

# Legislative Process and What's Ahead in 2023

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## HB 741 (Bell) - 2022

- ▶ Requires each local school board, as part of each annual school safety audit, to create a detailed and accurate floor plan for each public school building but provides that such floor plan may be withheld from public disclosure.
- ▶ *Signed into law*; DCJS has grant funds for mapping expense (CRG)



# HB 736 - Search Warrants (Bell)

- ▶ Carried over from 2022 regular session
- ▶ Limited change to hours of residential service
- ▶ No action taking yet - pending
- ▶ Expectation is that we will request a new bill in 2023 to change hours of service and possibly allow that minor technical violations will not eliminate the introduction of evidence gathered in good faith



## SB 585 - Carried over from 2022

- ▶ Adds 911 dispatchers to the list of local employees eligible to receive enhanced retirement benefits for hazardous duty service. Under current law, localities may provide such benefits to first responders, including firefighters and emergency medical technicians, and certain other hazardous duty positions.
- ▶ Similar bill failed in 2022

# SB 752 Virginia Law Officers' Retirement System; eligibility



- ▶ Adds sworn members of the enforcement division of the Department of Motor Vehicles and conservation officers of the Department of Conservation and Recreation to the membership of the Virginia Law Officers' Retirement System.
- ▶ Who's missing? OIG investigators



## SB 702 Marijuana; criminal history information, disclosure to state & local governments by job applicants (Carryover)

Allows the Commonwealth or a locality to require a job applicant or other applicant who is seeking a license, permit, registration, or other government service to disclose his prior criminal history for marijuana offenses. Under current law, the Commonwealth and its localities are prohibited from requiring the disclosure of such information for such purposes.





## SB 373 (Deeds) – Carried over to 2023

- ▶ Provides that a magistrate may, upon the sworn petition of the DBHDS Commissioner/designee, issue an order extending an emergency custody order for up to 48 hours if probable cause exists to believe that the behaviors upon which a finding that the person meets the criteria for emergency custody are the result of a medical or physical condition, including substance intoxication or withdrawal, and that the medical standard of care for such medical or physical condition calls for testing, observation, or treatment to prevent harm to the person resulting from such medical or physical condition. Upon issuance of an order extending the period of emergency custody, the person shall be transported to and detained in an appropriate medical care facility for testing, observation, and treatment.

# SB 713 Emergency custody order; duration - Carry over to 2023

Provides that a law-enforcement officer may transfer custody of a person who is the subject of an emergency custody order to a facility or location that has been authorized by DBHDS to accept custody of a person who is the subject of an ECO upon a finding by the Department that the facility can provide the level of security necessary to protect such person and others from harm. When custody of a person who is the subject of an ECO has been transferred to a facility licensed to provide up to 23 hours of crisis stabilization services, the emergency custody order shall be valid for a period not to exceed 23 hours from the time of execution. Currently, all emergency custody orders are valid for a period of up to 8 hours.





## SB 277 DMV; applicants for driver's licenses, etc., to provide his race & ethnicity. (CO)

Requires the Department of Motor Vehicles to require an applicant for an original driver's license, driver privilege card, special identification card with or without a photograph, and identification privilege card or the renewal or reissue of such license or card to provide his race and ethnicity. The bill prohibits displaying any such data in a readable form on a credential issued by the Department and requires such data to be encoded in the barcode on the back of such license or card. The bill prohibits the release of such data to any entity other than the Department of State Police to be used exclusively for the Virginia Community Policing Act Database.



# Crime Commission Study on DUID



- ▶ The Crime Commission has been directed to conduct a study this year on DWI laws and enforcement. Specifically, staff is focusing on (i) the impacts of Virginia's DWI laws over the past 20 years, (ii) drugged driving, (iii) reasons for any decreases in DWI charges, and (iv) any national trends or notable measures in other states.
- ▶ Crime Commission staff is planning a demonstration of saliva-testing equipment that would detect the recent presence of marijuana.
- ▶ Possible tool for law enforcement use.



# For 2023 Consideration #1

- ▶ Jordan D. Morris v. COV - Court of Appeals decision that vacates a DUID conviction applying Virginia's "medical amnesty" statute, Section 18.2-251.03
- ▶ Shields from arrest or prosecution those persons who seek emergency medical assistance because they (Or someone else) are experiencing a drug overdose
- ▶ *"Because the circuit court erred in applying an objective standard to the defendant's claim that he was seeking emergency medical care for his drug-induced suicidal ideation, we vacate the drug-possession conviction and remand this case for the trial court to determine whether the defendant is entitled to medical-amnesty under the correct legal standard."*
- ▶ Defendant had driven to hospital emergency room while under the influence of cocaine reportedly seeking medical assistance. Cocaine possession and DUID convictions were vacated. Police observed erratic driving and blocking of traffic by driver; driver said he was using drugs and was suicidal because he was using drugs.
- ▶ And why didn't he call 911 for assistance instead of driving himself to the ER?

