

Governor's Proposed Amendments - Bills Considered by House Appropriations Committee

HB 1420

Intervener; Board of Education to Promulgate Regulations Defining

General Assembly Action: Approved legislation requiring the Board of Education (BOE) to distribute regulations defining an “intervener” as an individual who has the knowledge and skill to communicate with a deaf-blind student and can describe to the student what is occurring in the classroom and around their educational setting.

Governor's Action: The Governor has proposed a substitute bill that would set out the same definition for an “intervener” for the purposes of BOE regulations, but does not require BOE to send out a separate communication solely to distribute the new definition.

HB 1816

Technical – Methamphetamine Manufactory; Penalty for Allowing Child or Incapacitated Person to be Present

General Assembly Action: Approved legislation prohibiting anyone from allowing any child younger than 15 years of age or any mentally incapacitated person or physically helpless person to be present in any location where the manufacture or attempted manufacture of methamphetamine is undertaken, or where two or more components for the manufacture or attempted manufacture of methamphetamine are present.

Governor's Action (Technical): The Governor proposes a substitute incorporating all of the provisions of the approved legislation, but clarifying its provisions by restructuring the language in logical age sequence order. The substitute prohibits any adult from knowingly allowing any of the following from being present where methamphetamine is being either manufactured or attempted to be manufactured: (1) any minor under the age of 15, (2) any minor 15 to 18 years of age and with whom the adult has a custodial relationship, and (3) any physically or mentally incapacitated person from being present.

HB 1850

Technical – Assault and Battery; Adds Employees of Local and Regional Jails

General Assembly Action: Approved legislation providing for the inclusion of persons employed by local and regional jails to provide care, treatment, or supervision of inmates confined in those facilities to the list of persons against whom the commission of an assault and battery is punishable as a Class 6 felony including a six month minimum mandatory period of confinement.

Governor's Action (Technical): The Governor has proposed three technical amendments to the approved legislation, which while incorporating all the provisions of the approved legislation, restructure the language of the legislation. The first technical amendment removes the addition of language inserting “or a local or regional correctional center” from within existing language which previously addressed only employees of the Department of Corrections. The second amendment inserts “an employee of” into new language on the next line adding “or a local or regional correctional facility.” The third amendment adds language describing the duties of the employees of local and regional jails to state that the employees are, “directly involved in the care, treatment, or supervision of inmates in the custody of the facility.”

HB 1862

Technical – Sex Offender and Crimes Against Minors Registry Act; Add to List of Offenses Requiring Registration

General Assembly Action: Adopted legislation adding to the list of offenses that require a person to register on the Sex Offender Registry any similar offense under the common law or as existing in law at the time of the person's offense.

Governor's Action (Technical): The Governor has proposed two technical amendments to correct two instances in which the past tense was used where the present tense should have been used. The first amendment changes the word “involved” on line 44 to “involves.” The second amendment changes the word “was: on line 48 from “was” to “is.” This bill is identical to SB 1032 (below).

HB 2005

Technical - Virginia Housing Trust Fund

General Assembly Action: Approved legislation renaming the Virginia Housing Partnership Revolving Fund to the Virginia Housing Trust Fund and codifying language in the Appropriation Act which appropriates \$8.0 million to the Fund. The bill provides that the Department of Housing and Community Development shall work in collaboration with the Virginia Housing

Development Authority (HDA) to provide loan origination and servicing activities, with the costs of such services being considered an eligible use of the Fund. The language stipulates that at least 80 percent of the moneys from the Fund be used to provide flexible financing for low-interest loans through eligible organizations, structured to maximize leveraging opportunities. Loans may be provided for (a) affordable rental housing to include new construction, rehabilitation, repair, or acquisition of housing to assist low or moderate income citizens, including land and land improvements; (b) down payment and closing cost assistance for homebuyers; and (c) short-term, medium-term, and long-term loans to reduce the cost of homeownership and rental housing. The bill also allows the Department to use up to 20 percent of the moneys from the Fund to provide grants through eligible organizations for targeted efforts to reduce homelessness, including (1) temporary rental assistance, not to exceed one year; (2) housing stabilization services in permanent supportive housing for homeless individuals and homeless families; (3) mortgage foreclosure counseling targeted at localities with the highest incidence of foreclosure activity; and (4) predevelopment assistance for permanent supportive housing and other long-term housing options for the homeless.

