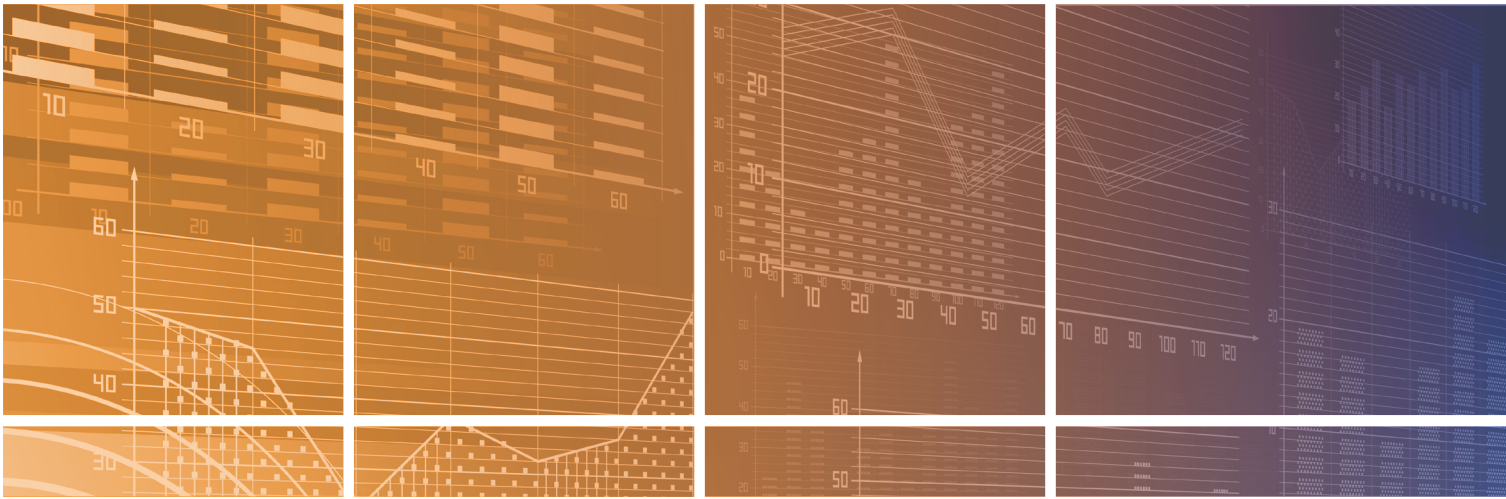


Recommendations for Legislative Action

2018 to 2021



Joint Legislative Audit and Review Commission

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Recommendations for Legislative Action 2018 to 2021

JLARC is the oversight agency of the Virginia General Assembly, established to evaluate the operations and performance of state agencies and programs.

When mandating a new study, the General Assembly routinely directs JLARC staff to incorporate recommendations in its reports to the Commission. Recommendations are sometimes directed to the General Assembly, when legislative action is likely to improve the efficiency or effectiveness of a program. JLARC staff also propose policy options when the action is a policy judgment best made by elected officials, evidence suggests action could potentially be beneficial, or a report finding could be addressed in multiple ways.

Before each legislative session, JLARC staff review the reports from the past four years and present a list of recommendations and policy options to Commission members, for the purpose of assisting them as they prepare legislation.

New legislative recommendations from 2021 reports that have been presented through October are listed first. Recommendations from 2018 through 2020 are included only if they have not already been implemented through legislation.

GUARDIANSHIP AND CONSERVATORSHIP

Improving Virginia's Adult Guardian and Conservator System, 2021

RECOMMENDATIONS

Supporting key recommendations in guardian ad litem (GAL) court reports ► The General Assembly may wish to consider amending § 64.2-2003 of the Code of Virginia to require that guardians ad litem explain in their report their reasoning for i) a decision not to recommend counsel for an adult under consideration for guardianship and ii) a determination that an alternative arrangement to guardianship or conservatorship is not appropriate, including an existing arrangement such as a power of attorney. (Recommendation 1)

