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THE WAY FORWARD: A REVIEW OF VIRGINIA'S 2023
REGULAR GENERAL ASSEMBLY SESSION

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ABSTRACT

The 2023 General Assembly Session can best be defined by the success of bipartisanship. In an era of heightened polarization, Virginia legislators were able to meet across the aisle on a number of relevant issues. This article will provide a summary of key bills that were passed during the 2023 Regular and Special Sessions. The other articles within this issue touch upon the following topics: the Virginia Commission on School Construction and Modernization, family law, and the opioid and addiction crises. This article summarizes legislation passed with bipartisan support in the areas of: drugs, mental healthcare, labor and commerce, public schools, criminal justice, child welfare, animal welfare, transportation, insurance, and elections.

INTRODUCTION

The 2023 General Assembly was the second consecutive legislative session in which Virginia was governed by a split government.¹ With a shortened, thirty-day session beginning in January, it would not be easy to pass new legislation.² Nevertheless, the General Assembly came together to pass more than 1,600 bills.³ This article will explore some of the legislation that passed with bipartisan support in the following areas: drugs, mental healthcare, labor and commerce, public schools, criminal justice, child welfare, animal welfare, transportation, insurance, and elections.

I. DRUGS

A. Fighting Fentanyl

In an effort to combat the devastating effects of the state's growing fentanyl crisis, Virginia lawmakers passed S.B. 1415.⁴ Fentanyl is a powerful synthetic opioid that is 50 to 100 times more potent than morphine.⁵ Historically used for late-stage cancer treatment, the intense effects of the

¹ *Party Control of Virginia State Government*, BALLOTPEdia, https://ballotpedia.org/Party_control_of_Virginia_state_government (last visited Sept. 20, 2023).

² *Virginia Legislative Process*, VA. DEP'T OF JUV. JUST., <https://www.djj.virginia.gov/pages/about-djj/legislative-process.htm> (last visited Sept. 10, 2023).

³ Joe Dashiell, *Virginia General Assembly Adjourns*, WBDJ7 (Feb. 25, 2023), <https://www.wdbj7.com/2023/02/25/virginia-general-assembly-adjourns/>.

⁴ See S.B. 1415, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

⁵ *Fentanyl DrugFacts*, NAT'L INST. ON DRUG ABUSE, <https://nida.nih.gov/publications/drugfacts/fentanyl> (last updated June 2021).

drug have made it popular for illicit use.⁶ Although it can be bought and used illegally on its own, the highest risk posed by fentanyl is its use as an additive to other drugs, such as heroin and cocaine.⁷ Due to its relatively low cost, some drug dealers attempt to increase their profits by mixing fentanyl into more expensive drugs, and then selling it to unsuspecting customers.⁸ Fentanyl is virtually indistinguishable from other drugs when in powder form, therefore buyers have no way to know of its presence before it is ingested.⁹ Overdose is most likely to occur when users unknowingly ingest high levels of the drug.¹⁰ A national study conducted in 2022 by the U.S. Drug Enforcement Administration found that six out of ten fentanyl-laced, fake prescription pills contained a potentially lethal dose of fentanyl.¹¹ The drug is lethal in very small doses—two milligrams to be exact.¹² By comparison, standard sugar packets found on restaurant tabletops generally contain 1,000 milligrams per packet.¹³

According to a public awareness campaign led by Virginia's Office of the Attorney General, drug overdoses have been the leading cause of unnatural death in the state since 2013.¹⁴ Of those overdose deaths, fentanyl contributed to 76.4% of them.¹⁵ Given how easy one could fatally overdose on fentanyl—in some cases where the user does not even know of its presence—legislators knew something had to be done.¹⁶ S.B. 1415 removes restrictions related to naloxone and other opioid antagonists, which are used to rapidly reverse narcotic overdoses in emergency situations.¹⁷ The legislation allows *any person* to possess and administer naloxone with a hypodermic needle or syringe, in accordance with protocols developed by the Virginia Board of Pharmacy.¹⁸ This is a big shift from the current law, which only allows employees or others acting on behalf of a public place, who had completed a

⁶ See e.g., Delia Dima et al., *The Use Of Rotation To Fentanyl In Cancer-Related Pain*, 10 J. PAIN RSCH. 341, 341 (2017).

⁷ *Fentanyl DrugFacts*, *supra* note 5.

⁸ *Id.*

⁹ See *Opioid Facts*, DEP'T OF JUST., <https://www.justice.gov/opioidawareness/opioid-facts> (last updated Nov. 28, 2022).

¹⁰ *Id.*

¹¹ *One Pill Can Kill*, DRUG ENF'T ADMIN., <https://www.dea.gov/onepill> (last visited Sept. 20, 2023).

¹² *Opioid Facts*, *supra* note 9.

¹³ *Id.*

¹⁴ *One Pill Can Kill Campaign*, VA. RULES, (Mar. 23, 2023) <https://virginiarules.org/one-pill-can-kill-campaign/>.

¹⁵ *Id.*

¹⁶ See Meghan McIntyre, *As Fentanyl Surges, Virginia Lawmakers Debate How Far Criminal Penalties Should Go*, VA. MERCURY (Feb. 23, 2023) <https://www.virginiamercury.com/2023/02/23/as-fentanyl-surges-virginia-lawmakers-debate-how-far-criminal-penalties-should-go/>.

