


# Legislative Recap

2020 Virginia General Assembly

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# Passed Legislation

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# The Budget

## HB30 (Torian)

**2020-2022 Biennial Budget effective July 1, 2020 and will remain in effect until June 30, 2022. During the Reconvened Session:**

- The General Assembly approved the unallotment of \$7.1 million in FY 2022 that would develop the Virginia Learner Equitable Access Platform, an online depository of curriculum and other educational resources to be used and shared among school divisions to aid in classroom instruction.
- The General Assembly approved the unallotment of \$21.7 million in FY 2021 and \$28.4 million in FY 2022 to retain school counselor ratios at FY 2020 levels. The General Assembly approved the unallotment of \$185.3 million FY 2021 and \$305 million in FY 2022 in discretionary spending amounts related to Direct Aid to Education.

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## The Budget

### HB30 (Torian)

- \$1.8 million in FY 2021 and \$2 million in FY 2022 for no-loss funding to localities to ensure that no school division loses state funding in FY 2021 or FY 2022 as compared to that school division's FY 2020 state distribution.
- \$94.7 million in FY 2021 and \$192.5 million in FY 2022 for 2 percent salary increases in each year for the state share of funded Standards of Quality instructional and support positions.
- \$26.2 million in FY 2021 and \$35.2 million in FY 2022 for At-Risk Add-On funding disbursed to local school divisions based on the estimated number of federal Free Lunch participants, in support of programs for students who are educationally at risk.

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## The Budget

### HB30 (Torian)

- \$2.5 million in FY 2021 and \$2.1 million in FY 2022 for relief to school divisions with fewer than 10,000 students experiencing unexpected enrollment loss greater 2 percent over the summer between school years.

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## Labor Relations

### SB7 (Saslaw)/ HB395 (Ward); Va. Code § 40.1-28.9 & § 40.1-28.10

- Increases the minimum wage from its current federally mandated level of \$7.25 per hour to \$9.50 per hour effective May 1, 2021; to \$11.00 per hour effective January 1, 2022; to \$12.00 per hour effective January 1, 2023; to \$13.500 per hour effective January 1, 2025; and to \$15.00 per hour effective January 1, 2026. **This legislation has a delayed enactment date of May 1, 2021.**

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### Labor Relations

#### **SB939 (Saslaw)/ HB582 (Guzman); Va. Code § 40.1-55, § 40.1-57.2, & § 40.1-57.3**

- Authorizes school boards to allow for collective bargaining by local resolution. The bill requires the local governing body or school board to adopt "procedures for the certification and decertification of exclusive bargaining representatives, including reasonable public notice and opportunity for labor organizations to intervene in the process for designating an exclusive representative of a bargaining unit." The bill provides that if a majority of public employees in a unit (unit is not defined) want collective bargaining, the board must hold a vote to decide whether to approve collective bargaining. **This legislation has a delayed enactment date of May 1, 2021.**

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### Labor Relations

#### **HB392 (Ward); Va. Code § 22.1-296.1**

- Prohibits each school board from employing any individual who has been convicted of a violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02 of the Code of Virginia or any offense involving the sexual molestation, physical or sexual abuse, or rape of a child. The bill permits each school board to employ any individual who has been convicted of any felony or crime of moral turpitude that is not set forth in the definition of barrier crime in subsection A of § 19.2-392.02 of the Code of Virginia and does not involve the sexual molestation, physical or sexual abuse, or rape of a child, provided that in the case of a felony conviction, such individual has had his civil rights restored by the Governor. The bill contains parallel provisions for contractors and their employees who have direct contact with students on school property during regular school hours or during school-sponsored activities. Current law provides that any felony conviction is a bar to employment and contract work in public schools.

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### Teacher Contract & Licensure

#### **SB98 (Locke)/ HB365 (Carroll Foy); Va. Code § 22.1-303**

- Removes (i) the option for local school boards to extend the three-year probationary term of service for teachers by up to two additional years and (ii) the prohibition against school boards reemploying any teacher whose performance evaluation during the probationary term of service is unsatisfactory.

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### Teacher Contract & Licensure

#### **SB167 (Favola)/ HB570 (Guzman); Va. Code § 22.1-307**

- Removes the definition of "incompetency" for the purpose of establishing grounds for the dismissal of public-school teachers.

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### Teacher Contract & Licensure

#### **SB377 (Bell); Va. Code § 22.1-311 & § 22.1-313**

- Permits a school board to conduct a teacher grievance hearing before a three-member fact-finding panel consisting of one member selected by the teacher, one member selected by the division superintendent, and an impartial hearing officer selected by the other two panel members to serve as the chairman of the panel. Also eliminates the requirement that a hearing be set within 15 days of the request for hearing and requires 10 days written notice of the hearing.