Assessments of prospective guardians in GAL court reports ► The General Assembly may wish to consider amending § 64.2-2003 of the Code of Virginia to require that guardian ad litem reports to the court include i) the size of the prospective guardian's current guardianship caseload, ii) whether the prospective guardian employs representatives to manage day-to-day tasks of guardianship, (iii) the travel time between the prospective guardian's residence or place of business and the expected residence of the adult under consideration for guardianship, iv) whether the prospective guardian works as a professional guardian on a full-time basis, and v) whether the guardian is named as an alleged perpetrator in any substantiated Adult Protective Services complaint. (Recommendation 2)

Suitability of prospective guardians in GAL reports ► The General Assembly may wish to consider amending § 64.2-2003 of the Code of Virginia to require that guardians ad litem include in their reports an assessment of suitability and propriety of all individuals interested in serving as a guardian for the adult who is the subject of the petition. (Recommendation 4)

GALs' authority to review financial records ► The General Assembly may wish to consider amending § 64.2-2003 of the Code of Virginia to require financial institutions, financial services providers, and banks, as defined in § 6.2-100, § 8.4-105 and § 13.1-501 of the Code of Virginia, to provide financial records of adults under consideration for guardianship when requested by a guardian ad litem. (Recommendation 5)

Notification of right to propose alternative guardian ► The General Assembly may wish to consider amending § 64.2-2004 of the Code of Virginia to require that a notice be provided by the petitioner to an adult being considered for guardianship and their family, which clearly states that anyone may file a petition or a motion to intervene to become a party to the case if they wish to propose a different individual to serve as guardian than the one stated in the petition. (Recommendation 13)

Periodic court review hearings for guardianship cases ► The General Assembly may wish to consider amending § 64.2-2021 of the Code of Virginia to require circuit courts to hold a periodic review hearing for guardianship and conservatorship cases no later than one year after appointment of the guardian and at least once every three years thereafter, unless the court determines at the time of the initial guardian appointment order, or upon completion of a review hearing, that further review hearings are unnecessary or impracticable. (Recommendation 14)

Required guardian training ► The General Assembly may wish to consider amending Title 64.2 of the Code of Virginia to require any individual who is named as a private guardian, and staff who perform duties on their behalf, to undergo guardianship training developed by the Department for Aging and Rehabilitative Services within four months of appointment and give local departments of social services responsibility for verifying compliance with the training requirement. (Recommendation 19)

Guardian visitation requirements ► The General Assembly may wish to consider amending § 64.2-2019 of the Code of Virginia to require private guardians to visit each adult under guardianship in person at least once every three months and that during visits, guardians observe and assess (i) the safety and adequacy of the adult's living environment; (ii) the adult's overall condition and well-being, especially as compared to previous visits; (iii) whether and how the adult's physical and behavioral health-care needs are being met, including whether the adult has been hospitalized and why; (iv) progress made by the adult toward goals; (v) participation in social activities and educational or vocational programs; and (vi) contact and involvement with family and friends. (Recommendation 20)

Improved annual guardianship report ► The General Assembly may wish to consider amending § 64.2-2020 of the Code of Virginia to require that the annual guardianship report direct guardians to report, at a minimum, on the following items regarding adults under their guardianship: (i) names of medical and therapeutic providers and dates seen, and dates, location of, and reasons for any hospitalizations; (ii) any new or changed diagnoses; (iii) any change in the adult's physical and/or behavioral health, including whether and to what degree the adult's health is expected to improve; (iv) dates of the guardian's visits to the adult; (v) an assessment by the guardian, based on the most recent visits, of the adequacy of the adult's living arrangements and the adult's safety and well-being; (vi) the guardian's activities, if any, performed on behalf of the adult during the year to improve the adult's quality of life; (vii) a description of social activities, recreational or educational programs, or job training, if any, the adult participated in and the name and location of such programs or activities; (viii) progress made by the adult toward goals, if applicable; (ix) any Adult

Protective Services report or investigation in which the adult was the alleged victim and whether there has been any other indication of exploitation, abuse, or neglect; (x) any visitation restrictions imposed by the guardian and the reasons for them; (xi) a self-assessment by the guardian of their ability to continue to carry out their duties; (xii) whether the guardian has taken guardianship training; and (xiii) any other information deemed necessary to report by the Office of the Executive Secretary of the Supreme Court of Virginia (OES) or the Department for Aging and Rehabilitative Services to understand the condition, treatment, and well-being of adults under guardianship. This section of the Code should also be amended to make clear that OES may collect additional information in the annual guardianship report than that listed in Code without statutory amendment. (Recommendation 21)