Governor's Action: The Governor proposes a series of technical amendments to authorize the portion of the funds to be managed in concert with the Virginia Housing Development Authority to be transferred to the Authority in accordance with the provisions of the legislation.

HB 2211

Technical – Stalking; Penalty for Conviction of Second Offense

General Assembly Action: Approved legislation providing that, upon conviction of a second offense of stalking occurring within five years of a prior conviction for stalking, and when the person was also convicted within that same five-year period prior to the instant offense of an assault and battery when the victim of that crime was the same person who was the victim of the stalking activity in the instant conviction, or domestic assault, or violation of a protective order, then the offender is guilty of a Class 6 felony.

Governor's Action (Technical): The Governor proposes a technical amendment to the approved legislation inserting a second enactment clause normally attached to all criminal sentencing legislation. This second enactment clause shows the projected fiscal impact associated with criminal sentencing legislation. That second enactment clause was missing from the approved legislation.

HB 2269

Mandatory Minimum Sentences; Term of Confinement Shall be Served Consecutively

General Assembly Action: Approved legislation requiring that the mandatory minimum five-year sentence associated with a second or subsequent offense of reproducing, transmitting, purchasing, distribution, or displaying child pornography shall be separate and apart from any other sentence, and, therefore, must be served consecutively to any other sentence.

Governor's Action: The Governor has proposed a broad substitute incorporating a number of statutes for which minimum mandatory sentences are required to be served consecutively with any other convictions. These statutes include: violations of protective orders; gang activity taking place in a gang-free zone; rape, forcible sodomy, or object sexual penetration where the complaining witness is less than 13 years of age; malicious or unlawful shooting of a conspicuously marked law enforcement, fire, or rescue squad vehicle; and, the purchase of a firearm for resell or transfer to any person the purchaser knowing believes is ineligible to purchase or other receive a firearm. The fiscal impact, or "Woodrum Impact," of the substitute is equal to the original bill's \$50,000. This substitute is substantial more expansive than the approved legislation. This bill is identical to SB 832 (below).

SB 832

Child Pornography; Mandatory Minimum Term of Imprisonment, Penalties

General Assembly Action: Approved legislation requiring that the mandatory minimum five-year sentence associated with a second or subsequent offense of reproducing, transmitting, purchasing, distribution, or displaying child pornography shall be separate and apart from any other sentence, and, therefore, must be served consecutively to any other sentence.

Governor's Action: The Governor has proposed a broad substitute incorporating a number of statutes for which minimum mandatory sentences are required to be served consecutively with any other convictions. These statutes include: violations of protective orders; gang activity taking place in a gang-free zone; rape, forcible sodomy, or object sexual penetration where the complaining witness is less than 13 years of age; malicious or unlawful shooting of a conspicuously marked law enforcement, fire, or rescue squad vehicle, and the purchase of a firearm for resell or transfer to any person the purchaser knowing believes is ineligible to purchase or other receive a firearm. The fiscal impact, or "Woodrum Impact," of the substitute is equal to the original bill's \$50,000. This substitute is substantial more expansive than the approved legislation. This bill is identical to HB 2269 (above).

SB 1032

Technical – Sex Offender and Crimes against Minors Registry Act; Add to List of Offenses Requiring Registration

General Assembly Action: Approved legislation adding to the list of offenses that require a person to register on the Sex Offender Registry any similar offense under the common law or as existing in law at the time of the person's offense.

Governor's Action (Technical): The Governor has proposed two technical amendments to correct two instances in which the past tense was used where the present tense should have been used. The first amendment changes the word “involved” on line 44 to “involves.” The second amendment changes the word “was: on line 48 from “was” to “is.” This bill is identical to HB 1862 (above).

