

General Assembly Crossover Report 2012

Halfway Through: Victories and Defeats for Civil Liberties

By Hope Amezquita, Legislative Counsel

As expected after the November elections, we've witnessed the approval of numerous bills in the 2012 session intended to suppress the right to vote, erode reproductive freedom, and discriminate against our immigrant and LGBT communities. All is not lost, however, as we have helped defeat bills that put more juveniles to the adult criminal justice system, banned abortion at 20 weeks, and expanded the death penalty.

Thank you for your advocacy efforts so far this session, but keep in mind that our hardest work is still ahead of us.

Voter ID Bills Threaten Access to the Polls

The House has passed a mandatory ID bill, HB 9, that requires a voter to show an ID or vote by provisional ballot (which will not be counted unless identification is confirmed the day after the election). The Senate passed SB 1, which expands the list of acceptable IDs a voter can show at the polls, but, like HB 9, requires those without IDs to cast a provisional ballot.

Fortunately, the **very worst voter suppression bill died in the House** and had no Senate equivalent. HB 569 **required proof of citizenship to register and then a government issued-photo ID to vote**. It passed the House Privileges and Elections Committee, but not the House Appropriations Committee. We estimated that more than one million voters could have been negatively affected by HB 569 because they do not have proper ID or the documents needed to obtain an ID or prove citizenship.

Not surprisingly, **nearly all the bills intended to make voting easier have been killed in committee**, including no excuse absentee voting, absentee voting for individuals 65 and older, and restoration of civil rights. Only SB 207, which permits an extension of polling hours during emergencies, is still alive. SB 207 passed the Senate, but is likely to face stiff opposition in the House Privileges and Elections.

Reproductive Freedom in the 2012 Session

By Katherine Greenier

Director, Patricia M. Arnold Women's Rights Project

Politicians across the country have set their sights on restricting women's reproductive freedom, and Virginia's anti-choice legislators are no exception. Abortion opponents started early by introducing HB 1, a bill that lays the **legal foundation to ban all abortion and prohibit common forms of contraception**.

HB 1 grants fertilized eggs the same rights, privileges, and immunities as people. Also, if U.S. Supreme Court precedents are overturned, abortion and many forms of contraception would be banned. The bill may impact thousands of laws and puts the government, lawyers, and courts in the middle of our personal and private decisions. HB 1 passed the House and now goes to the Senate.

HB 62, which also passed the House, removes state funding of abortions for low-income women who learn that their fetus has a totally incapacitating impairment.

The House easily passed HB 462, which mandates that **every woman undergoing an abortion must first have an ultrasound** and then be given the option to view the ultrasound image and hear the heartbeat. SB 484, the companion bill to HB 462, passed in the Senate by a narrow 21 to 18 vote.

In a victory for reproductive rights, legislators killed two extreme anti-abortion bills, HB 1285 and SB 637, which **banned practically all abortions after 20 weeks gestation**. These bills are unconstitutional as they prohibit abortions the Supreme Court has ruled are constitutionally protected. Recognizing SB 637 as an invitation to litigation, the Senate Education and Health Committee refused to report the bill. The House Courts of Justice Committee carried over HB 1285 until 2013.

In another reproductive rights victory, legislators failed to **ban insurance coverage of abortion care**. HB 464 and SB 496 prohibited any qualified health insurance plan that is sold or offered for sale through a health benefits exchange from providing coverage for abortion, but neither made it to a floor vote.

Adoption Bill Allows LGBT Discrimination

Both the House of Delegates and the Senate have passed **bills permitting private adoption and foster care agencies, many of which are affiliated with religious institutions, to discriminate against prospective parents who do not subscribe to the agency's religious beliefs.** Although these bills can apply to anyone, they are primarily aimed at allowing discrimination against lesbian and gay individuals wishing to adopt or foster needy children.

All the **bills introduced to protect state employees from discrimination on the basis of sexual orientation or gender identity were killed** in a subcommittee of the House General Laws Committee.

(See more Equal Rights, p. 3)

Expansion of Death Penalty

Nearly every year the General Assembly entertains legislation to expand the death penalty, and recently that has meant attempting to pass a law **eliminating the triggerman rule.** These bills expand the death penalty to apply to accessories before the fact and principals in the second degree. The House triggerman bill, HB 389, passed and now heads to the Senate. The Senate version, SB 58, was defeated in the Courts of Justice Committee by a vote of 7-Y, 7-N and 1-A. We are hoping that HB 389 meets a similar fate.