New private guardianship responsibilities for DARS ► The General Assembly may wish to consider amending Title 51.1, Chapter 14, Article 6 of the Code of Virginia to grant new responsibilities to the Department for Aging and Rehabilitative Services to strengthen the accountability and quality of the private guardian system. These new responsibilities should include: providing information about Adult Protective Services complaints against prospective guardians to guardians ad litem as part of the guardianship court hearing process; providing and/or coordinating training to private guardians and local department of social services staff; facilitating additional monitoring of private guardians through independent care visits; improving guardianship data tracking and quality control; and creating and administering a private guardian complaint process. (Recommendation 24)

Notifying individuals restricted from visiting adults under guardianship ► The General Assembly may wish to consider amending § 64.2-2019 of the Code of Virginia to require guardians who restrict an individual from visiting or contacting an adult under their guardianship to provide the individual, on a form provided by the Office of the Executive Secretary, with written notification that clearly outlines (i) terms of the restriction, (ii) reasons for the restriction, and (iii) how the restricted individual can challenge the restriction through the circuit court that has jurisdiction over the case. (Recommendation 27)

Notifying local social services departments of visitation restrictions ► The General Assembly may wish to consider amending § 64.2-2019 to require guardians to provide a copy of any notification or court order pertaining to a visitation restriction to the local department of social services that oversees the case. (Recommendation 29)

Defining reasons guardians can impose visitation restrictions ► The General Assembly may wish to consider amending § 64.2-2019 of the Code of Virginia to permit guardians to restrict contact with the adults they serve only in cases where such a restriction is necessary to prevent physical, emotional, or mental harm or protect their finances. (Recommendation 30)

Changes in circumstances or conditions of adults under guardianship ► The General Assembly may wish to consider amending § 64.2-2019 of the Code of Virginia to require the guardian to notify designated contacts, as specified by the court, of certain changes in the condition or circumstances of an adult under guardianship, including a change to the adult's primary residence, a temporary change in living location, admission to a hospital or hospice care, and death, as well as provide them with a copy of the annual guardianship report each year at the time it is submitted to the local department of social services. (Recommendation 31)

Prohibiting guardians from "self-dealing" ► The General Assembly may wish to consider amending § 64.2-2009 of the Code of Virginia to (i) define self-dealing, at a minimum, to include using the estate of an adult under guardianship or conservatorship to complete a sale or transaction with the guardian or conservator, their spouse, agent, attorney, or business with which they have a financial interest; (ii) prohibit self-dealing by a guardian or conservator unless court approval is first obtained or the sale or transaction was entered into before the guardian or conservator was appointed; and (iii) make voidable by the court any sale or transaction that constitutes self-dealing. (Recommendation 32)

Financial records access for Adult Protective Services ► The General Assembly may wish to consider amending § 63.2-1605 of the Code of Virginia to require financial institutions, financial services providers, and banks, as defined in § 6.2-100, § 8.4-105, and § 13.1-501 of the Code of Virginia, to provide financial records of alleged victims of financial exploitations to Adult Protective Services (APS) as part of APS investigations. (Recommendation 33)

Expanding public guardianship program ► The General Assembly may wish to consider including additional funding in the Appropriation Act to pay for 700 new slots in the public guardianship program, which would allow the Department for Aging and Rehabilitative Services to eliminate the current waitlist. (Recommendation 34)

Assessing demand for public guardianship ► The General Assembly may wish to consider including one-time funding in the Appropriation Act for the Department for Aging and Rehabilitative Services (DARS) to hire a third party to study the need for expanding the capacity of the state's public guardianship program in total and by region; to assess the actual cost of providing expanded public guardianship services (personnel, overhead, etc.); and to assess the additional cost of providing equal funding to all provider organizations for the same types of public guardianship slots. DARS should submit the findings to the chairs of the House Appropriations and Senate Finance and Appropriations committees by October 1, 2023. (Recommendation 35)

Conservator training ► The General Assembly may wish to consider amending § 64.2-2021 of the Code of Virginia to require conservators to complete state-provided training within four months of their court appointment, and consider amending Title 64.2, Chapter 12 of the Code of Virginia, to assign commissioners of accounts responsibility for verifying compliance with training requirements for conservators under their supervision. (Recommendation 38)

