior to the adoption of this amendment, it was necessary that at least three natural persons act as incorporators by signing and delivering the articles of incorporation to the State Corporation Commission of Virginia. However, it is now necessary for only one person to act as incorporator, thus permitting "one-man corporations."

COSTS, FEES, SALARIES AND ALLOWANCES—LEGAL SERVICES WITHOUT COST. *Va. Code Ann. § 14.1-183 [Amendment].*

Anyone allowed legal services without fees or costs must have been a resident of this State for a continuous period of at least six months.

COURTS NOT OF RECORD—ESTABLISHMENT OF A SYSTEM OF DISTRICT COURTS. *Va. Code Ann. §§ 16.1-1.1 through 16.1-1.52, 16.1-70.1, 16.1-153.1 [New statutes]; §§ 16.1-141, 16.1-154, 16.1-157, 16.1-203 through 16.1-208, 16.1-210 through 16.1-213 [Amendments]; §§ 16.1-1 through 16.1-69, 16.1-143 through 16.1-153, 16.1-206.1 [Repealed].*

Generally, the effect of these statutes is that county courts, municipal

courts of cities (excluding courts of limited jurisdiction established pursuant to Chapter 5 of Title 16.1), and juvenile and domestic relations courts shall continue with the same powers and territorial jurisdiction as was heretofore provided. However, the municipal court of any town shall be abolished and all jurisdiction and power thereof shall pass to the district courts having jurisdiction over the county in which the town is located, but such court shall continue until the judge presiding on June 30, 1973 completes his term or until a vacancy occurs.

Not later than October 1, 1972, the Judicial Council shall prepare and submit a proposal to the General Assembly as to the establishment of district lines which shall be effective July 1, 1973. In determining the district lines, the Judicial Council is limited by the conditions that no district shall include less than one judicial circuit or divide any circuit, and each district shall include sufficient territory to require the full-time services of at least one general district court judge, and of at least one juvenile district court judge.

Unless the General Assembly specifically provides otherwise, no general district court shall be established in any city in which there is no municipal court in operation prior to July 1, 1973 with general civil or criminal jurisdiction. Jurisdiction previously exercised in such city or county court shall be vested in the general district court of such county.

The further purpose of these statutory provisions is to provide for the appointment of judges and other personnel, the administration and supervision of these district courts, and the financing of the district court system.

COURTS NOT OF RECORD—VISITATION PRIVILEGES. *Va. Code Ann. § 16.1-158.1 [New statute].*

In addition to the jurisdiction granted in § 16.1-158, juvenile and domestic relations courts now have the jurisdiction to grant reasonable visitation rights to the grandparents of a minor child. Such visitation privileges will be granted only where the father or mother of an unmarried minor child is deceased, and such visitation would be in the best interests of the child.

CRIMINAL LAW—PUNISHMENT FOR ATTEMPTS TO COMMIT MISDEMEANORS. *Va. Code Ann. § 18.1-19 [Amendment].*

This amendment raises the maximum penalty for an attempt to commit a misdemeanor from \$250 to \$500.

CRIMINAL LAW—BREATH TEST TO DETERMINE ALCOHOLIC CONTENT OF BLOOD. *Va. Code Ann. § 18.1-55.1 [Amendment].*

This provision, effective January 1, 1973, allows law enforcement per-

sonnel to utilize either a sample of blood or breath to determine the alcoholic content of a person. Such person, whether licensed in Virginia or not, who operates a motor vehicle on the public highways of this state shall be deemed to have consented to the taking of the sample. A person so arrested shall choose which sample he desires to have taken (but not both) and it shall not be a defense that either test is unavailable.

Prior to this amendment, the breath test was optional with the driver as provided in § 18.1-54.1. The purpose of that statute was to permit a preliminary analysis of the alcoholic content of the blood, but such results were not available to the prosecution. However, this amendment will allow law enforcement personnel to admit either the blood or breath test into evidence.

CRIMINAL LAW—PRESUMPTIONS FROM ALCOHOLIC CONTENT OF BLOOD. *Va. Code Ann. §§ 18.1-57 and 18.1-59 [Amendments]; § 18.1-56.1 [Repealed].*

Relative to the penalty for violation of § 18.1-54, the presumption of driving under the influence of alcohol arises at 0.10% by weight by volume of the alcohol content of the blood. The penalty for violation is suspension of the privilege to drive for not less than six months nor more than one year. Before the enactment of this amendment, the presumption arose at 0.15%.