(See Death Penalty, p. 8)

Due Process for Juveniles

Under the guise of promoting public safety, bills **expanding the sex offender registry for crimes committed by juveniles** have passed both the House and Senate (HB 624; SB 127). These bills mandate that all juveniles over the age of 13 who commit certain crimes be placed on the sex offender list, with no opportunity for later removal.

(See more Due Process, p. 6)

Bills Threaten Immigrants' Rights, Encourage Racial Profiling

This session has seen a **resurgence of anti-immigrant legislation.** Most of the bills have failed but HB 1060, which passed the House, requires arresting officers to question the citizenship status of all arrestees, whether or not they are taken into custody. This bill raises serious concerns about profiling on the basis of race and national origin. A similar bill, SB 460, has already been defeated in the Senate Courts of Justice Committee by a narrow vote of 7-Y, 7-N, 1-A.

(See more Immigrants' Rights, p. 5)

Drug Testing Bill Threatens Privacy Rights of Poorest Virginians

Following a nationwide trend, bills requiring **drug testing for recipients of public benefits** have been introduced. These bills require that applicants for public benefits undergo a screening assessment for illegal drug use. In the House, HB 73 passed its first committee hurdle only to be defeated in House Appropriations Committee because of suspicions that the law could be costly. The Senate version, SB 6, narrowly passed the Senate, with Lt. Governor Bill Bolling casting the tie-breaking vote, and now heads to the House.

(See more Privacy, p. 8)

Anti-Shackling Measure Dies

Despite widespread support from women's rights, faith-based, and prison reform organizations, a House subcommittee killed HB 836, a bill that limited the use of restraints on pregnant inmates during labor, delivery, and post-partum recovery. Although legislation has been killed, anti-shackling advocates continue to press for reform by urging the Board of Corrections to implement policies restricting shackling in local and regional correctional facilities.

(See more Women's Rights, p. 5)

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Crossover List – February 15, 2012

Free Speech

Passed

HB 707 (Filler-Corn); SB 434 (Puller) Prohibiting Protests at Funerals. Prohibits intentionally disruptive protests sixty minutes before, during, and immediately after funerals and memorial services. ACLU opposes. *Status: HB 707 continued until 2013 in House Courts of Justice Committee. SB 434 passed the Senate (40-Y, 0-N).*

SB 613 (Edwards) Eliminating Residency Requirement for Petition Circulators. Eliminates the residency requirement for candidates' petition circulators and instead requires only that circulators be at least 18 years of age. ACLU supports. *Status: Passed the Senate (35-Y, 5-N).*

Failed

HB 61 (Cole); SB 63 (Stanley) Prohibits Solicitation of Absentee Ballot Applications. Prohibits in-person solicitations of absentee voting applications or ballots from individuals in any hospital, nursing home or assisted living facility (unless the solicitations are by a registrar, electoral board member or family member). ACLU opposed. *Status: HB 61 killed in House Privileges and Elections subcommittee on elections (6-Y, 0-N). SB 63 killed in Senate Privileges and Elections Committee (15-Y, 0-N).*

Religious Liberty

Passed

HB 321 (Massie); SB 131 (Stanley); SB 241 (Obenshain) Tax Credits for Businesses Providing Private School Scholarships. Establishes a tax credit for corporations that make donations to non-profit organizations which provide scholarships to low-income students to attend private elementary or secondary schools, including religious schools. ACLU opposes. *Status: HB 321 passed the House (64-Y, 35-N). SB 241 incorporated into SB 131, which reported from Senate Finance Committee (8-Y, 7-N), but Senate has not yet taken action.*

HJ 94 (Marshall, D.W.) Amends U.S. Constitution to Allow for Prayer in School and at Government Events. Proposes to Congress an amendment to the U.S. Constitution allowing for prayer in public schools and at public meetings. ACLU opposes. *Status: Adopted by the House (72-Y, 23-N).*

Failed

HB 631 (Morris); HB 825 (Marshall, R.G.) Anti-Sharia Law. Voids court decisions and other contracts or agreements based on foreign laws that do not have jurisdiction in the United States. *These bills are part of a national wave of proposed anti-Sharia legislation. Protections already exist in our legal system to ensure that courts do not improperly consider religious law where it would violate basic principles of U.S. federal or state*

policy. Prohibiting courts from considering Islamic law in their decisions serves only one purpose: to bar Muslims from having the same rights and access to the courts as other individuals. ACLU opposed. Status: Continued to 2013 in House Courts of Justice Committee.