Initial inventory of adults under conservatorship ► The General Assembly may wish to consider amending Title 64.2, Chapter 12 of the Code of Virginia to require conservators to (i) notify family members and other interested parties, who are specified in the initial petition for conservatorship, that an initial inventory of assets will be submitted, and (ii) provide copies of the initial inventory to notified parties, if requested, and inform these parties that they may raise any concerns about the accuracy and completeness of the inventory with the commissioner of accounts overseeing the conservator. (Recommendation 39)

Including adults' assets and income on GAL reports ► The General Assembly may wish to consider amending § 64.2-2003 of the Code of Virginia to require guardians ad litem to include in their report to the court all assets and income of adults under consideration for guardianship that they identify when determining the amount of surety on a conservator's bond. (Recommendation 40)

Including adults' assets and income in court orders ► The General Assembly may wish to consider amending § 64.2-2009 of the Code of Virginia to require the court order appointing a conservator to include a list of the financial resources of the adult being placed under conservatorship to the extent known as identified in the petition for conservatorship and the guardian ad litem report. (Recommendation 41)

CHILDREN'S SERVICES ACT

Children's Services Act and Private Special Education Day School Costs, 2020

RECOMMENDATIONS

Funding for services to prevent more restrictive school placements ► The General Assembly may wish to consider amending §2.2-5211 and §2.2-5212 of the Code of Virginia to allow the use of state funds currently reserved for children requiring placement in a private special education day school for services delivered to students with disabilities in public schools if the public school's individualized education program team has determined that the services may prevent a more restrictive placement. (Recommendation 4)

Transferring private special education day school funding to VDOE ► The General Assembly may wish to consider including language in the Appropriation Act, and amending the Code of Virginia as appropriate, to direct the transfer of funds currently reserved for children requiring an educational placement in a private special education day school or residential facility to the Virginia Department of Education (VDOE) effective July 1, 2022. The language should also direct the VDOE to develop a detailed plan to administer this funding that (i) funds services for students with the most severe disabilities who are at-risk of or in an out-of-school placement; (ii) ensures that funds are equally accessible to all school divisions; and (iii) minimizes the fiscal impact of the new funding policy on localities. VDOE could be required to submit its plan and recommendations to the House Appropriations and Senate Finance and Appropriations committees for approval by November 1, 2021. (Recommendation 5)

Referring children to the local CSA program ► The General Assembly may wish to consider amending §22.1-217 of the Code of Virginia to require the Virginia Department of Education (VDOE) to direct that individualized education program (IEP) teams (i) identify any children with disabilities who may need additional services outside of the school setting and (ii) refer them to the local family assessment and planning team. (Recommendation 6)

Expanding CSA program to serve more youth ► The General Assembly may wish to consider amending the Code of Virginia to (i) require all local CSA programs to serve children who meet criteria established by the Office of Children's Services and the State Executive Council for the "non-mandated" eligibility category, (ii) require that services for these children be paid for with both state CSA funds set aside each year by the State Executive Council from the CSA pool of funds and local government matching funds, and (iii) maintain the provision that makes these funds non-sum sufficient. (Recommendation 11)

Grant fund to address gaps in children’s services ► The General Assembly may wish to consider including language in the Appropriation Act directing the State Executive Council (SEC) to form a committee composed of selected SEC members, State and Local Advisory Team members, and Office of Children’s Services staff to assess the feasibility and efficacy of initiating an SEC-administered competitive grant fund to fill gaps in children’s services and report its findings by January 1, 2022 to the chairs of the House Appropriations and Senate Finance and Appropriations committees. (Recommendation 12)

MARIJUANA LEGALIZATION

Key Considerations for Marijuana Legalization, 2020

RECOMMENDATIONS

Licensed tiers for marijuana cultivation ► The General Assembly may wish to consider including a requirement in any legislation authorizing commercial marijuana sales that the marijuana regulatory body develop different tiers of cultivation licenses and set maximum size limits for each tier based on cultivation square footage or number of plants under cultivation. (Recommendation 12)

Cultivation license awards and requirements ► The General Assembly may wish to consider including a requirement in any legislation authorizing commercial marijuana sales that the marijuana regulatory body (i) award medium and large cultivator licenses through a lottery, (ii) set stringent qualification standards for applicants for medium and large cultivation licenses, and (iii) require license awardees to meet facility and operations compliance standards before cultivation can begin. (Recommendation 14)

