

American Civil Liberties Union of Virginia

General Assembly Crossover Report 2011

Halfway Through: Victories and Defeats for Civil Liberties

By Hope Amezcuita, Legislative Counsel

Each chamber has now acted on its own bills, and some bills have even been addressed by both the House and the Senate. In fact, two bills aimed at eroding **religious liberties** are already dead for the session, despite having passed the House. Delegate Charles Carrico's rather odd HJ 593, which he says would allow prayers over the public address systems in public schools, sailed through the House on a 66-33 vote, but was immediately defeated in the Senate Privileges and Elections Constitutional Subcommittee. The same subcommittee also killed another House-approved bill, HJ 614, which would have amended the state constitution to allow state subsidies for students studying to be military chaplains.

The Senate and House are again in a stand-off on advancing **voting rights** and legislation prohibiting **discrimination on the basis of sexual orientation**. The Senate has passed bills permitting no-excuse absentee voting, longer polling hours, and restoration of rights for non-violent felons. However, the House Privileges and Elections Committee has resisted passing bills advancing voting rights despite overwhelming public support. The Senate has passed a bill protecting gay men and lesbians from sexual orientation discrimination in state employment, but the House General Laws Committee refuses to seriously consider the issue and has already killed similar bills this session.

The defeat of the expansion of the **Virginia Intelligence Fusion Center** is a significant victory for civil libertarians. The controversial Center was established in 2005 and is a storehouse of data on state residents collected by local, state, and federal agencies for the purpose of fighting terrorism, but there is virtually no public oversight of the Center's practices. A controversial report in which the Center advised police to look for terrorists on college campuses and in minority communities cast further doubt on its purpose. While the ACLU and others are seeking to curtail the activities of the near-secret agency, legislators proposed to expand the center's function to include gathering intelligence on all crimes, not just terrorism.

Anti-immigrant legislation has dominated much of the General Assembly's work thus far this year. Most of the legislation seeking to intimidate the immigrant community has passed the House of Delegates and is now being considered by the Senate. To no avail, large numbers of supporters for immigrants' rights have attempted to persuade the House to take a deeper look at the unintended consequences the legislation may have on the civil rights of all Virginians. Such consequences include racial profiling by law enforcement, reluctance to report crime or seek emergency medical care, chilling the constitutional right of immigrant children to attend public school, and possible wrongful deportation of legal immigrants. We will be working diligently to ensure the Senate understands the harmful effects the legislation may have if passed into law.

For the second year, **decriminalization of marijuana** was debated in House Courts of Justice Committee and supported by a diverse group of individuals and organizations. Unfortunately, the Committee killed the bill. Similarly, for the second consecutive year, **expansion of the death penalty** was defeated in the Senate Courts of Justice Committee. This same committee had passed this bill previously, so we are pleased that legislators are beginning to see the disparities in the criminal justice system and the inequity and unfairness of the death penalty.

You'll find more on **women's rights, reproductive rights, felon disenfranchisement** and other important issues in the report that follows. I hope you take a moment to see where we are halfway through the session, and that you will help us protect civil liberties by becoming a grassroots lobbyist in the second half—unless you are already one, in which case I thank you for your support!

Reproductive Freedom and Women's Rights in the 2011 Session

By Katherine Greenier
Director, Patricia M. Arnold Women's Rights Project

Virginia is on trend with the nation in proposing a high number of bills related to abortion access. Measures designed to restrict access to abortion account for more than half of the reproductive rights related bills introduced nationwide, compared with 40% in 2010.

Three anti-choice bills passed the House this session: HB 2147 prohibits abortion coverage under the health care exchanges established federal health care reform. HB 1428 (or TRAP, for targeted regulations of abortion providers) burdens abortion clinics with unnecessary and prohibitively expensive equipment and facilities requirements. HB 1440 creates a new legal definition of life.

HB 2147 is new to the General Assembly. It **prohibits any health insurance plan sold or offered for sale through a health benefits exchange from providing coverage for abortion**. The ACLU opposes this bill because medical decisions should be made between a woman and her doctor, not politicians. Abortion is part of basic health care for women and should be part of comprehensive insurance plans.

In previous years, the **TRAP bill** has failed in the Senate after passing the House. We are lobbying for a similar fate this year.