HB 1207 (Pogge) Use of Religion to Refuse Academic Coursework in Higher Education. Requires colleges and universities to allow students to refuse coursework that is contrary to their religious beliefs. ACLU opposed. *Status: Continued to 2013 in House Education Committee.*

HJ 9 (Greason) State Scholarships for Religious Training. Amends the Virginia Constitution to allow state-sponsored financial assistance for chaplaincy students for the United States Armed Forces attending Virginia universities whose primary purpose is to provide religious or theological education. *Virginia has a long history of not providing state money for religious education and the Virginia Constitution explicitly prohibits it. ACLU opposed. Status: Left in House Privileges and Elections.*

Equal Rights

Passed

HB 173 (Loupassi); SB 184 (Stuart) Cost of English Interpreters. Requires non-English speaking defendants to pay for interpreters if they are convicted in criminal trials. ACLU opposes. *Status: HB 173 passed the House (73-Y, 26-N). SB 184 continued to 2013 in Senate Finance Committee (14-Y, 0-N).*

HB 189 (Gilbert); SB 349 (McWaters) Discrimination by Private Adoption Agencies. Allows a private foster care and adoption agency to discriminate against potential parents on the basis of sexual orientation, religion or other beliefs that may be contrary to the adoption agency's religious tenets. *The ACLU is sensitive to the important constitutional right of religious liberty and strongly advocates for the right of each religious institution to practice its own faith. However, when a private organization is contracted by the state to perform a function it regulates — such as certifying adoptive parents or placing children in foster care — it should do so in a non-discriminatory fashion. ACLU opposes. Status: HB 189 passed the House (71-Y, 28-N). SB 349 passed the Senate (22-Y, 18-N).*

HB 420 (Watts); SB 552 (Favola) Eligibility for Public Assistance. Provides that a person who is otherwise eligible to receive Temporary Assistance for Needy Families (TANF) benefits shall not be denied assistance solely because he has been convicted of a felony drug offense provided he complies with all obligations imposed by the court, has completed substance abuse treatment, and participates in drug screenings. ACLU supports. *Status: HB 420 killed in House Appropriations subcommittee. SB 552 passed the Senate with substitute (31-Y, 9-N).*

Failed

HB 613 (LeMunyon); HB 692 (Plum); HB 694 (Plum); HB 977 (Scott); HB 1099 (Herring); HB 1175 (Englin); SB 263 (Ebbin) Prohibiting Sexual Orientation Discrimination in Employment. HB 613 prohibits discrimination on any grounds in public employment, except for reasons related to job qualifications, ability or performance. HB 692, HB 977, HB 1099, HB 1175 and SB 263 amend Virginia law to restrict employment discrimination on the basis of sexual orientation. HB 694 and HB 977 also amend the policy statement of the Virginia Human Rights Act to include sexual orientation nondiscrimination. ACLU supported. *Status: HB 692, HB 694, HB 977 and HB 1175 incorporated into HB 613, which was killed in House General Laws subcommittee. HB 1099 incorporated into HB 1003, which was killed in House General Laws Committee. SB 263 killed in Senate General Laws and Technology Committee.*

HB 1048 (Keam) Miranda Rights in Arrestee's Native Language. Requires arresting officers to advise arrestees of their Miranda rights in their native language, in either written or verbal form, to ensure arrestees comprehend their rights. ACLU supported. *Status: Killed in House Courts of Justice criminal subcommittee (7-Y, 1-N).*

SB 569 (Ebbin); SB 647 (McEachin) Prohibiting Discrimination by Private Adoption Agencies. Prohibits the Department of Social Services from contracting with private foster care and adoption agencies – including many that are run by religious institutions – that discriminate against potential parents on the basis of race, religion, national origin, sex, age, family status, disability, sexual orientation, or gender identity. ACLU supported. *Status: SB 647 incorporated into SB 569, which was killed in Senate Rehabilitation and Social Services Committee (8-Y, 7-N).*

Reproductive Freedom

Passed

HB 1 (Marshall, R.) Defining Personhood. Grants fertilized eggs the status of persons under Virginia law, subject only to the U.S. Constitution and U.S. Supreme Court precedents. *This bill could outlaw all abortions and contraception in Virginia if current U.S. Supreme Court precedent is overturned.* ACLU opposes. *Status: HB 1 passed the House (66-Y, 32-N).*

HB 62 (Cole) Abortion Funding Ban for Low-Income Women with Incapacitated Fetuses. Repeals current Virginia law providing state funding for an abortion to low-income women when a doctor believes and certifies that the fetus would be born with a gross and totally incapacitating physical deformity or mental deficiency. ACLU opposes. *Status: Passed the House (65-Y, 35-N).*