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### Anti-Discrimination

#### **SB50 (Spruill)/ HB1514 (McQuinn); Va. Code § 2.2-3901**

- Provides that the terms "because of race" and "on the basis of race," and terms of similar import, when used in reference to discrimination in the Code of Virginia and acts of the General Assembly, include traits historically associated with race, including hair texture, hair type, and protective hairstyles such as braids, locks, and twists.

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### Anti-Discrimination

#### **SB161 (Boysko)/ HB145 (Simon); Va. Code § 22.1-23.3**

- Requires the Department of Education to develop and make available to each school board, no later than December 31, 2020, model policies concerning the treatment of transgender students in public elementary and secondary schools that address common issues regarding transgender students in accordance with evidence-based best practices and include information, guidance, procedures, and standards.

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### Anti-Discrimination

#### **SB868 (Ebbin) Va. Code § 22.1-295.2 (among others)**

- Generally prohibits discrimination on the basis race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, disability, sexual orientation, gender identity, or status as a veteran, of sexual orientation and gender identity
- Specifically prohibits school boards from discriminating in employment on the bases listed above.

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### Anti-Discrimination

#### **HB1049 (Levine) Va. Code § 22.1-295.2 (among others)**

- Generally prohibits discrimination on the basis of sexual orientation and gender identity
- Specifically prohibits school boards from discriminating in employment on the basis of sexual orientation and gender identity

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FOIA

**SB139 (Stuart); Va. Code § 2.2-3704.3**

- Adds the option for in-person training sessions in addition to the current requirement of online training sessions for local elected officials provided by the Virginia Freedom of Information Advisory Council or a local government attorney. The bill also clarifies that "local elected officials" includes constitutional officers.

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FOIA

**SB153 (Stuart); Va. Code § 2.2-3704**

- Provides that if a requester asks for a cost estimate in advance of a Virginia Freedom of Information Act request, the time to respond is tolled for the amount of time that elapses between notice of the cost estimate and the response from the requester, and that if the public body receives no response from the requester within 30 days of sending the cost estimate, the request shall be deemed to be withdrawn. The bill clarifies that if a cost estimate exceeds \$200 and the public body requires an advance deposit, the public body may require the requester to pay the advance deposit before the public body is required to process the request.

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FOIA

**HB1011 (Herring); Va. Code § 2.2-3104.02, § 2.2-3115, § 30-103 & § 30-356**

- Clarifies that the Virginia Conflict of Interest and Ethics Advisory Council may give guidance to constitutional officers and legislators regarding the prohibition on representing clients before their agency for one year after leaving office. The bill also requires the Council and the clerks of local governing bodies and school boards to redact email addresses from disclosure forms prior to releasing them to the public. Current law requires such entities to redact any residential address, personal telephone number, or signature.

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### School Safety

#### **SB54 (Cosgrove)/ HB1495 (Torian); Va. Code § 51.1-155**

- Allows a retired law-enforcement officer to continue to receive his service retirement allowance during a subsequent period of employment by a local school division as a school security officer, so long as he has a break in service of at least 12 calendar months between retirement and reemployment, did not retire under an early retirement program, and did not retire under the Workforce Transition Act of 1995.

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### School Safety

#### **SB170 (Locke)/ HB271 (VanValkenberg); Va. Code § 9.1-184 & § 22.1-279.10**

- Requires the Department of Criminal Justice Services, in coordination with the Department of Education and the Department of Juvenile Justice, to annually collect, report, and publish data related to incidents involving students and school resource officers. The bill also requires the Virginia Center for School and Campus Safety to analyze and disseminate submitted data.

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### School Safety

#### **SB171 (Locke)/ HB1419 (Jones); Va. Code § 9.1-102**

- Requires school resource officers and school security officers to receive training specific to the role and responsibility of a law-enforcement officer working with students in a school environment that includes training on (i) relevant state and federal laws; (ii) school and personal liability issues; (iii) security awareness in the school environment; (iv) mediation and conflict resolution, including de-escalation techniques such as physical alternatives to restraint; (v) disaster and emergency response; (vi) awareness of cultural diversity and implicit bias; (vii) working with students with disabilities, mental health needs, substance abuse disorders, or past traumatic experiences; and (viii) student behavioral dynamics, including current child and adolescent development and brain research.