HB 1440, the **definition of life bill**, is a new version of a similar bill seen in prior years. In the past, the bill has defined the word "person" under Virginia law to include unborn children. This year's bill also provides that the law is "subject only to the Constitution" and decisions made by the U.S. Supreme Court. This new language would lay a legal foundation to outlaw abortions in Virginia in the event of a reversal *Roe v. Wade*, even for rape or incest victims, or when the life of the woman is at risk.

In the area of domestic violence, both the House (HB 2063) and the Senate (SB 1222) have approved bills expanding **eligibility for protective orders** to include anyone who has been assaulted or reasonably fears deadly assault. Numerous studies have shown that victims of relationship violence are at a heightened risk for escalating violence and that the risk is not limited to just spouses, individuals who share a residence or those who have a child in common. These bills reflect a commonsense response to those studies.

Some progress was made this year when Delegate Patrick Hope introduced HB 1488, a bill restricting the use of **restraints on pregnant inmates** during labor, transport, and delivery. Although HB 1488 died in committee, the committee chair will write a letter to the Department of Corrections requesting that it make changes to practices and policies to prohibit using restraints on pregnant inmates when they are in transport or during delivery.

House Committee Continues to Curb Reform of State's Worst-in-the-Nation Law on Felon Disenfranchisement

By Tom Okuda Fitzpatrick
Dunn Legal Fellow

Resolutions to reform Virginia's felon disenfranchisement law were again killed in the House Privileges and Elections Committee. Despite passing the Senate in nearly every session, the bill has not reached the House floor in recent memory.

The Senate this year passed SJ 284 on a 27-13 vote that garnered some bi-partisan support. The resolution amends the state constitution to authorize the General Assembly to restore voting rights for non-violent felons. A subcommittee of the House Privileges and Elections Committee killed the House version of the bill early in the session and the Senate version on February 14.

Joined by our state allies at the League of Women Voters, the NAACP, and the Catholic Conference, and armed with a letter signed by over 80 religious leaders from across the state, we pushed passage of a bill to rid Virginia of this Jim Crow law that still disproportionately affects African-Americans. Virginia and Kentucky remain the only two states to permanently disenfranchise all felons.

For more information on our efforts, contact Tom Fitzpatrick at tfitzpatrick@acluva.org or go to www.restoreourvote.org.

Crossover List – February 14, 2011

Religious Liberty

Failed

Note: HJ 593 and HJ 614 crossed over from the House to the Senate before crossover and both were killed in the Senate.

HJ 593 (Carrico) Amending the Virginia Constitution Concerning Freedom of Religion. Amends the Virginia Constitution to explicitly state that the government cannot establish an official religion and that the people have the right to pray and recognize their religious beliefs on public property, including in public schools. However, schools may not compose school prayers or require any person to join in prayer or religious activity. *This resolution, according to its patron, is intended to allow prayers in public schools over the public address system, that the U.S. Supreme Court declared unconstitutional.* ACLU opposed. Status: Passed the House (61-Y, 33-N, 1-A); killed in a Senate Privileges and Elections Subcommittee.

HJ 614 (Greason) State Financial Aid for Military Chaplains. Amends the Virginia Constitution to allow state-sponsored financial assistance for students attending nonprofit institutions of higher education whose primary purpose is religious or theological education and are approved candidates for military chaplaincy. ACLU opposed. Status: Passed the House (62-Y, 32-N, 1-A); killed in a Senate Privileges and Elections Subcommittee.

HB 1409 (Bell, Richard) Prayer at Government-Sanctioned Events. Provides that no government agency may regulate the content of prayer at a government-sanctioned event, but prohibits prayers that advance a particular religion or disparage another faith or belief. *This confusing and self-contradictory bill seems to allow sectarian prayers at government events but then requires such prayers to be non-sectarian. For the past two years, nearly identical bills have been introduced and failed.* ACLU opposed. Status: Killed in House Courts of Justice Committee.

Death Penalty

Failed

SB 1200 (Obenshain) Elimination of the Triggerman Rule. Expands the death penalty by eliminating the 'triggerman rule,' which provides, with few exceptions, that only the actual perpetrator of a capital murder is eligible for the death penalty. This bill would permit accessories before the fact and others to be charged with capital murder and therefore eligible for the death penalty. *Should prosecutors choose to do so, the elimination of the triggerman rule could be the basis for dramatic expansion of the death penalty in the state.* ACLU opposed. Status: Killed in Senate Courts of Justice (8-Y, 6-N).