Processor and distributor license regulations ► The General Assembly may wish to consider including a requirement in any legislation authorizing commercial marijuana sales that the marijuana regulatory body develop tiers or other categories of processor and distributor licenses that allow specialization and minimize the need for applicants or licensees to meet regulatory standards that do not apply to the specific products they are processing or distributing. (Recommendation 15)

Limiting medical marijuana licenses ► If the General Assembly authorizes commercial marijuana sales, it may wish to consider authorizing the issuance of no more than five new medical marijuana licenses in the three to five years following commercial legalization. (Recommendation 25)

Staffing cost and proposal for new regulatory agency ► If the General Assembly creates a new board and agency to regulate commercial marijuana, it may wish to consider directing the agency to develop and submit a detailed staffing and cost proposal after it is created to the governor and the General Assembly. (Recommendation 42)

POLICY OPTIONS

Workgroup to develop marijuana law enforcement training ► If marijuana is legalized in Virginia, the General Assembly could direct the Department of Criminal Justice Services to convene a workgroup to develop a model marijuana law enforcement officer policy and training curriculum. The workgroup should include commonwealth’s attorneys, public defenders, and state and local law enforcement officers. (OPTION 1)

Expungement of previous marijuana offenses ► If marijuana is legalized in Virginia, the General Assembly could direct the Virginia State Police to establish and coordinate an automatic expungement process for criminal records of past marijuana offenses that are no longer illegal. (OPTION 6)

Exempting small cultivators from production caps ► If the General Assembly authorizes commercial marijuana sales, it could direct the marijuana regulatory body to exempt the smallest tier of cultivators from production caps to increase opportunities for small businesses and address social equity. The regulator could also have the authority to temporarily suspend new license awards if it appears that the market is becoming oversupplied. (OPTION 8)

Less stringent qualifications for small cultivators ► If the General Assembly authorizes commercial marijuana sales, it could direct the marijuana regulatory body to set less stringent qualification standards for small cultivation applicants than for large and medium cultivation applicants and make license awards to all small cultivators who are qualified candidates to increase opportunities for small businesses and address social equity. (OPTION 9)

Social equity: hiring ► If the General Assembly authorizes commercial marijuana sales, it could address social equity by directing the marijuana regulatory agency to (i) use community outreach efforts to connect marijuana businesses with prospective employees and (ii) request or require businesses applying for marijuana licenses to develop and submit social equity hiring plans. (OPTION 19)

Social equity: businesses selling to marijuana businesses ► If the General Assembly authorizes commercial marijuana sales, it could address social equity by directing the marijuana regulatory agency to apply elements of social equity programs to businesses that sell goods or services to marijuana businesses. (OPTION 20)

Higher tax rates for potent and easier-to-consume products ► If the General Assembly authorizes commercial marijuana sales, it could assess a marijuana sales tax consisting of progressively higher rates for more potent and easier-to-consume products to discourage overconsumption. (OPTION 27)

K-12 EDUCATION

Operations and Performance of the Virginia Department of Education, 2020

RECOMMENDATION

Support for teacher recruitment and retention ► The General Assembly may wish to consider amending § 22.1-305.2 of the Code of Virginia to direct the Advisory Board on Teacher Education and Licensure to advise the Board of Education on policies related to helping school divisions more effectively recruit and retain licensed teachers. (Recommendation 15)

POLICY OPTION

Virginia Board of Education membership ► The General Assembly could amend § 22.1-9 of the Code of Virginia to require that the Board of Education include (i) one member with expertise or experience in local government leadership or policymaking, (ii) one member with expertise or experience in career and technical education, and (iii) one member with expertise or experience in early childhood education. (Option 5)

ASSISTANCE FOR SMALL AND MINORITY-OWNED BUSINESSES

Operations and Performance of the Department of Small Business and Supplier Diversity, 2020

POLICY OPTIONS – VIRGINIA'S SMALL BUSINESS DEFINITION

Note: JLARC staff reviewed and analyzed several options for the General Assembly to consider if it wants to change Virginia's small business definition. The options are listed below and detailed in chapter 5 of the report.