¹⁷ See, e.g., *Naloxone DrugFacts*, NAT'L INST. ON DRUG ABUSE (Jan. 2022), <https://nida.nih.gov/download/23417/naloxone-drugfacts.pdf?v=8b748408194dff241c227cf6c7c9d04e>; see S. 1415, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹⁸ *Id.*

training program, to possess or administer naloxone.¹⁹ Additionally, S.B. 1415 directs the Department of Health, the Department of Behavioral Health and Developmental Services, and the Department of Corrections to collaborate in developing a statewide plan to distribute naloxone throughout Virginia.²⁰ Lastly, the bill requires the Department of Corrections to train every inmate on how to administer naloxone upon their release.²¹

B. Restrictions on Advertising Marijuana

Despite support from the former administration to loosen restrictions, the sale of marijuana for recreational use remains illegal in Virginia, and the current administration has no intention of peeling back restrictions.²² Marijuana can only be sold legally through pharmaceutical processors or cannabis dispensing facilities.²³ The General Assembly imposed stricter regulations on the sale of marijuana for legal use during the past session, passing H.B. 2428, and the corresponding bill, S.B. 1233.²⁴ Under these bills, it is a Class 1 misdemeanor to advertise marijuana, its products, and any substance containing tetrahydrocannabinol (“THC”) for recreational use.²⁵ Pursuant to this new legislation, advertisements related to sales for legal marijuana use must: (1) identify the person responsible for its content, (2) include the statement, “for use by adults 21 years of age and older,” and (3) verify that the advertisement’s recipient is at least 21 years old if it involves direct communication or dialogue.²⁶ The bills prohibit advertisements from: (1) being broadcasted through any medium unless at least 71.6% of the audience is at least 21 years old; (2) being misleading; (3) targeting persons under 21 years old; (4) implying the products enhance athletic abilities or are government endorsed; (5) being displayed on a billboard; (6) making reference to intoxicating effects; and (7) promoting overconsumption and depicting the consumption of the products.²⁷ The legislation also establishes numerous distance and zoning restrictions on outdoor advertisements, the violation of which qualifies as a Class 4 misdemeanor.²⁸ These restrictions

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² See Haley Sandlow, *Youngkin ‘Not Interested’ in Legalizing Recreational Marijuana Sales*, THE DAILY PROGRESS (July 7, 2023), https://dailyprogress.com/news/local/government-politics/youngkin-not-interested-in-legalizing-recreational-marijuana-sales/article_36dade90-1c1e-11ee-97e8-533b698ddf58.html.

²³ See VA. CODE § 54.1-3442.5 (2023).

²⁴ See generally H.B. 2428, 2023 Gen Assemb., Reg. Sess. (Va. 2023); S. 1233, 2023 Gen. Assemb., Reg. Sess., (Va. 2023).

²⁵ *See Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

include the placement of advertisements near schools, playgrounds, and places of worship.²⁹

II. MENTAL HEALTHCARE

A. Support for Gambling Addiction

Growing incidents of Virginians struggling with gambling addiction was the issue at the heart of S.B. 836 and corresponding H.B. 1465.³⁰ This legislation establishes the Problem Gambling Treatment and Support Advisory Committee to prevent gambling addiction by promoting collaboration among treatment providers and operators of legal gaming in Virginia.³¹ According to Senator Bryce Reeves, who introduced S.B. 836, Virginia has seen a rise in youth gambling rates—citing a 2021 survey that showed that “nearly a quarter of Virginia highschoolers had gambled within the past year and nearly two-thirds of Virginians aged 18-25 had gambled within the past month.”³² The rise in gambling rates has grown in tandem with the number of people seeking help for gambling addiction.³³ The Virginia Problem Gambling Hotline has seen a 143% increase in calls over the last few years.³⁴ Furthermore, with the opening of Virginia's first casino last summer, and other casinos slated to open in 2024, gambling was a ripe issue during the 2023 session.³⁵

B. Mental Health Treatment for Veterans

This past session, the General Assembly also focused on veteran's mental health. The General Assembly passed S.B. 1082 to support the treatment of veterans with post-traumatic stress disorder (“PTSD”) and traumatic brain injuries (“TBI”).³⁶ The bill allows the Department of Veterans Services to contract with U.S. Food and Drug Administration-approved hyperbaric

²⁹ *Id.*

³⁰ See S. 836, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); H.B. 1465, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

³¹ *Id.*

³² Culpeper Star-Exponent Staff, *Reeves Gambling Treatment and Support Bill Signed Into Law*, THE DAILY PROGRESS (Apr. 18, 2023), https://dailyprogress.com/news/state-and-regional/reeves-gambling-treatment-and-support-bill-signed-into-law/article_9c0ba2dd-8f53-5780-b7a2-a37a39828672.html.

³³ *Id.*

³⁴ *Id.*

³⁵ See generally *id.*

³⁶ See S. 1082, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

clinics in Virginia that use medical-grade oxygen to treat TBIs.³⁷ The bill further permits contracting with facilities that treat PTSD and TBI through comprehensive treatment programs that may include medication, psychotherapy, and hyperbaric oxygen therapy.³⁸ The bill further requires that participating hospitals and clinics collect data in order to assess the efficacy of these treatments.³⁹

III. PUBLIC SCHOOLS

A. Notifying Parents of Bullying

Bullying is a common issue that many of us have seen or experienced in some way.⁴⁰ Virginia defines bullying as “any aggressive and unwanted behavior intended to harm, intimidate, or humiliate the victim,” that involves a power imbalance that is repeated over time, or causes severe emotional trauma.⁴¹ Ordinary teasing, horseplay, argument, or peer conflict does not constitute bullying, although cyberbullying does.⁴² According to the Virginia Department of Education, cyberbullying is the “willful and repeated harm inflicted through the use of computers, cell phones, and other electronic devices.”⁴³