Privacy Rights

Passed

HB 1662 (Alexander) Mandatory HIV Testing for Prisoners. Requires mandatory HIV (human immunodeficiency virus) testing for all prisoners. HB 1662 was incorporated into HB 1688, which requires the Department of Corrections to offer to test an inmate prior to his scheduled release, however an inmate may decline the test. ACLU opposed HB 1662 and is monitoring HB 1688. Status: HB 1688 passed the House (99-Y, 0-N); now in Senate Rehabilitation and Social Services Committee.

HB 1948 (Villanueva); SB 1259 (Vogel) Less Frequent Review of Virginia Fusion Center. As amended and passed, requires that the data in the Virginia Fusion Center database be reviewed every three years instead of every year. *The Virginia Fusion Center was created in 2005 to improve the sharing of anti-terrorism intelligence among different local, state and federal law enforcement agencies. The ACLU has been concerned that a lack of oversight and clear rules for collecting and storing data would make fusion centers into secret stockpiles of information on innocent citizens. Data reviews should be conducted more frequently, not less.* ACLU opposes. Status: HB 1948 passed the House (97-Y, 1-N); now in Senate Courts of Justice. SB 1259 passed the Senate (40-Y, 0-N); now in House Courts of Justice.

HB 2032 (May) Prohibit Electronic Tracking Devices on Vehicles. Prohibits the placement of an electronic tracking device on a vehicle without the permission of the vehicle's owner. The bill does not apply to the vehicle manufacturer or law enforcement officers acting in the performance of their duties, or a parent or legal guardian of a minor. *The ACLU supports prohibiting unauthorized electronic tracking, but strongly opposes the provisions of this bill that allow the police to place tracking devices on vehicles without a warrant.* Status: Passed the House (98-Y, 0-N); now in Senate Courts of Justice Committee.

HB 2315 (Byron) Notification of Breach of Medical Information. Requires private companies to notify Virginia residents of breaches in security that may have compromised their medical records. ACLU supports. Status: Passed the House (94-Y, 4-N); now in Senate Education and Health Committee.

SB 945 (Howell) SSN Requirement Eliminated for Voter Erroneously Omitted from Poll Book. Eliminates the requirement that voters provide their Social Security Numbers when their names are erroneously omitted from the poll book but the registrar confirms that they are registered to vote. ACLU supports. Status: Passed the Senate (38-Y, 0-N); now in House Privileges and Elections Committee.

Privacy Rights continued...

Failed

HB 1953 (Villanueva); SB 918 (McDougle) Expansion of Virginia Fusion Center's Function. Currently, the Virginia Fusion Center collects intelligence information related to terrorism. This bill expands the Center's scope so that it will also collect criminal-related intelligence information. *The Virginia Fusion Center was created in 2005 to improve the sharing of anti-terrorism intelligence among different local, state and federal law enforcement agencies. The ACLU has been concerned that a lack of oversight and clear rules for collecting and storing data would make fusion centers into secret stockpiles of information on innocent citizens. ACLU opposed. Status: HB 1953 was killed in House Militia, Police & Public Safety Committee. SB 918 was killed in Senate Courts of Justice Criminal Subcommittee.*

HB 2327 (Lingamfelter) Limiting the Adoption of Photo Monitoring Programs by Localities. Localities that want to use red light cameras must establish their programs through an ordinance adopted before July 1, 2011. No locality may implement or expand their photo monitoring programs on or after July 1, 2011. ACLU supported. *Status: Killed in Militia, Police and Public Safety Committee (9-Y 12-N).*

Women's Rights and Reproductive Freedom

Passed

HB 1428 (Bell, Richard P.) Targeted Regulations of Abortion Providers. Requires abortion clinics that conduct 25 or more abortions per year to be licensed by the Board of Health and to meet the requirements of ambulatory surgery centers. *This bill puts an unwarranted and prohibitively expensive burden on abortion clinics, which must pass on the costs to clients or be forced to close their doors. ACLU opposes. Status: Passed the House (66-Y, 33-N); now in Senate Education and Health Committee.*

HB 1440 (Marshall, R.G.) Definition of Life. Provides that persons who enjoy the right to life and liberty under the state constitution include embryos and fetuses from the moment of fertilization. *Such a law could be used to argue that abortions are crimes in Virginia. ACLU opposes. Status: Passed the House (62-Y 36-N 1-A); now in Senate Education & Health Committee.*