SB 1033

Juvenile Correctional Centers; Penalties

General Assembly Action: Approved legislation imposing the same penalties for offenses committed by persons confined in a juvenile correctional center as currently exist for persons who commit such offenses in an adult facility. The legislation also provided that the punishment for committing an assault and battery against a person directly involved in the care, treatment, or supervision of persons in the custody or under the supervision of the Department of Corrections or Department of Juvenile Justice engaged in the performance of their public duties was a Class 6 felony including a six-month mandatory minimum term of confinement.

Governor's Action: The Governor has proposed amendments to alter the title of the approved legislation so as to add a prohibition against the assault and battery of any person directly involved in the care, treatment, or supervision of persons in the in the custody of or under the supervision of the Department of Juvenile Justice or any person providing control, care, or treatment of sexually violent predators committed to the custody of the Department of Behavioral Health and Developmental Services. The fiscal impact, or Woodrum Impact, of the Governor's proposed amendments is \$299,513, or \$249,513 more than the approved legislation. The Governor has offered an executive amendment providing the difference in costs between the approved legislation and his amendments.

Notes:

- The House of Delegates previously approved legislation, House Bill 1751 (Miller), providing for a prohibition against the assault and battery of any employee providing control, care, or treatment to sexually violent predators. The fiscal impact of that legislation was \$299,513.
- House Bill 1751 and its Senate counterpart were both passed by indefinitely in the Senate Finance Committee.

SB 1083

Technical – Cannabinoids, Research Chemicals, Synthetic; Penalties

General Assembly Action: Approved legislation amending the list of synthetic cannabinoids and “research chemicals” (also known as “bath salts”) for which production is illegal to include newly identified chemical compounds and structural classes.

Governor's Action (Technical): The Governor has proposed four technical amendments to the approved legislation for the purpose of adding three additional synthetic cannabinoids and two additional “research chemicals,” or “bath salts,” to the list of substances for which the possession, sale, gift, or distribution is prohibited.

SB 1195

Entrepreneur-in-Residence Program Created

General Assembly Action: Adopted legislation that creates the Entrepreneur-in-Residence Program, a pilot program administered by the Secretary of Commerce and Trade, to improve outreach by state government to the private sector. The objectives of the Program are to (i) strengthen coordination and interaction between state government and the private sector on issues relevant to entrepreneurs and small business concerns, and (ii) make state government programs and operations simpler, easier to access, more efficient, and more responsive to the needs of small business concerns and entrepreneurs. The legislation would allow for up to 10 individuals per year to serve as entrepreneurs in residence at state agencies provided the funding for such residents was paid for by non-state sources. The program has a 2017 sunset date and the legislation included a third enactment clause requiring reenactment by the 2014 Session of the General Assembly as well as the development of implementation guidelines which were to be submitted to the General Assembly no later than November 1, 2013.

Governor's Action: The Governor's proposed amendment would remove the clause in the 3rd enactment clause requiring the submission of implementation guidelines by November 1, 2013.

SB 1317

Technical - DGS Authorized to Convey Property in Roanoke County

General Assembly Action: Adopted legislation modifying a Chapter 1 bill adopted by the 2011 General Assembly which authorized the Department of General Services to convey certain real property to the Mennel Milling Company. The bill changed the terms of the conveyance of certain real property to the Mennel Milling Company located in Roanoke County, Virginia, by providing that the conveyance is to be made at no cost to the Commonwealth relating to the conveyance such as title insurance fees and premiums, environmental investigations, and survey costs, but expressly excluding any potential costs expended by the Commonwealth related to the improvement and use of the property exchanged or for costs expended by the Commonwealth in connection with the use of the parcel conveyed. The bill also removed the emergency clause on the 2011 enactment.

Governor's Action (Technical): The Governor's proposed amendments include a number of reference changes to reflect the fact that there were two identical bills adopted by the 2011 General Assembly. The changes add references to both 2011 Chapter numbers instead of referencing only one of the two bills.