The former law required school principals to notify parents within five school days of their child’s involvement in an alleged incident of bullying.⁴⁴ S.B. 1072 and corresponding H.B. 1592 change that parental notification requirement.⁴⁵ Under the new law, principals or their designee must notify parents within twenty-four hours of learning of such allegations.⁴⁶ This change has received support from organizations like Parents Against Bullying Virginia, whose Founder expressed that, “[s]o much can happen in

³⁷ S. 1101, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); *see also* Bruce I. Goderez, *Treatment of Traumatic Brain Injury with Hyperbaric Oxygen Therapy*, 36 PSYCHIATRIC TIMES 5 (May 28, 2019), <https://www.psychiatrictimes.com/view/treatment-traumatic-brain-injury-hyperbaric-oxygen-therapy> (explaining how hyperbaric clinics treat traumatic brain injuries).

³⁸ S. 1082, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

³⁹ *Id.*

⁴⁰ *See generally* *Victimization Bullied Teased*, VA. DEPT OF HEALTH (2019), <https://www.vdh.virginia.gov/content/uploads/sites/69/2021/03/VYS-2019-High-School-Bullying-and-Teasing.pdf>.

⁴¹ VA. CODE § 22.1-276.01 (2023).

⁴² *Id.*

⁴³ *Bullying Prevention*, VA. DEPT OF EDUC., <https://www.doe.virginia.gov/programs-services/student-services/prevention-strategies-programs/bullying-prevention> (last visited Sept. 3, 2023).

⁴⁴ S. 1072, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); H.B. 1592, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

⁴⁵ *See generally* *id.*

⁴⁶ *E.g.*, VA. CODE § 22.1-279.6 (2023).

between the amount of 24 hours and five days. We can be proactive and hit right on it and put things into place.”⁴⁷

B. Greater Protections for Students

The General Assembly added an additional barrier to hiring public school employees. H.B. 1822 prohibits public schools from employing or contracting with anyone convicted of an offense “involving sexual molestation, physical or sexual abuse, the rape of a child, or the solicitation of any such offense.”⁴⁸ Prior to H.B. 1822, the language regarding the “solicitation of” such offenses had been absent from the text.⁴⁹

IV. CRIMINAL JUSTICE

A. Greater Transparency for the Virginia Parole Board

Prior to this year’s legislative session, the Virginia Parole Board was exempt from the mandatory disclosure provisions of the Virginia Freedom of Information Act.⁵⁰ Notably, the Parole Board was not required to provide information reflecting the application of any policy, policy change, or clarification of policy to an individual inmate.⁵¹ For all intents and purposes, the Board operated with almost complete secrecy regarding the decision-making process used to decide whether to grant parole—leaving both inmates and victims in the dark.⁵² This lack of transparency attracted criticism for years, especially because Virginia has one of the most restrictive parole policies in the nation.⁵³

Discretionary parole—available in 34 states—allows for a state’s parole board to decide to release an inmate prior to the completion of his court-

⁴⁷ Matthew Torres, *Virginia Schools Now Must Notify Parents of Bullying Incidents Sooner*, WUSA9 (June 29, 2023), <https://www.wusa9.com/article/news/local/virginia/new-virginia-laws-july-1-schools-to-notify-parents-of-alleged-bullying-sooner/65-54376b32-2301-4bd1-ac6c-c4d756c9f3e2>.

⁴⁸ H.B. 1822, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

⁴⁹ See generally H.B. 392, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

⁵⁰ E.g., S. 1361, 2023 Gen. Assemb., Reg. Sess. (Va. 2023) (signed into law during the 2023 Reconvened Session).

⁵¹ E.g., *id.*

⁵² See Graham Moomaw, *Youngkin's Parole Board Chair Calls For 'Over-the-Top' Transparency*, VA. MERCURY (Jan. 9, 2023), <https://www.virginiamercury.com/2023/01/09/youngkins-parole-board-chair-calls-for-over-the-top-transparency/>.

⁵³ See Isabela Dias, *Chances for Parole Go From Bad to Worse Under Virginia's New GOP Leadership*, BOLTS (May 10, 2022), <https://boltsmag.org/glenn-youngkin-virginia-parole-board/>; Jorge Renaud, *Grading the Parole System of All 50 States*, PRISON POL’Y INITIATIVE (Feb. 26, 2019), https://www.prisontpolicy.org/reports/grading_parole.html.

mandated sentence.⁵⁴ Parole boards decide whether or not to grant discretionary parole based on an assessment of the inmate's case, with the release subject to various conditions, or "rules", given by the board.⁵⁵ In 1995, Virginia abolished parole almost completely.⁵⁶ Today, the only individuals that can be considered for parole include: those convicted before 1995; inmates convicted between 1995 and 2000, in trials where jurors were not informed of the abolition of discretionary parole; geriatric and terminally ill inmates; and individuals that were convicted as juveniles, sentenced to life without possibility of parole, and have served at least 20 years.⁵⁷

For the few inmates that are eligible for parole, S.B. 1361 and corresponding H.B. 2169 lift the curtain from the Parole Board's decision-making process.⁵⁸ Under the new legislation, the Board is required to open their final deliberations to the public and vote regarding whether they will grant parole to an inmate.⁵⁹ Additionally, at the time of casting their votes, each board member must identify the reasoning for their decision.⁶⁰ Both inmates and victims are permitted to attend; and victims are given the opportunity to participate through written or recorded testimony. Finally, the Board must conduct a live interview with the inmate during their periodic review of the inmate's case for release on parole.⁶¹ These reviews typically take place at least annually once the inmate is eligible for parole.⁶² The board cannot decide to release an inmate unless a live interview has been conducted within the prior calendar year.⁶³

The legislation further directs the Board to publish more comprehensive data surrounding their decisions.⁶⁴ The Board must publish a statement of their actions by the fifteenth of each month, and include in these statements, "individualized reasons for the granting or denial of parole and the vote of

⁵⁴ Renaud, *supra* note 53; *see generally* *Why Parole Matters*, RESTORE JUST. FOUND., <https://www.restorejustice.org/learn/why-parole-matters> (last visited Sept. 3, 2023).