HB 1757 (Wilt) Expansion of Address Confidentiality Program for Victims of Domestic Violence. Provides for statewide implementation of the Address Confidentiality Program, which allows victims of domestic violence to request that the Office of the Attorney General be used as their designated mailing address rather than their actual address. ACLU supports. *Status: Passed the House (99-Y, 0-N); now in Senate General Laws Committee.*

HB 2063 (Bell, Robert B.); SB 1222 (Barker)

Expanding Access to Protective Orders and Penalties for Domestic Violence. HB 2063 and SB 1222 rename "protective orders for stalking" as "protective orders" and expand the class of persons who are eligible to obtain a protective order to include those who have been subjected to assault or any conduct that creates a reasonable fear of death. These bills expand the categories of people who qualify for protective orders beyond spouses, live-in domestic relationships, and couples who share a child. ACLU supports. *Status: HB 2063 passed the House (99-Y, 0-N); now in Senate Courts of Justice Committee. SB 1222 passed the Senate (37-Y, 0-N); now in House Courts of Justice Committee.*

HB 2147 (Cline) Prohibits Abortion Coverage under Health Care Exchange. Prohibits abortion coverage by health insurance plans sold in Virginia through health benefits exchanges as established under the federal health care reform law. ACLU opposes. *Status: Passed the House (60-Y 36-N 2-A); in Senate Education and Health Committee.*

HB 2190 (Ebbin) Assistance for Victims of Human Trafficking. Requires the Department of Social Services to develop a plan to provide services to victims of human trafficking. ACLU supports. *Status: Passed the House (98-Y, 0-N); now in Senate Rehabilitation and Social Services Committee.*

Failed

HB 1488 (Hope) Prohibition on Shackling of Pregnant Prisoners. With a few exceptions, prohibits the use of restraints on pregnant prisoners during labor, transport to a medical facility, delivery, or postpartum recovery. ACLU supported. *Status: Killed in House Militia, Police and Public Safety Committee, but Committee chair agreed to write the Department of Corrections to adopt policies to prevent shackling of pregnant women.*

HB 2192 (Ebbin) Medicaid Coverage for Certain Pregnant Immigrants. Provides Medicaid coverage for pregnant women who are lawfully residing in the U.S. who are not admitted for permanent residence but are otherwise eligible for medical assistance. ACLU supported. *Status: Killed in House Appropriations Committee.*

SB 1217 (Smith) Forced or Coerced Abortion. Prohibits any person from forcing or coercing a pregnant female to have an abortion. "Forces or coerces" is defined as any act or attempted act including a threat of physical, emotion, financial, or psychological harm. *ACLU opposed. This bill could infringe on the free speech right to express an opinion on a woman's decision to have an abortion. Status: Killed in Senate Education and Health.*

SB 1435 (Smith) Mandatory Ultrasound. Amends the informed consent law to require that every pregnant woman be given an ultrasound prior to an abortion. ACLU opposed. *Status: Killed in Senate Education and Health.*

Voting Rights

Passed

HB 1501 (Putney); SB 1213 (Smith) Expansion of Voter Registration Application Form Availability. Expands the places where voter registration application forms are available to include any facility where hunting and fishing licenses are sold. ACLU supports. *Status: HB 1501 passed the House (98-Y, 0-N); now in Senate Privileges and Elections Committee. SB 1213 passed the Senate (40-Y, 0-N); now in House Privileges and Elections Committee.*

HB 1560 (Cole) ID Required to Vote. Requires all voters to show an ID to vote or be required to cast a provisional ballot. ACLU opposes. *Status: Passed the House (68-Y, 31-N); now in Senate Privileges and Elections Committee.*

HB 1568 (Cleaveland) Counting Absentee Ballots of Deceased Voters. Requires the counting of absentee ballots cast by qualified voters who die between the time they cast the ballots and when the absentee ballots are counted. ACLU supports. *Status: Passed the House (92-Y, 6-N); now in Senate Privileges and Elections Committee.*

SB 937 (Miller, J.C.) Absentee Voting for Individuals 65 or Older. Allows all individuals 65 or older to vote absentee. ACLU supports. *Status: Passed the Senate (32-Y, 6-N); now in House Privileges and Elections Committee.*

SB 949 (Howell) Expansion of Absentee Voting. Allows all voters to vote by absentee ballot in-person, but in order to vote absentee by mail-in ballot a person must provide one of the acceptable excuses under state law. ACLU supports. *Status: Passed the Senate (24-Y, 14-N); now in House Privileges and Elections Committee.*