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### School Safety

#### **SB221 (Locke)/ HB292 (VanValkenberg); Va. Code § 22.1-280.2:3**

- Shortens from every five years to every two years the frequency of the review period for memorandums of understanding between school boards and local law-enforcement agencies. The bill also requires local school boards to conspicuously publish the current division memorandum of understanding on its division website and provide notice and opportunity for public input during each memorandum of understanding review period.

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### School Safety

#### **HB270 (VanValkenberg); Va. Code § 22.1-137.2**

- Requires every public school to provide the parents of enrolled students with at least 24 hours' notice before the school conducts any lock-down drill. The bill specifies that no such notice is required to include the exact date and time of the lock-down drill.

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### School Safety

#### **HB402 (Keam); Va. Code § 22.1-137.2**

- Requires every public school to hold at least one lock-down drill after the first 60 days of the school session, in addition to the two lock-down drills required to be held during the first 20 days of the school session at each such school. Current law requires each public school to hold at least two lock-down drills after the first 20 days of the school session. The bill requires pre-kindergarten and kindergarten students to be exempt from mandatory participation in lock-down drills during the first 60 days of the school session and requires local school boards to develop policies to implement such exemption.

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### School Safety

#### **HB501 (Krizek); Va. Code § 22.1-279.8**

- Permits each school board to designate another entity or individual to participate on its behalf in the annual review of its written school crisis, emergency management, and medical emergency response plan.

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### School Safety

#### **HB1080 (Hope); Va. Code § 18.2-308.1**

- Provides that no school board may authorize or designate any person to possess a firearm on school property other than those persons expressly authorized by statute. The bill also clarifies that no exemption exists for a special conservator of the peace to possess a firearm or other weapon on school property.

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### Student Discipline

#### **SB3 (McClellan)/ HB256 (Mullin); Va. Code § 18.2-415**

- Provides that a student at any elementary or secondary school is not guilty of disorderly conduct in a public place if the disorderly conduct occurred on school property, on a school bus, or at any activity conducted or sponsored by any school.

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### Student Discipline

#### **SB729 (McClellan)/ HB257 (Mullin); Va. Code § 22.1-279.3:1**

- Eliminates the requirement that school principals report to law enforcement certain enumerated acts that may constitute a misdemeanor offense. Felony offenses must still be reported to law enforcement. Additionally, school principals may, in their discretion, still report misdemeanor offenses.

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### Student Discipline

#### **SB1020 (Stanley); Va. Code § 22.1-279.3:3**

- Allows a school board to adopt an alternative school discipline process to provide a principal and parties involved in an incident involving assault, or assault and battery without bodily injury, that occurs on a school bus, on school property, or at a school-sponsored event an option to enter into a mutually agreed-upon process between the involved parties as an alternative to reporting such incident to law enforcement. The bill provides that a principal in a school division with such an alternative accountability process may attempt to engage the parties involved in such an incident in the process prior to reporting such incident to the local law-enforcement agency and prohibits, if provided for by the school board, a principal from reporting a party who successfully completes the alternative school discipline process.

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### Student Discipline

#### **HB415 (Delaney); Va. Code § 22.1-277.04 & § 22.1-277.05**

- Requires school boards to adopt policies and procedures to ensure suspended students are able to access and complete graded work during and after the suspension.

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### Student Discipline

#### **HB837 (Carrol Foy); Va. Code § 22.1-276.01 & § 22.1-279.6**

- Requires the Board of Education to include in its guidelines and model policies for codes of student conduct (i) standards for reducing bias and harassment in the enforcement of any code of student conduct and (ii) standards for dress or grooming codes, which the bill defines as any practice, policy, or portion of a code of student conduct adopted by a school board that governs or restricts the attire of any enrolled student.

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### Students

#### **SB44 (Spruill); Va. Code § 22.1-274.05**

- Permits any public elementary or secondary school student to possess and use topical sunscreen in its original packaging on a school bus, on school property, or at a school-sponsored event without a note or prescription from a licensed health care professional if the topical sunscreen is approved by the U.S. Food and Drug Administration for nonprescription use for the purpose of limiting damage to skin caused by exposure to ultraviolet light.

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### Students

#### **HB999 (Bell); Va. Code § 22.1-274.2**

- Requires each school board's policies on the possession and administration of epinephrine in every school in the local school division to require that at least one school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine has the means to access at all times during regular school hours any such epinephrine that is stored in a locked or otherwise generally inaccessible container or area.

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### Students

#### **HB1073 (Kory); Va. Code § 22.1-273.3**

- Requires each school board to annually provide parents of pupils in grades kindergarten through 12 information regarding the health dangers of tobacco and nicotine vapor products. The bill requires that the information provided be consistent with guidelines set forth by the Department of Education.