HB 261 (Cole); HB 462 (Byron); SB 279 (Smith); SB 484 (Vogel) Mandatory Ultrasound Prior to Abortion. All these bills require a woman to have an ultrasound prior to obtaining an abortion. HB 261 extends the waiting

period before obtaining an abortion from 24 hours to 48 hours. HB 462 and SB 484 require that a woman be offered an opportunity to view an image of the fetus and hear the fetal heartbeat. SB 279 requires that a woman be offered the option to view an image of the fetus. *The ACLU opposes these bills because they require women to undergo a medically unnecessary procedure that adds to healthcare costs. HB 261 additionally places an undue burden on women seeking an abortion.* ACLU opposes. *Status: HB 261 was incorporated into HB 462, which passed the House (63-Y, 36-N). SB 279 was incorporated into SB 484, which passed the Senate (21-Y, 18-N).*

SB 277 (Smith) Prohibiting Forced or Coerced Abortion. Prohibits any person from forcing or coercing a pregnant female to have an abortion. *Regardless of medical procedure, no woman should be forced or coerced into a decision that is not in her best interest. This bill purports to help women who are in abusive relationships. However, domestic violence and child abuse are already illegal, and it has always been illegal to threaten or force someone to undergo a medical procedure against his or her will. By singling out abortion, proponents of the bill are really taking away women's decision-making abilities.* ACLU opposes. *Status: Passed the Senate (22-Y, 18-N).*

Budget Amendment to Restore Funding for the Teen Pregnancy Prevention Initiative, Budget Amendment Item 297#14h (Englin). This budget amendment restores funding for the Teen Pregnancy Prevention Initiative, which was cut by the Governor in his proposed 2012-2014 budget. TPPI provides sex education and pregnancy prevention services to at-risk teens. ACLU supports.

Failed

HB 464 (Byron); SB 496 (Watkins) Prohibiting Abortion Coverage in the Virginia Health Care Exchange. Creates the state's health care exchange under the federal Affordable Care Act but prohibits the sale of insurance coverage for abortions, except when the pregnancy endangers the mother's life or is the result of rape or incest. ACLU opposed. *Status: HB 464 killed in House Commerce and Labor subcommittee. SB 496 continued to 2013 in Senate Commerce and Labor.*

HB 1174 (Marshall, R.G.) Insurance Coverage for Abortion. Requires all insurance companies that provide plans with abortion coverage in Virginia to also provide plans with substantively identical terms and conditions except that they would not include abortion coverage. This bill places a mandate on insurance companies regardless of whether they participate in the state health care exchange. *Abortion is part of comprehensive reproductive medical care and should not be singled out for separate coverage.* ACLU opposed. *Status: Left in House Commerce and Labor Committee.*

HB 1285 (Anderson); SB 637 (Obenshain) Abortion Prohibited after 20 Weeks Gestation. Prohibits abortion after 20 weeks gestation unless, in reasonable medical judgment, the mother is at risk of substantial and

irreversible physical impairment of a major bodily function or death. *The ACLU believes these bills are unconstitutional because they prohibit abortions the U.S. Supreme Court has ruled are constitutionally protected. Moreover, the exceptions provided in these bills are very narrow. The Supreme Court has rejected the notion that a health exception can be limited to only those affecting a major physical function.* ACLU opposed. *Status: HB 1285 continued to 2013 in House Courts of Justice Committee. SB 637 killed in Senate Education and Health Committee (7-Y, 7-N, 1-A).*

Women's Rights

Failed

HB 836 (Hope) Prohibits Shackling of Pregnant Prisoners. Prohibits, with few exceptions, state, regional, local, and juvenile correctional facilities from using restraints on any pregnant prisoner during labor, transport, delivery or post-partum recovery. ACLU supported. *Status: Killed in House Militia, Police and Public Safety subcommittee.*

SB 380 (McEachin) Defining Birth Control. Defines birth control as contraceptive methods approved by the U.S. Food and Drug Administration and states that birth control does not constitute abortion. ACLU supported. *Status: Killed in Senate Education and Health Committee (8-Y, 7-N).*

Immigrants' Rights

Passed

HB 89 (Albo); HB 320 (Ingram); HB 958 (Bell, Robert B.); HB 1060 (Anderson) Arresting Officer to Ascertain Citizenship. In 2008, legislation was passed requiring jail officials to ascertain the citizenship status of all persons taken into custody at the jail. HB 958 clarifies existing law to ensure officials check the citizenship status of all individuals who are arrested and taken into custody. HB 1060 requires arresting officers to question the citizenship status of all arrestees, whether or not they are taken into custody. ACLU opposes. *Status: HB 89 and HB 320 incorporated into HB 958, which passed the House (81-Y, 19-N). HB 1060 passed the House (75-Y, 25 -N).*