- The General Assembly could amend §2.2-4310 and §2.2-1604 of the Code of Virginia to change the small business definition to businesses that have no more than 250 employees and gross receipts of no more than \$10 million. (Option 5)
- The General Assembly could amend §2.2-4310 and §2.2-1604 of the Code of Virginia to change the small business definition by reducing the number of employees and gross receipts that a business may have to qualify as a small business. (Option 6)

- ▶ The General Assembly could amend §2.2-4310 and §2.2-1604 of the Code of Virginia to direct that a small business definition be developed for each industry, with thresholds for number of employees or gross receipts, or both, that are based on the size characteristics of Virginia businesses in that industry. (Option 7)
- ▶ The General Assembly could amend §2.2-4310 and §2.2-1604 of the Code of Virginia to direct that a small business definition be developed that is set at 50 percent of the federal small business definition for each industry. (Option 8)
- ▶ The General Assembly could amend §2.2-4310 and §2.2-1604 of the Code of Virginia to direct that a small business definition be developed for groupings of industries based on size and types of goods and services state agencies purchase. (Option 9)

POLICY OPTION

Workgroup to review procurement preferences and small business definition ▶ The General Assembly could consider authorizing in the Appropriation Act an executive branch workgroup to consider whether and how to adjust the (i) state’s procurement preferences for businesses (including women and minority ownership if the disparity study concludes doing so may be permissible), and (ii) state’s definition of small business. The workgroup could be required to submit proposed legislative changes to the House General Laws Committee, Senate General Laws and Technology Committee, and Small Business Commission by November 1, 2021. (Option 10)

ECONOMIC DEVELOPMENT INCENTIVES

Trade and Transportation Incentives, 2021

RECOMMENDATIONS

Eliminating railroad rolling stock exemption ▶ The General Assembly may wish to consider eliminating the railroad rolling stock exemption (Recommendation 1).

Eligibility for aircraft parts, engines and supplies exemption ▶ If the General Assembly extends the expiration of the aircraft parts, engines, and supplies exemption, it may wish to consider amending § 58.1-609.10 of the Code of Virginia to restrict eligibility of the exemption to certified Federal Aviation Administration repair facilities in the state or maintenance, repair, and overhaul facilities that employ a minimum number of workers. (Recommendation 2)

Eligibility for aircraft parts, engines, and supplies exemption ► If the General Assembly extends the expiration of the aircraft parts, engines, and supplies exemption, it may wish to consider amending § 58.1-609.10 of the Code of Virginia to restrict eligible aircraft to licensed or nonscheduled airline carriers, or to a minimum take-off weight threshold, to exclude repairs to personal use aircraft from qualifying for the exemption. (Recommendation 3)

Targeting port incentives to export cargo ► The General Assembly may wish to consider amending sections §§ 58.1-439.12:06, 58.1-439.12:10, and 62.1-132.3:2 of the Code of Virginia to better target the International Trade Facility Tax Credit, Port Volume Increase Tax Credit, and Port of Virginia Economic and Infrastructure Development Grant, respectively, to export cargo. (Recommendation 4)

Converting port tax credit into a grant ► The General Assembly may wish to consider amending § 58.1-439.12:10 of the Code of Virginia to convert the Virginia Port Volume Increase Tax Credit to a grant to increase its usability and to better target it to companies in geographic regions and industries less likely to use Virginia ports. (Recommendation 6)

Incentivizing job creation with International Trade Facility Tax Credit ► The General Assembly may wish to consider amending § 58.1-439.12:06 of the Code of Virginia to increase the value of the International Trade Facility Tax Credit for job creation. (Recommendation 7)

Infrastructure and Regional Incentives, 2020

RECOMMENDATIONS

Real Property Investment Grant eligibility ► If the General Assembly decides to maintain the Real Property Investment Grant, it may wish to consider amending § 59.1-548 of the Code of Virginia to restrict awards to projects in higher multiplier, export-base industries or to projects that would contribute to community revitalization. (Recommendation 4)

Road access grant program administration ► The General Assembly may wish to consider amending § 33.2-1509 of the Code of Virginia to remove the requirement for the Virginia Economic Development Partnership to consult with the Department of Small Business and Supplier Diversity to determine if projects seeking an award from the Economic Development Access Program are basic employers. (Recommendation 16)