⁵⁵ *Id.*

⁵⁶ *See* Graham Moomaw, *Virginia Lawmakers Send Parole Board Transparency Bill to Youngkin*, VA. MERCURY (Mar. 1, 2023), <https://www.virginiamercury.com/2023/03/01/virginia-lawmakers-send-parole-board-transparency-bill-to-youngkin>.

⁵⁷ *See id.*

⁵⁸ H.B. 2169, 2023 Gen. Assemb., Reg. Sess. (Va. 2023) (signed into law during the 2023 Reconvened Session); *see* S. 1361, 2023 Gen. Assemb., Reg. Sess. (Va. 2023) (signed into law during the 2023 Reconvened Session).

⁵⁹ S. 1361, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *See id.*

⁶³ *See id.* (noting that an interview with the inmate must be conducted within the prior calendar year once the inmate is eligible for parole).

⁶⁴ *See id.*

each member.”⁶⁵ The Board must also provide inmates and their counsel with information obtained during their investigations, with the exception of victims’ personal information. Finally, the legislation affects the eligibility requirements for the granting of parole.⁶⁶ Going forward, the Board must consider “the prisoner’s demonstrated rehabilitation, economic and educational development, commitment to prosocial behavior, and community and family supports,” in addition to the other requirements that render someone parole eligible.⁶⁷

Taking effect on July 1, 2024, this piece of legislation was not passed without its difficulties. Leading up to the 2023 General Assembly, the Parole Board was at the center of a partisan battle to balance public safety with rehabilitation of offenders.⁶⁸ In January 2023, Republican Attorney General, Jason Miyares, released an investigative report alleging that in 2020, the Parole Board—comprised of mostly Democrats—acted in a “parole-granting frenzy” by working in secret to release offenders of violent crimes on parole.⁶⁹ Shortly after, Democrats in the state Senate blocked one of Governor Glenn Youngkin’s appointees to the Parole Board—citing data that indicated he almost always voted to deny parole.⁷⁰ All the while, S.B. 1361 and H.B. 2169 were being considered. After going through several revisions, Democrats and Republicans were able to agree on the final version of the bill, and it was passed in the final days of the 2023 session.⁷¹

B. New Duties for the Attorney General

The General Assembly also passed S.B. 1259 and corresponding H.B. 2165, introduced by Senator J. Chapman Petersen and Delegate Wren Williams, respectively. The bills require the Attorney General, upon the appellate court receiving the record after a notice to appeal was filed, to appear and represent the Commonwealth in all criminal cases before the Court of Appeals or the Supreme Court of Virginia in which the Commonwealth is a party or has a direct interest.⁷² For pretrial petition appeals, the legislation establishes that the Commonwealth’s Attorney will represent the Commonwealth.⁷³ Finally, the legislation mandates that any

⁶⁵ *Id.*

⁶⁶ *See id.*

⁶⁷ *Id.*

⁶⁸ Graham Moomaw, *supra* note 56.

⁶⁹ Graham Moomaw, *AG Says Former Va. Parole Board Chair Broke the Law in 2020 Release ‘Frenzy’*, VA. MERCURY (Jan. 25, 2023), <https://www.virginiamercury.com/2023/01/25/ag-says-former-va-parole-board-chair-broke-the-law-in-2020-release-frenzy/>.

⁷⁰ Graham Moomaw, *supra* note 56.

⁷¹ *E.g., id.*

⁷² S. 1259, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); H.B. 2165, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

⁷³ *Id.*

action collaterally attacking a criminal conviction will be heard in the Supreme Court of Virginia.⁷⁴

V. LABOR AND COMMERCE

A. Preventing Internet Ticketing Scams

Anyone attempting to purchase tickets for a popular artist these days should understand the potential for getting scammed.⁷⁵ With the passage of S.B. 1249 and corresponding H.B. 1857, certain strategies used to defraud innocent concertgoers will now be prohibited under the Virginia Consumer Protection Act.⁷⁶ The new law prohibits online ticketing platforms and resellers from using any trademarked identifiers of an officially licensed ticket seller or primary ticket provider without their consent.⁷⁷ Online ticketing platforms and resellers can be less secure due to their third-party status, and consumers are being cautioned against buying from them.⁷⁸ Under the new law, they cannot trick consumers by using the same URL, symbols, or images as officially licensed ticket sellers or primary ticket providers—which consumers are recommended to purchase tickets from.⁷⁹ The law also prohibits these platforms and resellers from using or displaying text and images that are substantially similar to an operator’s website, such that they could reasonably be expected to mislead purchasers.⁸⁰ In essence, internet ticket platforms and resellers will no longer be able to purposely make themselves appear similar enough to a website like Ticketmaster without consequences.⁸¹

B. Returning to Work Under Retirement

In the past, certain public school employees have been allowed to receive their full retirement benefits even if they return to work full-time after retirement.⁸² Previously, to be eligible for this, the retiree must have taken a

⁷⁴ *Id.*

⁷⁵ See *How to Protect Yourself Against Ticketing Scams*, TICKETMASTER (May 31, 2023) <https://blog.ticketmaster.com/ticketing-scams-tips-best-practices/>.