# For 2023 Consideration #2



- ▶ Virginia State Code 16.1-301 requires law enforcement to notify schools regarding individuals arrested of violent crimes as "specified in subsections B and C of § 16.1-269.1; (ii) a violation of any of the provisions of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; (iii) a violation of law involving any weapon as described in subsection A of § 18.2-308; or (iv) a violation of law as described in subsection G of § 16.1-260," in a timely manner to keep the students and faculty safe was based in sound judgment.
- ▶ This places an unrealistic expectation on a chief or his or her designee to be tasked with the responsibility of reporting activity that may not directly involve an agency. Additionally, once a Juvenile Offense Report is submitted, an officer's involvement becomes greatly reduced as the juvenile matter is taken over by a juvenile intake officer.
- ▶ Notice should come from the courts or juvenile intake office.

# For 2023 Consideration #3



- ▶ Enforcement of Secondary Traffic Laws: returning them to primary enforcement
- ▶ Example: A traffic stop was conducted for an expired temp tag. The driver provided a fake name and could not produce any other documents for the vehicle. During the stop, he was placed under arrest for multiple charges. During an inventory search of the vehicle, a 10MM Glock handgun was located that had previously been reported as stolen. Suspected fentanyl and crack cocaine were also located during the search. Driver declined to make any statements regarding the firearm, and is a multiple time convicted felon. He was transported and multiple warrants including felon in possession of a firearm were obtained and served. He was held on a \$2500 secured bond.
- ▶ Local governments are expressing concern that the restrictions on traffic enforcement are impacting violent crime increases

# For 2023 Consideration #4



- ▶ Enact Code requirement that campus police departments have police chiefs.
- ▶ There is a Code requirement for local police departments to have a chief of police.
- ▶ *§ 15.2-1701. Any locality may, by ordinance, provide for the organization of its authorized police forces. Such forces shall include a chief of police, and such officers and other personnel as appropriate.*
- ▶ Without such a mandate, university leadership could decide to have a civilian lead a police department, which is inconsistent with the professional standard set for local police departments.





## For 2023 Consideration #5

Officer Decertification Process - right now the decertification is issued upon receipt of notice from the chief or sheriff, unless DCJS does not find on the face of the application that the decertification is based on the Code.

The officer does not have a right to present his/her case until an appeal before the DCJS Executive Committee

Those appeals hearings are held in public, and the officer's agency has the option to appear. Agency's failure to appear CAN impact whether the decertification is upheld.

**CHALLENGE:** the officer's agency should not feel compelled to put on a case, when DCJS is the agency that decertifies; need to protect IA records from public disclosure in an open hearing



# For Consideration #6

- ▶ Mental Health System Overhaul
- ✓ Get people into treatment ASAP and closer to home
- ✓ Relieve law enforcement from extended hospital waiting room duties and long-distance transportations for TDOs
- ✓ VACP is working with DBH, VOICE, VHHA to stress the need for more crisis response centers
- ✓ VHHA reports that more emergency departments are expanding services to include psych care
- ✓ Concerns raised about MH individuals (especially juveniles) being charged with assault on an LEO



## For Consideration #7

- ▶ Senator Obenshain plans to introduce legislation in 2023 to allow private universities to participate in the LODA benefits program
- ▶ Not sure what costs would be for each university, but it is voluntary for those institutions to join
- ▶ QUESTION: What about including our other private police departments?



## For Consideration #8

- ▶ Private police powers/authorities/responsibilities need to be clarified, especially as it pertains to service of search warrants.
- ▶ Delegate Rob Bell will meet with us so we can address these concerns in 2023 legislation.
- ▶ § 19.2-81.3 H. ... "law-enforcement officer" means (i) any full-time or part-time employee of a police department or sheriff's office which is part of or administered by the Commonwealth or any political subdivision...(excludes certified LEOs at private agencies) Campus police included here 10 years ago



## And of course, \$\$\$

- ▶ 599 funding Aid to Localities with Police Departments - still lagging behind full funding and is not keeping up with the new training and certification mandates
- ▶ State aid for regional training academies - lost funding due to lost traffic fine revenue
- ▶ Maintain sufficient funding levels for sheriffs offices and state responsible police agencies
- ▶ Costs associated with recruitment and retention of officers are increasing for ALL law enforcement agencies



# Legislative Information System

- ▶ <https://lis.virginia.gov/> - Where to go to find current and past legislative meetings schedule, list of bills, contact information for legislators
- ▶ <https://viriniageneralassembly.gov/> - Where to go for all things General Assembly, including more personal profiles on legislators, FAQs about the legislative process, calendars, etc.
- ▶ Learn how to navigate by tracking a bill's progress or by following a specific committee



# All Hands On Deck: Get Involved



- ▶ Monitor legislative meetings, track bills of interest
- ▶ Contact legislators
- ▶ Let VACP know what you are doing, your concerns and recommendations
- ▶ **UNDERSTAND THE UNDERLYING POLITICS**



# What Else? Other issues for 2023

- ▶ Retirement employment without VRS consequences
- ▶ Worker's comp coverage for work related depression and anxiety; add dispatchers as well
- ▶ Retirement tax exemption for law enforcement
- ▶ Clarification on who serves civil orders - case in point, child removal orders are in the ECO/TDO section - are they traditional civil orders for sheriffs?
- ▶ Use of speed cameras beyond school and work zones
- ▶ Felony assault and battery of a campus police officer
- ▶ Organized retail crime/smash & grabs/felony threshold
- ▶ Swatting

# Contact Information

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