HB 173 (Loupassi); SB 184 (Stuart) Cost of English Interpreters. Requires non-English speaking defendants to pay for interpreters if they are convicted in criminal trials. ACLU opposes. *Status: HB 173 passed the House (73-Y, 26-N). SB 184 continued to 2013 in Senate Finance Committee (14-Y, 0-N).*

HB 1001 (Ramadan); HR 10 (Miller, J.H.) State Police to Perform Federal Immigration Law Enforcement. HB 1001 directs the State Police to enter into agreement with federal government to allow State Police to perform federal immigration law enforcement functions in Virginia. HR 10 urges the President of the United States and Secretary of Homeland Security to honor Virginia's request to enter into a 287(g) memorandum of agreement

allowing the Virginia State Police to enforce federal immigration laws. *The ACLU does not oppose appropriate enforcement of federal immigration laws by federal agencies, but objects to enforcement by local and state personnel because immigration is a federal, not a state, function.* ACLU opposes. *Status: HB 1001 passed the House (77-Y, 23-N). HR 10 passed the House (73-Y, 23-N).*

Failed

HB 108 (Albo) Mandatory Local and State Enforcement of Federal Immigration Laws. Requires state and local agencies to enforce federal immigration laws. ACLU opposed. *Status: Left in House Courts of Justice Committee.*

HB 138 (Cole) Reporting Citizenship Status of Public School Students. Requires public schools to determine which students were born outside the US or who are the children of parents not lawfully present in the U.S. The information will be compiled and reported to the State Department of Education and ultimately the General Assembly. ACLU opposed. *Status: HB 138 killed in House Education subcommittee (4-Y, 2-N).*

HB 472 (Albo); SB 460 (Black) Ascertain Immigration Status at Traffic Stop. Requires law enforcement officers to detain and question the immigration status of any person during a traffic stop or when the officer suspects criminal activity is taking place. When an officer has "reasonable suspicion" that a person is unlawfully present, the officer must detain the individual and make an immigration inquiry to Immigration and Customs Enforcement (ICE). Following the results of the ICE inquiry, an individual may be arrested for a criminal violation or detained, without a criminal charge, until ICE takes custody of the person. ACLU opposed. *Status: HB 472 was left in House Courts of Justice Committee. SB 460 was killed in Senate Courts of Justice (7-Y, 7-N, 1-A).*

HB 1077 (Hugo) Expanded Use of E-Verify. Requires day labor centers to enroll in and use the E-Verify program to verify laborers' work status. *The ACLU opposes the mandatory use of the E-Verify program because there are many documented cases of E-verify incorrectly identifying as undocumented individuals those who are legally present, resulting in detention and even deportation hearings.* *Status: Continued to 2013 in House Commerce and Labor.*

HB 1282 (Cline) Prohibition on In-State Tuition for Undocumented Immigrants. Any person who is not lawfully present is not eligible for any post-secondary educational benefit, including in-state tuition. ACLU opposed. *Status: Left in House Courts of Justice Committee.*

Voting Rights

Passed

HB 9 (Cole); HB 1084 (Hugo); SB 1 (Martin); SB 55 (Obenshain) Voter ID Required to Vote. Under current Virginia law, a voter without ID at the polls may sign an “Affirmation of Identity” affidavit and vote by regular ballot. HB 9 requires voters without ID to sign the affidavit then cast a provisional ballot. HB 1084, SB 1 and SB 55 eliminate the “Affirmation of Identity” option and require voters without ID to cast provisional ballots. SB 55 also expands the list of acceptable forms of ID. *The ACLU opposes voter ID laws because they are onerous and unnecessary legislation that disproportionately impact low-income, elderly, and minority individuals who are less likely to possess the documents required by these bills.* ACLU opposes. *Status: HB 9 passed the House (69-Y, 30-N); now in Senate Privileges and Elections Committee. HB 1084 killed in House Privileges and Elections subcommittee on elections. SB 55 incorporated into SB 1, which passed the Senate (21-Y, 20-N) with Lt. Gov. Bolling casting the tie-breaking vote.*

HB 63 (Cole) Closed Electoral Board Meetings. Restricts access to electoral board meetings that are conducted to determine the validity of provisional ballots. Only political party and candidate representatives and the person who cast the provisional ballots are allowed. ACLU opposes. *Status: Passed the House (67-Y, 31-N).*