⁷⁶ See S. 1249, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); H.B. 1857, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

⁷⁷ *Id.*

⁷⁸ See *How to Protect Yourself Against Ticketing Scams*, *supra* note 75.

⁷⁹ H.B. 1857, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

⁸⁰ *Id.*

⁸¹ *Id.* (combining all the restrictions listed in the law makes it difficult to appear similar to a website like Ticketmaster).

⁸² H.B. 1630, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

twelve month “break in service” between retirement and returning to work, during which they time they could hold no job.⁸³ During the 2023 session, legislators voted to reduce the number of months required for a break in service that allows a retiree to receive their retirement allowance while employed by a local public school board.⁸⁴ Under H.B. 1630, individuals must have a six-month break in service, rather than twelve months, between retirement and returning to work full time.⁸⁵ Employees that are eligible to return to work under this law include teachers, bus drivers, school administrators, and school security officers.⁸⁶

VI. CHILD WELFARE

A. Preventing Child Abuse

In Virginia, April is designated as “Child Abuse Prevention Month.”⁸⁷ Each year in the United States, 1,700 children die as a result of abuse or neglect.⁸⁸ H.B. 1768, carried by Delegate Chris Head, received bipartisan support to address jurisdictional gaps in the child welfare system.⁸⁹ Under this bill, if a local multidisciplinary team determines that a child needs an interview with a child advocacy center (“CAC”), and such interview cannot be completed in the child’s local jurisdiction within fourteen days, then the local department of social services must facilitate an interview between the child and a CAC located in another jurisdiction.⁹⁰

The purpose of these interviews is to obtain information when there are concerns of possible child abuse.⁹¹ According to the Virginia Department of Social Services, this bill codifies current best practices, as CACs are best equipped to handle these interviews.⁹² This bill received wide bipartisan support, passing the House of Delegates by a vote of 97-0-1 and the Senate unanimously.⁹³ In a committee hearing, Senator Barbara Favola made a quick

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Prevention and In-Home Services*, VA. DEP’T OF SOC. SERVS., <https://www.dss.virginia.gov/family/prevention.cgi#:~:text=Annually%20the%20governor%20designates%20April%20as%20Child%20Abuse%20Prevention%20Month%20in%20Virginia> (last visited Sept. 22, 2023).

⁸⁸ *Id.*

⁸⁹ H.B. 1768, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

⁹⁰ *Id.*

⁹¹ *Forensic Interview Services*, NAT’L CHILDS. ADVOC. CTR., <https://www.nationalcac.org/forensic-interview-services> (last visited Sept. 22, 2023).

⁹² *2023 Fiscal Impact Statement*, VA. DEP’T OF PLAN. AND BUDGET, <https://lis.virginia.gov/cgi-bin/legp604.exe?231+oth+HB1768FER122+PDF>.

⁹³ H.B. 1768, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

remark that she “likes this bill,” at the end of Delegate Head’s testimony.⁹⁴

B. Protection of Minors

S.B. 1033, pioneered by Senator Jeremy McPike, authorizes general district courts to appoint a discreet and competent guardian ad litem (“GAL”) to represent a minor who’s been subpoenaed testify in a case before the court.⁹⁵ This should only be necessary in very rare circumstances, as GALs are typically appointed when the minor herself is the subject of the case.⁹⁶ The purpose of a GAL is to protect the interests of the child.⁹⁷

Senator McPike pursued this legislation following an incident in Virginia’s 31st Congressional District, where a minor witnessed a non-domestic assault, and there was pressure to keep the child from testifying at all.⁹⁸ The bill also provides for a GAL to be compensated from the funds for court-appointed counsel.⁹⁹ Furthermore, if the matter is appealed to a circuit court, the circuit court may continue the GAL’s appointment.¹⁰⁰ S.B. 1033 reinforces the court’s duty to protect the interests of minors even in cases where they are only tertiary involved.¹⁰¹

VII. ANIMAL WELFARE

A. Quarantining Rabid Animals

H.B. 1577, authored by Delegate Otto Wachsmann, allows a local health director to access any dog or cat that is being confined by any person, when the dog or cat is suspected of having rabies.¹⁰² Moreover, the local health director can access any animal, regardless of species, that is confined and suspected of having rabies, if that animal may have been exposed to a

⁹⁴ *Video Stream of Rehabilitation and Social Services Subcommittee Meeting*, VA. GEN. ASSEMB., at 7:32 (Feb. 17, 2023), https://virginia-senate.granicus.com/MediaPlayer.php?view_id=3&clip_id=5800#.

⁹⁵ S.B. 1033, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

⁹⁶ *Video Stream of Judiciary Committee Meeting*, VA. S., at 13:49 (Jan. 25, 2023), https://virginia-senate.granicus.com/MediaPlayer.php?view_id=3&clip_id=5592.

⁹⁷ *Standards to Govern the Performance of Guardians Ad Litem for Children*, VA. JUD. COUNCIL, https://www.vacourts.gov/courtadmin/aoc/cip/programs/gal/children/gal_performance_standards_childr en.pdf (approved by the Judicial Council in May 2018).

⁹⁸ *Video Stream of Courts Subcommittee #2*, VA. H. DELS., at 3:10 (Feb. 13, 2023), <https://virginiageneralassembly.gov/house/chamber/chamberstream.php>.