CRIMINAL LAW—PROCUREMENT OF ABORTIONS. *Va. Code Ann. § 18.1-63 [Amendment].*

If any person by publication, lecture, advertisement, or by the sale or circulation of any publication, or through the use of a referral agency for profit, or in any other manner encourages the processing of an abortion which is prohibited under the laws of Virginia, he shall be guilty of a misdemeanor. This section was rewritten to include the use of a referral agency in its prohibitions.

CRIMINAL LAW—UNLAWFUL VISUAL SHOWING OF HUMAN BODY. *Va. Code Ann. § 18.1-236.7 [Amendment].*

It is now unlawful to exhibit "X-rated" motion pictures in any place where such can be seen by juveniles who are not to be admitted to the premises. Thus, "drive-in movies" must prevent the possibility of juveniles outside the premises being able to view the screen while such a motion picture is being shown.

CRIMINAL LAW—SEIZURE AND FORFEITURE OF PERSONALTY USED IN CONNECTION WITH THE MANUFACTURE, DISTRIBUTION, OR SALE OF DRUGS. *Va. Code Ann. § 18.1-346 [Amendment]*.

The amended version provides that all personal property used in manufacture, sale, or distribution of controlled substances in violation of the Code shall be forfeited to the Commonwealth, and may be seized by an officer to be disposed of in the same manner as provided for the disposition of motor vehicles which are confiscated after use in the illegal transportation of alcoholic beverages.

CRIMINAL PROCEDURE—ADMITTANCE TO BAIL. *Va. Code Ann. § 19.1-111.1 [New statute]*.

Any person admitted to bail is not required to be admitted to bail in any subsequent proceeding arising out of the initial arrest, unless the court having jurisdiction of such subsequent proceeding deems inadequate the initial amount of bail or security taken.

CRIMINAL PROCEDURE—TERM OF TRIAL AFTER INDICTMENT. *Va. Code Ann. § 19.1-190 [Amendment]*.

When an indictment is found against a person for a felony, or an appeal has been perfected from a conviction of a misdemeanor, the accused, if in custody, shall be tried no later than the next term thereafter, unless a continuance is granted. No longer is it necessary that one be tried during the same term.

DOMESTIC RELATIONS—CHILD SUPPORT. *Va. Code Ann. § 20-61.1 [Amendment]*.

Prior to this amendment, the only way a man could be held liable for the support, maintenance, and education of an illegitimate child was for him to admit in writing and under oath that he was the father of the child. However, such may now be shown by other evidence. This evidence is limited to the following: (1) that he cohabited openly with the mother during all of the preceding ten months prior to the time when the child was born; (2) that he gave consent to a physician or other person that his name be used as the father on the birth certificate; (3) that he allowed by a general course of conduct the use of his surname by the child; or (4) that he claimed the child as his own on any statement, tax return, or other document.

DOMESTIC RELATIONS—ENTRUSTMENT OF CHILD BY PARENTS. *Va. Code Ann. § 63.1-204 [Amendment].*

The parent(s) cannot revoke a valid entrustment agreement with a child-placing agency or local welfare board except within fifteen days after execution of the agreement or within twenty-five days of the child's birth, if the child is not of such age at the end of the fifteen days. The General Assembly also has provided for revocation upon a showing of fraud or duress, or where the child had not yet been placed with adoptive parents.

EDUCATION—LOANS TO PRIVATE SCHOOL STUDENTS BY THE STATE. *Va. Code Ann. §§ 23-38.11 through 23-38.19 [New statutes].*

Under these provisions, loans will be made "to bona fide residents of Virginia who attend private, accredited, and nonprofit institutions of collegiate education in the Commonwealth." The amount loaned is not to exceed the "annual average appropriation per full time equivalent student for the previous year." The statutes provide for repayment "in academic work, or in money," and limits assistance to four years "only for undergraduate collegiate work."

Repayment need be made only if the student does not make satisfactory academic progress, which term is defined to include any degree of academic success above failing. The General Assembly has recognized the possibility of a determination of unconstitutionality, and accordingly has provided for severability of the remaining provisions should one or more sections be invalidated for that reason.

EMINENT DOMAIN—CONDEMNATION PROCEEDINGS. *Va. Code Ann. §§ 25-46.4:1 and 25-46.4:2 [New statutes].*

These statutes provide that condemnation proceedings shall be on the law side of the court in which the petition is filed, and that discovery in such proceedings is allowed.

GAME AND INLAND FISHERIES—ENDANGERED SPECIES. *Va. Code Ann. §§ 29-230 through 29-237 [New statutes].*

These statutes prohibit the manufacture, distribution, sale, or purchase of any merchandise or product made from any animal or part of any animal listed on the United States List of Endangered Fish and Wildlife, and provide a penalty for violations.