SB 1324

Opportunity Educational Institution and Board, Established

General Assembly Action: Approved legislation which established the Opportunity Educational Institution (OEI) to be administered and supervised by the OEI Board. The Board would be set up as a policy board in the executive branch and be given the powers and duties of a school board as well as the classification of an educational institution. It would have 9 voting members (4 legislators along with 5 non-legislative members appointed by the Governor).

The legislation would require any school that has been denied accreditation to be transferred to the Institution and to remain in it for at least five years. After the fifth year, the school would be reviewed by the Board to determine whether it should stay in the Institution or be transferred back to the resident school division.

It also sets forth allowances for 1) students in the transferred school to apply to another school in the division if an open enrollment policy exists; 2) the selection of hiring all personnel in the transferred school to be conducted by the Institution; 3) identification and transfer of applicable local, state and federal funding to the Institution; and 4) unrestricted use by the Institution of any school building or facilities and other property associated with a transferred school and requires the authorization of the Institution before a locality can sell any such property.

Governor's Action: The Governor has proposed a substitute bill that has a number of changes:

- 1) The OEI would report to the Secretary of Education;
- 2) Exempts the OEI Board and personnel from the Virginia Personnel Act; school personnel will be classified as 'At-Will' employees;
- 3) Expands the Board's authority to make and execute contracts and agreements necessary for its purpose and function to run the OEI, and exempts the Board from the Public Procurement Act under certain conditions;
- 4) Changes the nonlegislative citizen Board members' qualifications;
- 5) Defines the Board's chairman's term as two-years;
- 6) Changes the meeting quorum to include at least three that nonlegislative members;
- 7) Expands the Executive Director's authority to include all of the powers and duties of a division superintendent;
- 8) Requires that the local school board transfer the supervision and operation of a failing school to the OEI Board and allows a local school board to request the transfer of a school that has been accredited with warning for three consecutive years to the OEI Board
 - a. However, the approved G.A. budget language states that a school would be transferred into the OEI if the school had been denied accreditation for the previous two years
 - b. In addition, the Governor's proposed budget amendment adds language that state any school accredited with warning for three years would be transferred into the OEI by a majority vote by the Board
- 9) Provides the OEI Board with authority to either directly operate those schools transferred into the OEI or to contract out the services to operate them;
- 10) Requires a school to stay in the OEI for a minimum of five years (the approved G.A. budget language states that a OEI school would be eligible to return to the local division after five years if the Board approves the transfer):
 - a. After the school reaches full accreditation for two consecutive years, the Executive Director would begin developing a transition plan to transfer the school back to the local division
 - b. Actual implementation of the transition plan would begin after the school achieves full accreditation for three consecutive years
 - c. The transition plan would be fully implemented and completed after the school achieves full accreditation for five consecutive years, unless the parents or legal guardians of at least 60% of the children enrolled at the school sign a petition to stay in the Institution
 - d. The Board shall annually review the status of any school that remains in the Institution due to a parental petition and may transfer supervision of the school to the local school division upon completion of the review
- 11) Conforms the language relative to per pupil funding to be consistent with the approved G.A. budget language;
- 12) Initially establishes the OEI budget so that 65% is allocated for instruction and 35% for non-instructional spending

- i. Allows the Governor to approve budget allocation changes if requested by the Institution (the proposed budget amendment allows the Board to approve changes)
 - ii. Requires the Board and Chairmen of the HAC & SFC to be notified of any budget changes approved by the Governor (the proposed budget amendment requires the Governor and Chairmen of the HAC & SFC to be notified)
- 13) Requires the Auditor of Public Accounts, or designee, to audit accounts;
- 14) Allows the OEI an option to require the local school division to provide school or student support services such as transportation, food services, alternative schools, or student assessments to the OEI and then request actual cost reimbursements for such services;
- 15) Deletes the Code section that sets out the OEI as a separate school division.