⁹⁹ S.B. 1033, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹⁰⁰ VA. CODE § 8.01-396.2 (C) (act passed in Mar. 2023).

¹⁰¹ S.B. 1033, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); *see* VA. CODE § 16.1-227 (2023).

¹⁰² H.B. 1577, 2023 Gen. Assemb., Reg. Sess., (Va. 2023).

person.¹⁰³ The bill passed the House of Delegates and the Senate unanimously.¹⁰⁴

Delegate Wachsmann proposed this legislation to close a loophole in the law that twice endangered citizens in his district.¹⁰⁵ During two separate dog-bite incidents, the local health director had authority to order the dog be confined for a period of time, but the local health department was not authorized to observe the dog when the dog's owner refused access to the dog.¹⁰⁶ As a result, the people that sustained the dog bites had to get the rabies vaccine, which is painful and can have serious side effects.¹⁰⁷

B. Protecting Animals from Inhumane Conditions

Virginia has a storied history with animal testing facilities. In July 2022, the United States Department of Agriculture announced that 4,000 beagles needed to be rescued from a facility owned and operated by Envigo RMS in Cumberland, Virginia, due to animal welfare violations.¹⁰⁸ Over 300 beagles died in the facility from unknown causes.¹⁰⁹ Moreover, the facility failed to take any additional steps to investigate the deaths or prevent similar losses in the future.¹¹⁰

Ultimately, the General Assembly acted by passing several pieces of legislation, including H.B. 2348 and S.B. 1271, which ended up being identical to each other. H.B. 2348 was introduced by Delegate Michael Webert and S.B. 1271 was introduced by Senator Jennifer Boysko.¹¹¹ The bills require an animal testing facility to provide a link to its annual report, as submitted to the U.S. Department of Agriculture pursuant to the Animal Welfare Act, on the homepage of its website.¹¹²

While both bills passed with strong bipartisan support, there was some difficulty agreeing on the exact language of the bills between the House of Delegates and the Senate.¹¹³ On February 23, 2023, both chambers held

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *House of Delegates Agriculture Subcommittee*, VA. H. DELS., at 4:41 (Jan. 18, 2023), <https://virginiageneralassembly.gov/house/chamber/chamberstream.phpat>.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ Wyatt Grantham-Philips, *4,000 Beagles to be Rescued from Virginia Breeding Facility After Animal Welfare Violations Alleged*, USA TODAY (July 15, 2022), <https://www.usatoday.com/story/news/nation/2022/07/13/beagles-rescued-virginia-facility/10045868002/>.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ H.B. 2348, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1271, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹¹² H.B. 2348, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1271, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹¹³ H.B. 2348, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1271, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

conferences to reconcile their differences.¹¹⁴ The Senate appointed Senators Boysko, McClellan, and Stanley to represent them, while the House appointed Delegates Webert, Wilt, and Shin to represent them.¹¹⁵ On February 25, 2023, the Joint Conference Committee proposed what would become the final text of the bills.¹¹⁶ The bill passed the Senate unanimously and the House of Delegates by a vote of 91-3.¹¹⁷

VIII. TRANSPORTATION

A. Improving Public Transportation

H.B. 2338, and its companion bill, S.B. 1326, directs the Commonwealth Transportation Board to use up to 30 percent of available funds for the Transit Ridership Incentive Program, which was designed to support local, regional, and state entities in improving the access to transit bus passenger facilities.¹¹⁸ The program was also designed to prevent crime and improve public safety for transit passengers, operators, and employees.¹¹⁹ The bills also direct the Board to develop guidelines for grant applications to any local, regional, or state public entity that supports a transit system.¹²⁰

While the bills did pass with bipartisan support, Governor Youngkin recommended amendments be made to the bills prior to their passing.¹²¹ Governor Youngkin removed any reference to transitioning the current public transit bus fleets to zero-emission bus fleets.¹²² He replaced these references with language related to safety and crime prevention on public

¹¹⁴ H.B. 2348, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1271, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹¹⁵ H.B. 2348, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1271, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹¹⁶ H.B. 2348, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1271, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹¹⁷ H.B. 2348, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1271, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹¹⁸ H.B. 2338, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1326, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹¹⁹ H.B. 2338, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1326, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹²⁰ H.B. 2338, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1326, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹²¹ H.B. 2338, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1326, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹²² H.B. 2338, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1326, 2023 Gen. Assemb., Reg. Sess. (Va. 2023) (Governor's recommendation).

transit.¹²³ The House of Delegates and the Senate adopted his recommendations on both bills with bipartisan support.¹²⁴

B. Transporting the Commonwealth

S.B. 1106, and its companion bill, H.B. 2302, significantly impact funding for transportation projects. S.B. 1106 was introduced by Senator Stephen Newman, while H.B. 2302 was introduced by Delegate Les Adams.¹²⁵ These bills authorize the Governor to direct funds from the Transportation Partnership Opportunity Fund to the Commonwealth Transportation Board for specific, pre-designated initiatives.¹²⁶ These include transportation projects deemed necessary to support major economic development initiatives or to enhance the economic development opportunities recommended by the Secretary of Transportation and Secretary of Commerce and Trade.¹²⁷

The bills also require the Secretary of Transportation to submit a report to the Chairmen of the Senate Committee on Finance and Appropriations, and the House Committee on Appropriations, within 30 days of any transfer of funds exceeding of \$5 million.¹²⁸ If a transfer of funds exceeds \$35 million, it must be submitted to the MEI Project Approval Commission for review within 14 days.¹²⁹

While the bills did pass with bipartisan support, there was some dispute between the House of Delegates and the Senate over the content of the bills. On February 21, 2023, the House of Delegates requested a conference to finalize the text of the legislation.¹³⁰ The Senate agreed to the request the next day.¹³¹ The House of Delegates was represented by Delegates Adams, Austin, and Murphy.¹³² The Senate was represented by Senators

¹²³ H.B. 2338, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1326, 2023 Gen. Assemb., Reg. Sess. (Va. 2023) (Governor's recommendation).