HEALTH—BLOOD BANKS. *Va. Code Ann. §§ 32-104.5 through 32-104.10 [New statutes].*

All blood banks are now required to be licensed by the State Board of

Health, and the Board is empowered to make regulations to control operation of these banks. Criminal penalties are designated for operating a blood bank without a license.

HEALTH—CONSENT TO MEDICAL TREATMENT. *Va. Code Ann. § 32-137 [Amendment].*

Except as provided in § 18.1-62.1(e), any person, including those under the age of twenty-one, may consent to medical or health services required in case of birth control, pregnancy, family planning, or drug treatment.

HOUSING—OPEN-HOUSING LAW. *Va. Code Ann. §§ 36-86 through 36-96 [New statutes].*

The General Assembly has approved a legislative packet designed to expand the housing market for low and moderate income citizens, and has become the first state legislature among the states of the old Confederacy to enact an open-housing law. This new housing legislation, recommended by the Virginia Housing Study Commission, establishes a uniform statewide building code, and a seven-man housing development authority to help finance low-cost housing, and an office of housing in the Division of State Planning and Community Affairs. In addition, it continues the Commission itself.

INSURANCE—CANCELLATION OF POLICIES. *Va. Code Ann. § 38.1-381.5 [Amendment].*

This amendment makes it more difficult for insurance companies to cancel or refuse to renew auto insurance policies in that many grounds for cancellation of policies are eliminated.

MOTOR VEHICLES—TAMPERING WITH ODOMETERS. *Va. Code Ann. §§ 46.1-15.1, 46.1-15.2, 46.1-89.1 [New statutes].*

These provisions make unlawful any tampering with motor vehicle odometers, or knowingly selling a vehicle in which the odometer has been altered, with certain exceptions. Penalties are provided for violations.

Upon selling a motor vehicle, the transferor must record on the certificate of title the odometer reading at the time of transfer before a new certificate of title can be issued.

PRISONS—ASSISTANCE OF COUNCIL FOR INMATES. *Va. Code Ann. § 53-21.1 [New statute].*

Counsel may be appointed to assist convicts on legal matters relating to

their incarceration, other than that pending in any court or for which an attorney-at-law has been appointed by the court or otherwise obtained by an inmate.

PROFESSIONS AND OCCUPATIONS—EXEMPTION FROM LIABILITY FOR EMERGENCY CARE. *Va. Code Ann. § 54-276.9 [Amendment].*

Any paramedical personnel holding certificates issued by the State Board of Health or having completed certain approved courses, who in good faith render emergency care, without compensation, shall not be liable for any civil damages for acts or omissions resulting therefrom.

PROFESSIONS AND OCCUPATIONS—RESULTS OF POLYGRAPHIC EXAMINATION. *Va. Code Ann. § 54-729.016:1 [New statute].*

Copies of a polygraphic examination must be furnished to applicants for employment or employees upon request of such applicant or employee.

TAXATION—TAX RATE ON INDIVIDUAL AND CORPORATE INCOME. *Va. Code Ann. §§ 58-151.011 and 58-151.031 [Amendments].*

These amendments raise the rate of taxation in certain cases on individual and corporate income. The rate of tax is increased from 5% to 5¾% of the amount of individual income above \$12,000, while the rate of tax annually imposed on corporations is enlarged from 5% to 6%.

TRADE AND COMMERCE—REPRODUCTION OF RECORDED SOUNDS. *Va. Code Ann. §§ 59.1-41.1 through 59.1-41.6 [New statutes].*

These sections have been enacted to prevent continued sales of "pirated" recordings, either copied from existing recording devices (*i.e.*, records and tapes) or recorded from live concerts. Every individual manufacture, distribution, sale, or transfer of such device(s) in contravention of these provisions constitutes a misdemeanor.

TRUSTS—DEPOSITS IN TRUST FOR A NAMED BENEFICIARY. *Va. Code Ann. § 6.1-73.1 [New statute].*

Deposits in trust for a named beneficiary are now legal in Virginia, thus permitting the "Totten Trust."

WATERS OF THE STATE—RIPARIAN RIGHTS. *Va. Code Ann. § 62.1-2 [Amendment].*

Subject to the provisions of § 62.1-1, the rights of owners of land lying

on bays, rivers, creeks, and shores, extend to the *mean* low-water mark, instead of the low-water mark.

WELFARE—CHILD SUPPORT. *Va. Code Ann. § 63.1-90.1 [New statute].*

A man shall be responsible for the support and maintenance of any children living in the same home in which he and the mother cohabit or live as man and wife. This responsibility will arise only if, in the absence of such support, public assistance would be required to support and maintain the children.

Proof of cohabitation does not require birth of a child or pregnancy during the time the man and woman are living together.

J.L.G., S.H.M.