Failed

HB 1400 (Dance) Early Voting. Allows any qualified voter to cast a ballot in-person at the office of the registrar from 14 to 3 days before Election Day. ACLU supported. *Status: Killed in House Privileges & Elections Subcommittee #2.*

HB 2088 (Herring) Expansion of Absentee Voting for Business and Medical Emergencies. Under existing Virginia law, any voter who learns that he or she will become unavailable to vote on Election Day because of a business engagement or medical emergency that they became aware of after noon on the Saturday before an election may apply for an absentee ballot on the Monday preceding the election. HB 2088 allows voters to cast an absentee ballot if they learn of such conflicts after 6:00 p.m. on the Thursday before Election Day. ACLU supported. *Status: Killed by House Privileges & Elections Subcommittee on Elections.*

Restoration of Voting Rights

Failed

SJ 284 (Miller, Y.B.); SJ 306 (McEachin) Restoration of Civil Rights for Non-Violent Felons. Amends the Virginia Constitution to allow the General Assembly to provide for the restoration of civil rights, including voting rights, for persons who have been convicted of non-violent felonies who have completed all the requirements of their sentences. ACLU supports. *Virginia and Kentucky are the only two states that permanently disenfranchise all felons, requiring an act of the governor for voting rights to be restored. . The constitutional provision is a holdover from Jim Crow that still disproportionately affects African-Americans. Status: SJ 306 was incorporated into SJ 284, which passed the Senate (27-Y, 13-N). Killed in House Privileges & Elections Constitutional Subcommittee without a vote.*

HJ 543 (Herring) Restoration of Civil Rights for Non-Violent Felons. Amends the Virginia Constitution to allow the General Assembly to provide for the restoration of civil rights, including voting rights, for persons who have been convicted of non-violent felonies who have completed all the requirements of their sentences. ACLU supported. *Status: Incorporated into HJ 497 (see below).*

HJ 497 (Dance); HJ 524 (Ware, O.); HJ 610 (Carr); HJ 634 (Morrissey) Restoration of Civil Rights for All Felons. Amend the Virginia Constitution to allow the General Assembly to provide for the restoration of civil rights, including voting rights, for all persons who have been convicted of felonies who have completed all the requirements of their sentences. ACLU supported. *Status: HJ 524, HJ 610 and HJ 634 were incorporated into HJ 497, which failed to report from House Privileges & Elections Constitutional Subcommittee (1-Y, 5-N).*

Criminal Justice and Due Process

Passed

HB 1650 (Cosgrove); SB 782 (Reynolds) Magistrates' Power to Issue Felony Arrest Warrants. Requires a commonwealth's attorney or law enforcement to authorize an arrest warrant for a felony issued by a magistrate when it is based on a citizen complaint. *Comment: The purpose of these bills is to reduce the number of false charges and arrests made against citizens.* ACLU supports. *Status: HB 1650 passed the House (98-Y, 0-N); now in Senate Courts of Justice Committee. SB 782 passed the Senate (39-Y, 0-N); now in House Courts of Justice Committee.*

HB 2012 (Carrico) Law Enforcement Employment Screenings. Allows law enforcement to deny employment to persons with juvenile delinquent convictions. Also allows law enforcement access to juvenile record information for employment screenings. ACLU opposes. *Status: Passed the House (91-Y, 8-N); now in Senate Courts of Justice Committee.*

SB 781 (Reynolds) Mandatory Substance Abuse Screenings for Recipients of Public Assistance.

Requires local departments of social services to screen all Virginia Initiative for Employment not Welfare Program (VIEW) applicants for drug use and to conduct drug tests on all those who fail to pass the drug screen. Failure of drug test or refusal to take the drug test makes applicants ineligible for Temporary Assistance for Needy Families (TANF) benefits. ACLU opposes. *Status: Passed the Senate (32-Y, 7-N); now in House Health, Welfare and Institutions Committee.*

SB 822 (Edwards) Juvenile's Right to Appeal Being Tried as an Adult for Certain Crimes. Under current law, if a juvenile commits a crime that would be considered a felony if committed by an adult, he or she may be tried as an adult if ordered by the court. SB 822 would allow the juvenile to appeal the decision to be tried as an adult, when charged with certain crimes. ACLU supports. *Status: Passed the Senate (29-Y, 9-N); now in House Courts of Justice Committee.*