¹²⁴ H.B. 2338, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1326, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹²⁵ H.B. 2302, 2023 Gen Assemb., Reg. Sess. (Va. 2023); S. 1106, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹²⁶ H.B. 2302, 2023 Gen Assemb., Reg. Sess. (Va. 2023); S. 1106, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹²⁷ H.B. 2302, 2023 Gen Assemb., Reg. Sess. (Va. 2023); S. 1106, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹²⁸ H.B. 2302, 2023 Gen Assemb., Reg. Sess. (Va. 2023); S. 1106, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹²⁹ H.B. 2302, 2023 Gen Assemb., Reg. Sess. (Va. 2023); S. 1106, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹³⁰ S. 1106, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹³¹ *Id.*

¹³² H.B. 2302, 2023 Gen Assemb., Reg. Sess. (Va. 2023); S. 1106, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

Newman, Jeremy McPike, and Surovell.¹³³ On February 25, 2023, the House of Delegates and the Senate adopted the text proposed by the conference.¹³⁴

IX. INSURANCE

A. No More Uninsured Vehicles

The 2023 General Assembly pioneered significant changes in the law regarding motor vehicle insurance.¹³⁵ S.B. 951, proposed by Senator Frank Ruff, repeals a longstanding Virginia law allowing drivers to forego obtaining motor vehicle insurance, and to instead pay an “uninsured motorist fee.”¹³⁶ Virginia was one of only two states, along with New Hampshire, that did not require all drivers to obtain car insurance.¹³⁷ Approximately 5,000 of the 7.5 million vehicles in Virginia are uninsured.¹³⁸ According to Senator Ruff, “most uninsured drivers have limited assets to either pay for their repairs at the time of accident or assets for others to attach. Therefore, they are doing the repairs partially themselves or junking the vehicle.”¹³⁹ While most drivers have insurance that will cover them if they are hit by an uninsured vehicle, many insurance companies will still fight over who has to pay.¹⁴⁰

Senator Ruff was surprised to see the legislation pass, especially with bipartisan support, because the law allowing drivers to pay a fee instead of obtaining insurance had been in place for decades.¹⁴¹ The bill passed the Senate 36-3 and the House of Delegates 82-16.¹⁴² The bill will also impact the Uninsured Motorist Fund. Historically, the uninsured motor vehicle fee

¹³³ H.B. 2302, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1106, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹³⁴ *S. 1106 Transportation Partnership Opportunity Fund; Funds for Transportation Projects*, LIS (Feb. 25, 2023), <https://lis.virginia.gov/cgi-bin/legp604.exe?231+sum+SB1106>.

¹³⁵ See Nick Iannelli, *Virginia Doesn't Require Car Insurance, But That Might Be Changing Soon*, WTOP (Feb. 9, 2023), <https://wtop.com/virginia/2023/02/car-insurance-may-soon-be-required-in-virginia-yes-its-not-required-now/>.

¹³⁶ S. 951, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹³⁷ Nathaniel Cline, *Bill Proposes Requiring All Virginia Motorists to Have Insurance*, VA. MERCURY (Feb. 16, 2023), <https://www.virginiamercury.com/2023/02/16/bill-proposes-requiring-all-virginia-motorists-to-have-insurance/>.

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ Brendan Ponton, *Need Virginia License Plates? Bill Would Require Auto Insurance*, 3WTKR (Feb. 16, 2023), <https://www.wtkr.com/news/need-virginia-license-plates-bill-would-require-auto-insurance>.

¹⁴¹ Nathaniel Cline, *supra* note 137.

¹⁴² *S.B. 951*, LIS, (Mar. 26, 2023) <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=231&typ=bil&val=sb951>.

was deposited into the Uninsured Motorist Fund, which was then distributed to insurance companies to reduce the cost of coverage for uninsured motorists.¹⁴³ In FY 2022, the fee accounted for \$650,000 of the \$5.3 million deposited into the fund.¹⁴⁴ Senator Ruff hopes that this bill will push down insurance premiums in the future.¹⁴⁵

B. Insurance During a Mental Health Crisis

H.B. 2216 and S.B. 1347 are identical bills, proposed by Delegate Jay Leftwich and Senator John Cosgrove, respectively.¹⁴⁶ Both bills passed the House of Delegates and the Senate unanimously.¹⁴⁷ The bills require health insurance providers to cover mobile crisis response services, as well as stabilization services provided by residential crisis stabilization units.¹⁴⁸ Mobile crisis response services are “services delivered to provide for rapid response to, assessment of, and early intervention for individuals experiencing an acute mental health crisis that are deployed at the location of the individual.”¹⁴⁹ A residential crisis stabilization unit is “a short-term residential program providing support and stabilization for individuals who are experiencing an acute mental health crisis.”¹⁵⁰ This bill is designed to allow Virginians to obtain access to important mental health resources, and ensures consistent health insurance coverage.¹⁵¹

The bill also requires the State Corporation Commission, in consultation with the Secretary of Health and Human Resources, to form a work group to examine network standards for both mobile crisis response services, and the current availability of mobile crisis response services in the Commonwealth.¹⁵²

¹⁴³ S. 951, 2023 Gen. Assemb., Reg. Sess. (Va. 2023) (fiscal impact statement).