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### Students

#### **HB1491 (Guy); Va. Code § 22.1-203.4**

- Requires each public high school to provide to any enrolled student who is of voting age or otherwise eligible to register to vote access to Virginia voter registration information and applications, or access to the Virginia online voter registration system on a school-owned computing device, and the opportunity to complete such application during the normal course of the school day.

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### Special Education

#### **SB186 (Dunnivant)/HB134 (Runion); Va. Code § 22.1-217.03**

- Requires the Department of Education to establish guidelines for individualized education program (IEP) teams to utilize when developing IEPs for children with disabilities to ensure that IEP teams consider the need for age-appropriate and developmentally appropriate instruction related to sexual health, self-restraint, self-protection, respect for personal privacy, and personal boundaries of others. The bill requires each local school board, in developing IEPs for children with disabilities, in addition to any other requirements established by the Board of Education, to ensure that IEP teams consider such guidelines.

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## Mental Health

**SB619 (Deeds)/HB74 (Kory); Va. Code § 22.1-298.6**

- Requires each school board to (i) adopt and implement policies that require each teacher and other relevant personnel, as determined by the school board, employed on a full-time basis, to complete a mental health awareness training or similar program at least once and (ii) provide such training, which may be provided pursuant to a contract with the Department of Behavioral Health and Developmental Services, a community services board, a behavioral health authority, a nonprofit organization, or other certified trainer or via an online module.

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## Mental Health

**HB308 (Hope); § 1 bill (not codified)**

- Requires the Department of Education to establish and distribute to each school board no later than December 31, 2020, guidelines for the granting of excused absences to students who are absent from school due to mental or behavioral health and requires any student who is absent from school due to his mental or behavioral health to be granted an excused absence, subject to such guidelines.

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## Mental Health

**HB753 (Rasoul); § 1 bill (not codified)**

- Requires the Department of Education to (i) establish a uniform definition of social-emotional learning and develop guidance standards for social-emotional learning for all public students in grades kindergarten through 12 in the Commonwealth; (ii) make such standards available to each local school division no later than July 1, 2021; and (iii) issue a report no later than November 1, 2021, on the resources needed to successfully support local school divisions with the implementation of a statewide social-emotional learning program.

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### Training

#### **SB463 (Reeves); Va. Code § 22.1-271.8**

- Directs the Board of Education to develop, biennially update, and distribute to each local school division guidelines on policies to inform and educate coaches, student-athletes, and student-athletes' parents or guardians about the nature and risk of sudden cardiac arrest, procedures for removal from and return to play, and the risks of not reporting symptoms. The bill also requires local school divisions to develop and biennially update policies and procedures regarding the identification and handling of symptoms that may lead to sudden cardiac arrest in student-athletes.

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### SOQ/SOL

#### **SB910 (Hashmi)/ HB975 (Guzman); Va. Code § 22.1-253.13:2**

- Requires, effective with the 2020-2021 school year, state funding to be provided pursuant to the general appropriation act to support 18.5 full-time equivalent instructional positions for each 1,000 students identified as having limited English proficiency and, effective with the 2021-2022 school year, 20 full-time equivalent instructional positions for each 1,000 students identified as having limited English proficiency. Current law requires state funding to support 17 such positions for each 1,000 such students.

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### SOQ/SOL

#### **HB1143 (Tran); Va. Code § 22.1-253.13:2**

- Includes licensed behavior analysts and licensed assistant behavior analysts as support services positions in a local school division for the purposes of Title 22.1 (Education).

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### School Facilities

#### **SB392 (McPike)/ HB797 (Askew); Va. Code § 22.1-135.1**

- Requires each local school board's plan to test and remediate certain potable water sources to be consistent with guidance published by the U.S. Environmental Protection Agency or the Department of Health. The bill requires each local school board to submit such testing plan and report the results of any such test to the Department of Health. The bill also requires local school boards to take all steps necessary to notify parents if testing results indicate lead contamination that exceeds 10 parts per billion.

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### School Facilities

#### **SB410 (Hashmi); Va. Code § 22.1-138**

- Requires each school board to maintain a water management program for the prevention of Legionnaires' disease at each public school building in the local school division. The bill requires the Department of Education to make recommendations for the establishment, maintenance, and validation of water management programs in public school buildings and to notify each local school board of its recommendations no later than July 1, 2021, the date on which the provisions of the bill requiring school boards to maintain such water management program become effective.