SB 944 (Howell) Training Standards for Police Pursuits and Line-ups. Requires the Department of Criminal Justice Services to establish training standards for law enforcement regarding pursuits, response to emergency calls, and procedures for line-ups. ACLU supports. *Status: Passed the Senate (39-Y, 0-N); now in House Militia, Police and Public Safety Committee.*

SB 948 (Howell) Expanded Juvenile Sentencing Opportunities. Allows circuit court judges to give juveniles tried as adults the opportunity to earn a juvenile delinquency conviction instead of an adult conviction upon successful completion of terms and conditions set by the judge. ACLU supports. *Status: Passed the Senate (39-Y, 0-N); now in House Courts of Justice Committee.*

Failed

HB 1443 (Morgan) Decriminalization of Marijuana. Decriminalizes the simple possession of marijuana by imposing a civil fine of not more than \$500 rather than a criminal penalty. ACLU supported. *Status: Killed in House Courts of Justice Criminal Subcommittee.*

HB 1448 (Greason) No Expungement for Juvenile Court Deferral and Dismissal. Under current law, any person who is the subject of a juvenile delinquency proceeding and is found innocent or had the proceeding dismissed may petition to have his or her record expunged. HB 1448 would prohibit the expungement of such records. ACLU opposed. *Status: Killed in House Courts of Justice Criminal Subcommittee.*

Expungement of Records for Drug Charges (HB 1463, Ware, O.). Allows any person charged or convicted of possession of marijuana to petition for expungement of related police and court records after five years. ACLU supported. *Status: Killed in House Courts of Justice Criminal Subcommittee.*

HB 1533 (Howell, A.T.) Expansion of Parole Eligibility.

Under current law, any inmate convicted of three separate felony offenses of murder, rape, or robbery with a firearm or deadly weapon is ineligible for parole. HB 1533 would make eligible for parole a person (1) convicted only of robbery, (2) who did not injure or attempt to injure any person, (3) who did not have an attorney assist him or her in a previous petition for review of parole ineligibility, (4) who has been continuously confined for 15 years, and (5) has a record of good conduct during confinement. ACLU supported. *Status: Killed in House Committee on Militia, Police and Public Safety Subcommittee #2.*

HB 1574 (Garrett) Mandatory Self-Identification to Law Enforcement. Requires individuals detained and questioned by law enforcement to identify themselves. ACLU opposed. *Status: Killed in House Courts of Justice Criminal Subcommittee.*

HB 2351 (Morrissey) Testing of Biological Evidence in a Case. Under current law, any person convicted of a felony may apply for a new testing of the biological evidence that was used to convict them, but the test must be one employed by the Department of Forensics. HB 2351 allows testing of biological evidence, whether or not the procedure is one employed by the Department, provided the Department regards the test as reliable. ACLU supported. *Status: Killed in House Courts of Justice Committee.*

HB 2440 (Comstock) Expungement of Record for Forced Prostitution. Allows individuals charged with or convicted of prostitution to expunge their record if they were forced, intimidated or deceived by another into engaging in prostitution. ACLU supported. *Status: Killed in House Courts of Justice Criminal subcommittee.*

SB 767 (Marsden) Expungement of Records Related to Protective Orders. Allows a person against whom a protective order was issued to petition for expungement of police and court records related to that protective order if the order is dissolved. ACLU supported. *Status: Killed in Senate Courts of Justice.*

SB 914 (McDougle) Expansion of Juvenile Transfers to Adult Court. Currently, juveniles may be tried as adults for certain crimes at the discretion of the commonwealth's attorney or after a fair, impartial hearing before a juvenile court judge. SB 914 expands the list of those crimes left to the discretion of the commonwealth attorney and that qualify for automatic transfer to adult court. ACLU opposed. *Status: Killed in Senate Courts of Justice Committee.*

SB 1467 (Edwards) Disclosure of Inactive Criminal Investigative Records under FOIA. Requires police departments to disclosure of records of inactive criminal investigations or prosecutions when requested under the Virginia Freedom of Information Act. ACLU supported. *Status: Killed in Senate General Laws & Technology FOIA subcommittee and referred to FOIA Council.*

Immigrants' Rights

Passed

HB 1421 (Albo) State and Local Enforcement of Federal Immigration Laws. Requires state agencies and localities to enforce federal immigration laws to the extent permitted by federal law. *The ACLU argues that only trained federal immigration officers should be enforcing federal immigration law. Prospects for due process abuses and racial profiling increase when poorly trained local law enforcement attempt to implement complex federal immigration laws. ACLU opposes. Status: Passed the House (73-Y, 26-N); now in Senate Courts of Justice Committee.*