¹⁴⁴ *Id.* (fiscal impact statement).

¹⁴⁵ David Ress, *No Insurance? No License Plates, General Assembly on Track to Say*, RICH. TIMES DISPATCH (Feb. 9, 2023), https://richmond.com/news/state-and-regional/no-insurance-no-license-plates-general-assembly-on-track-to-say/article_3f4d9f4c-a89f-11ed-9541-9b16c9637131.html.

¹⁴⁶ H.B. 2216, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1347, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹⁴⁷ H.B. 2216, 2023 Gen. Assemb., Reg. Sess. (Va. 2023); S. 1347, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹⁴⁸ VA. CODE § 38.2-3412.1 (2023).

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Hearing Before the H. Sub. Comm. 2 on Com. and Energy*, 2023 Leg. (Va. 2023) (statement of James A. Leftwich, Jr. (Ex-Officio) Delegate).

¹⁵² VA. CODE § 38.2-3412.1 (2023).

X. ELECTIONS

A. Time to Vote

H.B. 1683, proposed by Delegate Margaret Ransone, requires local, generally circulated newspapers to publish the last day of voter registration.¹⁵³ The notice must also be posted on the official website of every county or city.¹⁵⁴ In an era of stark partisanship, it is rare to see legislation pass with broad bipartisan support, but that is exactly what happened here. The bill passed the House of Delegates by a vote of 85-13 and the Senate by a vote of 38-1.¹⁵⁵

The bill did have a floor amendment to change the language to make some delegates more comfortable with the bill.¹⁵⁶ Some delegates, in committee, expressed concern with the language “if applicable.”¹⁵⁷ This caused concern because some delegates felt this language gave county registrars the choice of posting notice in a newspaper instead of requiring it.¹⁵⁸ Delegate Ransone proposed changing the language to read “if one is available” with a floor amendment.¹⁵⁹ The amendment was agreed to by a voice vote.¹⁶⁰

B. Expanded Absentee Voting

Absentee voting has become increasingly popular. In fact, the 2020 election was the first time that voting by mail was the most popular form of voting.¹⁶¹ In an attempt to ease absentee voting requirements, the General Assembly passed H.B. 1948, introduced by Delegate Robert Bloxom.¹⁶² As passed, the bill removes the witness requirement for absentee ballots and instead requires a voter to provide the last four digits of their social security number and their birth year.¹⁶³ If a voter has never been issued a social security number, they must provide their unique identifier assigned to them in the voter registration system, and sign an affirmation stating they have

¹⁵³ VA. CODE § 24.2-415 (2023); H.B. 1683, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹⁵⁴ VA. CODE § 24.2-415 (2023).

¹⁵⁵ H.B. 1683, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹⁵⁶ *Id.*

¹⁵⁷ *Voter Registration; Final Day of Registration, Notice Requirements: Hearing on H.B. 1683 Before the H. of Del. Reg. Sess.*, (2023) (statement of Margaret B. Ransone, Delegate).

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ Miles Parks, *2020 Changed How America Votes. The Question Now is Whether Those Changes Stick*, NPR (Oct. 28, 2022), <https://www.npr.org/2022/10/28/1128695831/united-states-2022-patterns-mail-early-voting>.

¹⁶² H.B. 1948, 2023 Gen. Assemb., Reg. Sess. (Va. 2023).

¹⁶³ *Id.*

never been issued a social security number.¹⁶⁴

While the bill passed unanimously by a block vote in the House of Delegates, and the Senate by a vote of 35-4, both chambers had to vote on the bill again due to a Governor's Recommendation.¹⁶⁵ It was Governor Youngkin's request to include the aforementioned statement of affirmation to the text of the bill.¹⁶⁶ This was approved unanimously by both chambers, and Governor Youngkin signed the bill.¹⁶⁷

CONCLUSION

The 2023 General Assembly wrapped up its thirty-day session in February, having passed many bipartisan bills. The General Assembly passed 43% of all bills introduced in the 2023 session.¹⁶⁸ The House of Delegates passed 39% of bills unanimously, while the Senate passed 48% of bills unanimously.¹⁶⁹ Even in a divided Virginia, the General Assembly worked together to pass new laws. These changes ranged from closing small loopholes in laws to ensuring every driver has car insurance. Legislation in these areas will continue to develop over the coming years. In an era of strong politicization, the General Assembly has demonstrated their ability and commitment to working together to pass new laws.

¹⁶⁴ *Id.*

¹⁶⁵ *HB 1948 Absentee Voting: Removes Witness Requirement, Required Information On Return Ballot Envelope.*, LIS (2023), <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=231&typ=bil&val=hb1948>.

¹⁶⁶ H.B. 1948, 2023 Gen. Assemb., Reg. Sess. (Va. 2023) (Governor's recommendation).

¹⁶⁷ *HB 1948 Absentee Voting: Removes Witness Requirement, Required Information On Return Ballot Envelope.*, *supra* note 165.

¹⁶⁸ *State Legislators' 2023 "Batting Averages"*, VPAP (Sep. 8, 2023), https://www.vpap.org/visuals/visual/state-legislators-2023-battingaverages/?fbclid=IwAR3M1ocDb3igtFCMxijd4IEsaMpwUGwe_xbmtznFZ3Ok_-SLVPUC35SSys.

¹⁶⁹ *Id.*

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