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### School Facilities

#### **SB845 (Ebbin); Va. Code § 22.1-138**

- Requires each local school board to develop and implement a plan to test and, if necessary, a plan to remediate mold in public school buildings in accordance with guidance issued by the U.S. Environmental Protection Agency. The bill requires each local school board to (i) submit such testing plan and report the results of any test performed in accordance with such plan to the Department of Health and (ii) take all steps necessary to notify school staff and the parents of all enrolled students if testing results indicate the presence of mold in a public school building at or above the minimum level that raises a concern for the health of building occupants, as determined by the Department of Health. The bill has an effective date of July 1, 2021.

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### School Construction

#### **SB888 (McClellan); Va. Code § 30-376 through § 30-382**

- Establishes the Commission on School Construction and Modernization for the purpose of providing guidance and resources to local school divisions related to school construction and modernization and making funding recommendations to the General Assembly and the Governor. The bill sunsets on July 1, 2026, with a provision that if the Commission does not receive funding in the appropriation act after its first year, it will sunset on July 1 of the following year.

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### School Meals

#### **HB697 (Roem); Va. Code § 22.1-79.7**

- Requires each local school board to adopt policies that prohibit school board employees from requiring a student who cannot pay for a meal at school or who owes a school meal debt to throw away or discard a meal after it has been served to him.

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### School Meals

#### **HB698 (Roem); Va. Code § 22.1-207.3:1**

- Allows public school boards to distribute excess food to students eligible for the School Breakfast Program or National School Lunch Program administered by the U.S. Department of Agriculture or to students who the school board determines are otherwise eligible to receive excess food. A school board is also allowed to develop a policy for distributing excess food, saving it for later, or donating it.

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### School Meals

#### HB703 (Roem); Va. Code § 22.1-79.7

- Permits any school board to solicit and receive any donation or other funds for the purpose of eliminating or offsetting any school meal debt at any time and requires each school board to use any such funds solely for such purpose.

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### School Meals

#### HB1426 (Roem); Va. Code § 22.1-79.7

- Requires each school board to require each public elementary and secondary school in the local school division to participate in the federal National School Lunch Program and the federal School Breakfast Program administered by the U.S. Department of Agriculture and to make meals available pursuant to such programs to any student who requests such a meal, regardless of such student's family income or whether such student has the money to pay for the meal or owes money for meals previously provided, unless the student's parent has provided written permission to the school board to withhold such a meal from the student. The bill clarifies that school boards can collect payments for these meals but prohibits the use of nongovernmental third-party debt collectors to collect such debt. **The bill has a delayed effective date of July 1, 2021.**

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### Other Legislation

#### SB232 (Boysko)/ HB405 (Keam); Va. Code § 22.1-6.1

- Requires each school board to make tampons or pads available, at all times and at no cost to students, (i) in such accessible locations as it deems appropriate in each elementary school in the local school division and (ii) in the bathrooms of each middle school and high school in the local school division.

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### Other Legislation

#### **SB237 (Barker)/ HB1081 (Guzman); Va. Code § 22.1-258 & § 54.1-3900**

- Provides that an attendance officer, or a division superintendent or his designee when acting as an attendance officer, may complete, sign, and file with the intake officer of the juvenile and domestic relations district court, on forms approved by the Supreme Court of Virginia, a petition for a violation of a school attendance order entered by the juvenile and domestic relations district court in response to the filing of a petition alleging the pupil is a child in need of supervision. The bill provides that such actions do not constitute the unauthorized practice of law.

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### Other Legislation

#### **SB324 (Deeds)/ HB351 (Bell); Va. Code § 22.1-23, § 22.1-70.3, § 22.1-79 & § 51.1-155**

- Requires the Superintendent of Public Instruction, with the assistance of each school board or division superintendent, to survey each local school division to identify critical shortages of school bus drivers by geographic area and local school division and to report any such critical shortage to each local school division and to the Virginia Retirement System. The bill permits any school bus driver hired by a local school board in any geographic area or school division in which a critical shortage of school bus drivers has been so identified to elect to continue to receive a service retirement allowance during such employment if the driver meets certain other conditions.

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### Other Legislation

#### **SB933 (Favola); § 1 bill (not codified)**

- Requires the Department of Education to develop and adopt a common statewide definition for the term "students with limited or interrupted formal education" and to require local school divisions to report on the number of students who fall under such definition as part of the required data collection and reporting on average daily membership for the purposes of documenting any changes in such numbers over time. The bill requires that the Board of Education evaluate the supports and programs available to "students with limited or interrupted formal education" in local school divisions to determine whether the calculations for the school quality indicators within the Board's Regulations Establishing the Standards for Accrediting Public Schools in Virginia are appropriate or whether changes in methodology could be made to more comprehensively measure the academic and nonacademic achievement of such student population.

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Questions?

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