HB 1430 (Albo); HB 2332 (Lingamfelter) Arresting Officer to Determine Citizenship Status of All Arrestees. In 2008, legislation was passed requiring jail officials to ascertain the citizenship status of all persons taken into custody at the jail. HB 1430 requires that a computerized immigration check take place only if an individual was arrested on a warrant for which probable cause exists or only after a judicial officer determines probable cause for the arrest and issued a warrant or summons. HB 2332 requires every state and local officer to make a subjective immigration determination even before a judicial officer determines probable cause exists to arrest the person. If the officer conveys his evaluation of the individual to the magistrate, who then without an official immigration check, decides whether the individual should be released. ACLU opposes. *Status: HB 1430 passed the House (72-Y, 27-N); now in Senate Courts of Justice Committee. HB 2332 passed the House (68-Y, 31-N); now in Senate Courts of Justice Committee.*

HB 1465 (Peace) Undocumented Immigrants Ineligible for Admission to Public Colleges. Prohibits the admission of any undocumented immigrant into a public college or university in Virginia. ACLU opposes. *Status: HB 1465 passed the House (72-Y, 24-N); now in Senate Courts of Justice Committee.*

HB 1468 (Albo) Proof of Legal Presence Required for Public Assistance. Requires local departments of social services to verify an applicant's citizenship or legal presence in the United States before providing any public assistance benefits. ACLU opposes. *Status: Passed the House (83-Y, 16-N); now in Senate Courts of Justice Committee.*

HB 1651 (Cosgrove) DMV Cancel Driver's License upon Notification by Federal Agency. Requires the Department of Motor Vehicles to cancel the driver's license of any individual when it is notified by a federal agency that the individual is neither a U.S. citizen nor legally in the country. In Virginia, an individual must prove their legal presence in order to obtain a license. ACLU opposes. *Status: Passed the House (99-Y, 0-N); now in Senate Courts of Justice Committee.*

HB 1727 (Carrico) Mandated Use of E-Verify. Requires state agencies, localities, and companies with 15 or more employees to use the E-Verify program to verify employees' work status. Companies that do not use E-Verify will have licenses revoked. *There are many documented cases of E-Verify incorrectly identifying as undocumented individuals who are legally present, resulting in detention and even deportation hearings. The ACLU opposes mandatory use of E-Verify until the system has been proven to be accurate. Status: Passed the House (76-Y, 23-N); now in Senate Commerce and Labor Committee.*

HB 1775 (Gilbert) Citizenship Status Indicated for Public School Enrollment. As introduced, requires that persons enrolling students in public schools indicate the citizenship or immigration status of the students' parents. As amended and passed by the House, this bill requires schools to report to the State Board of Education the number of students enrolled in ESL classes and the number of students whose parents could not present a birth certificate when enrolling the students. ACLU opposes. *Status: Passed the House (73-Y, 25-N); now in Senate Courts of Justice Committee.*

HB 1859 (Anderson); SB 1049 (Barker) Mandated Use of E-Verify for Contractors. HB 1859 requires state agencies to include in their contracts of more than \$50,000 provisions requiring the contractor to use the E-Verify program. SB 1049 requires any government contractor or subcontractor that enters into a contract with a public entity in Virginia to use the E-verify program. *The ACLU opposes mandatory use of the E-Verify program due to well-documented inaccuracies. Status: HB 1859 passed the House; now in Senate Courts of Justice Committee. SB 1049 passed the Senate; now in House Courts of Justice.*

HB 1934 (Miller, J.H.) State Police to Enter into Immigration Agreement. Directs the Superintendent of State Police to enter into a Memorandum of Agreement with Immigration and Customs Enforcement that would allow the State Police to perform certain federal immigration law functions in Virginia. ACLU opposes. *Status: HB 1934 passed the House; now in Senate Courts of Justice Committee.*

Failed

HB 2192 (Ebbin) Medicaid Coverage for Certain Pregnant Immigrants. Provides Medicaid coverage for pregnant women who are lawfully residing in the U.S. who are not admitted for permanent residence but are otherwise eligible for medical assistance. ACLU supported. *Status: Killed in House Appropriations Committee.*