SB 207 (Barker) Emergency Extension of Polling Hours. Allows the State Board of Elections or the head of a political party to petition the Richmond Circuit Court to extend polling hours in emergency situations and situations that interfere with the ability of voters to travel to the polls. ACLU supports. *Status: Passed the Senate (21-Y, 18-N).*

Failed

HB 64 (Cole) Voting Assistance Prohibited. Prohibits anyone from assisting more than two persons in the casting of in-person or absentee ballots. Does not apply to election registrars, electoral board members, or election officials. ACLU opposes. *Status: HB 64 killed in House Privileges and Elections subcommittee on elections (6-Y, 0-N).*

HB 309 (Crockett-Stark); HB 669 (Surovell); SB 187 (Miller, J.C.) Absentee Voting for Individuals 65 or Older. Allows all individuals 65 or older to vote absentee. ACLU supported. *HB 309 and HB 669 were killed in House Privileges and Elections subcommittee on Elections (5-Y, 2-N). SB 187 was killed in Senate Privileges and Elections Committee (7-Y, 8-N).*

HB 569 (Marshall, D.W.) HB 828 (Marshall, R.G.); HB 895 (Albo) Proof of Citizenship to Register to Vote and Photo ID to Vote. HB 569 and HB 828 require proof of citizenship to register to vote and a government-issued photo ID to vote. HB 895 requires for voter registration proof of citizenship, proof of residency, and a government-issued photo ID. ACLU opposed. *Status: HB 569 was left*

in House Appropriations Committee. HB 828 was killed in House Privileges and Elections subcommittee on Elections (7-Y, 0-N). HB 895 was left in House Privileges and Elections Committee.

HB 786 (Lopez); SB 12 (Howell) Expansion of Absentee Voting. Allows any voter to vote by absentee ballot in-person for any reason, 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: HB 786 killed in House Privileges and Elections subcommittee on elections (5-Y, 2-N). SB 12 killed in Senate Privileges and Elections Committee (7-Y, 8-N).*

HB 1047 (Keam) Extension of Poll Hours. Allows localities by ordinance to extend polling hours by one hour, closing the polls at 8 p.m. instead of 7 p.m. ACLU supports. *Status: Killed in House Privileges and Elections subcommittee on elections (5-Y, 2-N).*

HB 1227 (Marshall, R.G.) Prohibiting Loyalty Oaths in Primary Elections. Prohibits a political party from requiring a loyalty oath or pledge to support the party’s candidate as a condition to participate in the party’s presidential primary. ACLU supported. *Status: Killed in House Privileges and Elections subcommittee.*

HJ 17 (Morrissey); HJ 125 (Carr); SJ 35 (Miller, Y.B.) Automatic Restoration of Civil Rights. Amends the Virginia Constitution to authorize the General Assembly to provide by general law for the restoration of civil rights for persons convicted of felonies who have completed service of their sentence, including any period or condition of probation, parole or suspension of sentence. Currently, only the Governor has the authority to restore voting rights. ACLU supported. *Status: HJ 17 and HJ 125 were left in House Privileges and Elections Committee. SJ 35 was continued to 2013 in Senate Privileges and Elections Committee.*

Criminal Justice and Due Process

Passed

HB 51 (Albo); HB 750 (Cline) Elimination of Deferred Judgment. Eliminates the ability of judges to offer deferred judgment in which, for example, criminal charges are dropped after a finding of guilt if the defendant commits no additional crimes during a certain period of time. ACLU opposes. *Status: HB 51 incorporated into HB 750, which passed the House (72-Y, 26-N).*

HB 165 (Hope); HB 1064 (Sherwood); SB 290 (Lucas) Conditional Release of Older Prisoners. Under current law older prisoners other than class one felons who meet certain age and time-served criteria may petition the Parole Board for conditional release. HB 165 allows all prisoners over 60 to submit such petitions. HB 1064 and SB 290 keep the criteria the same but make qualifying prisoners automatically eligible for parole consideration. ACLU supports. *Status: HB 165 and HB 1064 were killed in House Militia, Police and Public Safety subcommittee (3-Y, 1-N). SB 290 passed the Senate (40-Y, 0-N).*

HB 624 (Albo); SB 127 (Stanley); SB 412 (Norment) Adding More Juveniles to Sex Offender Registry.