HB 2466 (Englin) Virginia Biased-Based Profiling & Traffic Statistics Reporting Act. Requires state and local police to record demographic data at traffic stops to determine the prevalence of racial profiling in Virginia. ACLU supported. *Status: Killed in House Courts of Justice Committee.*

Equal Rights

Passed

SB 747 (McEachin) Prohibition on Sexual Orientation Discrimination in Public Employment. Prohibits employment discrimination on the basis of sexual orientation in state government. ACLU supports. *Status: Passed the Senate (22-Y, 18-N); now in House General Laws Committee.*

Failed

HB 1509 (Scott, J.M.); HB 1964 (Rust); HB 2046 (Ebbin) Prohibition on Sexual Orientation Discrimination in Public Employment. Prohibits employment discrimination on the basis of sexual orientation in state government. ACLU supported. *Status: HB 1509 and HB 1964 were incorporated into HB 2046, which was killed in House General Laws subcommittee.*

HB 1575 (Englin); HB 1576 (Ebbin); HB 1748 (Plum) Anti-bullying in Public Schools. HB 1575 clarifies the definition of bullying to include those actions motivated by actual or perceived personal characteristics, including race, national origin, sex, sexual orientation, gender identity, religion, ancestry, physical attributes, socioeconomic status, familial status, physical or mental ability, or disability. HB 1576 makes bullying a Class 1 Misdemeanor and defines bullying as “recklessly or intentionally endangering the health or safety of a student by exposing that student repeatedly, and over time, to physical aggression or intimidation...resulting in bodily injury or other harm to person or property.” This definition of bullying does not supersede or limit any definition of bullying used in the guidelines for codes of student conduct. HB 1748 redefines bullying to include cyber bullying, which is bullying through the use of technology or electronic communications. ACLU supported. *Status: HB 1575 killed in House Education with letter. HB 1576 killed and referred to Crime Commission for study. HB 1748 killed in House Courts of Justice Committee.*

HB 1755 (Plum); SB 797 (Locke) Prohibition on Sexual Orientation and Gender Identity Discrimination in Virginia. Amend the Virginia Human Rights Act to prohibit discrimination anywhere in Virginia on the basis of sexual orientation. ACLU supported. *Status: HB 1755 was incorporated into HB 2046, which was killed House General Laws Subcommittee. SB 797 killed in Senate General Laws & Technology.*

HB 2345 (Morrissey) Prohibits Sexual Orientation Discrimination in Virginia National Guard. States that eligibility for service in the Virginia National Guard follows eligibility regulations adopted by the U.S. Department of Defense. This bill was specifically meant to counter Del. Marshall’s bill (HB 2474) that prohibits gay men and lesbians from serving in the Virginia National Guard. ACLU supported. *Status: Killed in House Rules.*

HB 2474 (Marshall, R.G.) Sexual Orientation Discrimination in Virginia National Guard. Prohibits gay men and lesbians from serving openly in the Virginia National Guard. ACLU opposed. *Status: Killed in House Rules Committee.*

HJ 637 (Englin) Marriage Amendment. Proposes the repeal of the constitutional amendment defining marriage as only a union between one man and one woman. ACLU supported. *Status: Killed in House Privileges and Elections Constitutional Subcommittee.*

Open Government

Failed

HB 1566 (LeMunyon) Publication of all House and Senate Voting Records on the Internet. Requires the publication on the internet of all recorded committee, subcommittee, and floor votes of all members of the House of Delegates and Senate on all legislation. ACLU supported. *Status: Killed in House Rules Committee.*

HB 1935 (Ware, O.); HB 2079 (Landes) Change to Public Notice Requirements. HB 1935 allows localities to advertise legal notices on the Internet, radio or television instead of in local newspapers. HB 2079 makes advertising legal notices for charter changes, referenda, and public hearings in local newspapers optional instead of required, and allows ads to be placed in other media. ACLU opposed. *Status: HB 1935 killed in House Counties, Cities and Towns Committee. HB 2079 killed in House Counties, Cities and Towns subcommittee #2.*

SB 812 (Martin) FOIA Exemption for Names when Obtaining Salary Information. Requires that the names of public employees be withheld when their salary information is provided through the Freedom of Information Act. ACLU opposed. *Status: Killed in Senate General Laws & Technology.*

Sign Up Now to Become a Grassroots Lobbyist for the ACLU of Virginia!

Help us protect civil liberties in Virginia by signing up to receive email alerts during the legislative session. We’ll give you contact information for relevant legislators and help you with your message. Visit us online at www.acluva.org.