Under current law, courts determine when juvenile offenders over the age of 13 are required to register as a sex offender. These bills, as introduced, remove some of that discretion by requiring all juveniles over the age of 13 who commit certain sex offenses to register. SB 127 amended to remove the retroactivity requirement to register. *Studies have shown that 85-95% of youth who commit sex offenses are never again arrested for sex crimes. The ACLU opposes labeling these children as sex offenders for life, thereby limiting their educational, social and career opportunities and their ability to fully contribute to society.* ACLU opposes. *Status: HB 624 passed the House (74-Y, 26-N). SB 412 incorporated into SB 127, which passed the Senate (26-Y, 14-N).*

HB 656 (Kory); HB 1080 (Hugo); SB 167 (Petersen); SB 391 (Marsden) Parental Notification for School Discipline.

HB 656 and SB 391 require schools to provide parental notification when they begin an investigation into a student's potential violation of school policy. HB 1080 and SB 167 require schools to notify parents anytime they investigate a student's potential serious violation of school policy. ACLU supports. *HB 656 killed in House Education subcommittee. HB 1080 continued to 2013 in House Education committee. SB 391 was incorporated into SB 167, which passed the Senate (40-Y, 0-N).*

HB 718 (Kilgore); SB 419 (Stanley) 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 hearing before a juvenile court judge. These bills expand the list of those crimes left to discretion of the commonwealth attorney. ACLU opposes. *Status: HB 718 passed the House (79-Y, 21-N). SB 419 was killed in Senate Courts of Justice Committee (10-Y, 5-N).*

HB 753 (Cline) Juvenile Offenses Requiring Sex Offender Registration. Current law does not specifically address any time frame during which a prosecutor must file a motion to require a juvenile sex offender to register. HB 753 allows a prosecutor to file that motion at any time. Amended on January 23 to state that the Commonwealth's Attorney may only file the motion as long as the court has jurisdiction (i.e., within 21 days of the judgment or during probation under the court). ACLU opposes. *Status: Passed the House (98-Y, 0-N).*

HB 1160 (Marshall, R.G.) Opposing Indefinite Detention of U.S. Citizens. Prohibits state and local entities and members of the Virginia military from assisting the federal government or U.S. military in the investigation, prosecution or indefinite detainment of U.S. citizens under the National Defense Authorization Act when it violates the Virginia Constitution's guarantee of due process and protection against indefinite detention. ACLU supported. *Status: Passed the House (96-Y, 4-N).*

HJ 126 (Hope); SJ 93 (Ebbin) Study on Solitary Confinement. Directs the Joint Legislative Audit and Review Commission to study the use of solitary confinement by the Department of Corrections. ACLU supports. *Status: HJ 126 killed in House Rules subcommittee on studies. SJ 93 passed the Senate by voice vote.*

Failed

HB 223 (Habeeb) Writ of Actual Innocence for Certain Juveniles. Writs of actual innocence allow some persons found guilty of a felony to have their case overturned when new evidence of innocence discovered. This bill extends the ability to petition for a writ to juveniles found guilty of an offense that would be a felony if committed by an adult. ACLU supported. *Status: Killed in House Courts of Justice criminal subcommittee.*

HB 392 (Howell, A.) 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 392 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 Militia, Police and Public Safety subcommittee #2 (2-Y, 3-N).*

HB 1198 (Herring); SB 583 (Edwards) Juvenile's Right to Appeal Trial as Adult. Provides juveniles charged with certain violent felony offenses the right to appeal being tried as an adult. ACLU supported. *Status: HB 1198 killed in House Courts of Justice criminal subcommittee. SB 583 killed in Senate Courts of Justice Committee (7-Y, 8-N).*

HB 1278 (Morrissey) Reform of Writs of Actual Innocence.

Under current law, a petition for a writ of actual innocence based on biological evidence may only be filed by a person who pled not guilty and was sentenced to death or convicted of a Class 1 or Class 2 felony or a felony in which the maximum penalty is life imprisonment. Petitioners for a writ based on non-biological evidence must have pled not guilty and are limited to just one petition. This bill would allow petitions, based on either biological or non-biological evidence, for any felony regardless of plea. In cases of non-biological evidence, this bill also removes the limit of one petition. ACLU supported. *Status: Killed in House Courts of Justice criminal subcommittee.*

HJ 139 (Englin) Petitioning DEA to Reclassify Marijuana.

A resolution requesting the Governor to petition the Drug Enforcement Administration to amend federal regulations to reclassify marijuana thereby decriminalizing marijuana for limited medical purposes and allowing states to implement regulatory programs for medical marijuana. ACLU supported. *Status: Killed in House Rules Committee.*

Privacy

Passed

HB 73 (Bell, Richard P.); HB 221 (Head); HB 249 (Cline); HB 598 (Crockett-Stark); HB 955 (Bell, Robert B.); SB 6 (Martin); SB 83 (McWaters); SB 318 (Carrico) Mandatory Drug Testing for Recipients of Public Assistance. Requires local departments of social services to screen all Virginia Initiative for Employment Not Welfare (VIEW) applicants for drug use and to conduct drug tests on all those who fail to pass the drug screen. Failure of the drug test or refusal to take the drug test makes applicants ineligible for Temporary Assistance for Needy Families (TANF) benefits. ACLU opposes. *Status: HB 221, HB 249, HB 598 and HB 955 incorporated into HB 73, which was continued to 2013 in House Appropriations Committee. SB 83 and SB 318 incorporated into SB 6, which passed the Senate (21-Y, 20-N) with Lt. Gov. Bolling casting the tie-breaking vote.*

HB 807 (May) Prohibits Electronic Tracking Devices on Vehicles. Prohibits the placement of electronic tracking devices on motor vehicles without the permission of the vehicle's owner, unless placed by the vehicle manufacturer, a law enforcement officer, or a parent of a minor. As amended, the bill also provides an exception for the owner of a fleet of vehicles, or the guardian of an incapacitated adult. ACLU supports. *Status: Passed the House (88-Y, 10-N).*

HB 900 (Brink); SB 374 (Barker) Parental Notification of College Student's Mental Health. Under current law, a doctor or clinical psychologist treating a college student may choose to withhold parental notification of a dependent student's mental health treatment if that notification is reasonably likely to cause substantial harm to the student or another person. These bills expand that choice to any licensed health professional treating a student. ACLU supports. *Status: HB 900 passed the House (97-Y, 0-N). SB 374 passed the Senate (40-Y, 0-N).*

Failed

HB 148 (Ransone); HB 562 (Marshall, D.); SB 319 (Carrico) Mandatory Drug Testing for Recipients of Unemployment Benefits. Requires unemployed individuals to pass a drug screening and/or drug test in order to be eligible for unemployment benefits. ACLU opposed. *Status: HB 148 and HB 562 killed in House Commerce and Labor subcommittee. SB 319 killed in Senate Commerce and Labor (9-Y, 6-N).*

SB 168 (Petersen) Prohibition on Closed-Circuit Cameras in Schools. Prohibits schools from using closed-circuit cameras to monitor students, unless it is necessary to protect the physical safety and security of students. ACLU supported. *Status: Continued to 2013 in Senate Education and Health Committee (15-Y, 0-N).*

SB 214 (Barker) Notification of Breach of Medical Information. Under current law, Virginia residents must be notified of breaches in government security that may have compromised their medical records. SB 214 extends the law to require that private entities also report breaches in medical records to any affected resident. ACLU supported. *Status: Continued to 2013 in Senate Education and Health.*

Open Government

Passed

HB 222 (Head); HB 773 (Landes); HB 1193 (Villanueva); SB 664 (Smith) Change to Public Notice Requirements. Under current law local governments are required to publish certain legal notices as well as provide notice of all public hearings and meetings in newspapers. HB 222, HB 773, and SB 664 allow localities to place such notices on the internet, radio or television in lieu of local newspapers. HB 1193 makes newspaper publication of procurement notices optional and requires notice be provided on the Department of General Services' electronic procurement website. ACLU opposes. *Status: HB 222 killed in House Courts of Justice civil subcommittee. HB 773 killed in House Counties, Cities and Towns Committee (3-Y, 7-N). HB 1193 passed the House (78-Y, 21-N). SB 664 left in Senate Local Government Committee.*

Failed

HB 397 (Hope) Expansion of Freedom of Information Act. Expands the Freedom of Information Act by requiring the Virginia Parole Board's guidance documents to be available as public records. ACLU supported. *Status: Killed in House General Laws.*

SB 107 (Edwards) Disclosure of Inactive Criminal Investigative Records under FOIA. Requires the disclosure of records of inactive criminal investigations or prosecutions when requested under the state Freedom of Information Act. ACLU supported. *Status: Killed in Senate General Laws and Technology Committee (7-Y, 6-N).*

Death Penalty

Passed

HB 389 (Gilbert); HB 954 (Bell, Robert B.); SB 58 (Obenshain) Elimination of 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 principals in the second degree to be charged with capital murder and therefore be eligible for the death penalty. ACLU opposes. *Status: HB 954 incorporated into HB 389, which passed the House (72-Y, 22-N). SB 58 killed in Senate Courts of Justice (7-Y, 7-N, 1-A).*