POLICY OPTIONS

Eliminating the Real Property Investment Grant ► The General Assembly could consider eliminating the Real Property Investment Grant by repealing § 59.1-548 of the Code of Virginia. (Option 1)

Criteria for recapturing road and rail access program grant awards ► The General Assembly could consider amending the Code of Virginia to require that job creation performance be one of the factors considered to determine if grant awards from the Economic Development Access Program and Rail Industrial Access Program should be recaptured. (Option 3)

Data Center and Manufacturing Incentives, 2019

RECOMMENDATIONS

Data center work group ► The General Assembly may wish to consider including language in the Appropriation Act directing the Secretary of Finance to convene a work group consisting of the Secretaries of Transportation, Commerce and Trade, and Administration; the staff directors of the House Appropriations Committee and Senate Finance Committee, or their designee; and other relevant agency stakeholders to conduct a data center industry study to examine actions that could be taken to maintain the state's competitive position to attract data centers and examine whether the opportunity exists to reduce the level of the exemption without adversely affecting industry growth. (Recommendation 2)

Alignment of custom grants with targets and plans ► The General Assembly may wish to consider amending § 30-312 of the Code of Virginia to require that information on how custom grants align with state and regional target industries and strategic economic development plans be included in the annual report of the Major Employment and Investment Project Approval Commission. (Recommendation 5)

Eliminating green jobs and energy tax credits ► The General Assembly may wish to consider eliminating the Green Job Creation Tax Credit and the Biodiesel and Green Diesel Fuel Producers Tax Credit. (Recommendation 8)

POLICY OPTION

Pollution control equipment exemption ► The General Assembly could amend § 58.1-609.3 or § 58.1-3660 of the Code of Virginia to clarify that the equipment or facility does not need to be constructed before certification can be granted for purposes of claiming the Pollution Control Equipment and Facilities Sales Tax Exemption. (Option 1)

Note: The 2020 General Assembly (HB 1173) implemented this option for pollution control equipment used in a locality's water, storm-water, wastewater, or solid waste management facilities, but the law does not apply to other pollution control equipment.

Workforce and Small Business Incentives, 2018

RECOMMENDATIONS

Workforce and small business incentives ► The General Assembly may wish to consider amending the Code of Virginia to increase the minimum wage requirements for the Virginia Jobs Investment Program. (Recommendation 1)

Note: This recommendation previously also applied to the Small Business Job Grant. However, the 2020 General Assembly (HB 1505) eliminated the Small Business Job Grant.

Small business incentives ► The General Assembly may wish to consider amending § 2.2-1616 of the Code of Virginia to direct the Virginia Small Business Financing Authority (VSBFA) to develop and use a scoring system to (i) award the Small Business Investment Grant and (ii) set the reimbursement rate for each award. The scoring system should be based on project characteristics and other criteria as determined by VSBFA. (Recommendation 6)

POLICY OPTION

Small business incentives ► The General Assembly could amend § 2.2-1616 of the Code of Virginia to (i) make professional investors eligible for Small Business Investment Grant funding and (ii) impose a minimum investment threshold. (Option 2)

WORKERS' COMPENSATION AND DISEASE PRESUMPTIONS

Virginia's Workers' Compensation System and Disease Presumptions, 2019

RECOMMENDATIONS

Timeliness of insurers' compensability decisions ► The General Assembly may wish to consider including language in the Appropriation Act to direct the Virginia Workers' Compensation Commission to report annually on (i) the extent to which workers' compensation insurers, including those employers who are self-insured, are making compensability determinations and notifying workers of their decisions in a timely manner after receiving notice of work-related injuries and diseases and (ii) actions taken by VWC to ensure the timeliness of these decisions. The first report should be submitted by VWC to the House Appropriations and Senate Finance committees no later than June 30, 2022. (Recommendation 8)

Right to dispute insurers' denial of workers' compensation benefits ► The General Assembly may wish to consider amending the Code of Virginia to require workers' compensation insurers, including those employers who are self-insured, to include a notice in any letter denying workers' compensation benefits that the injured worker has a right to dispute the claim denial through the Virginia Workers' Compensation Commission (VWC). The notice should indicate (i) VWC's neutral role within the workers' compensation system to adjudicate disputed claims; (ii) the need to file a claim for benefits with VWC within the applicable statute of limitations; and (iii) contact information for VWC. (Recommendation 13)

Making cumulative trauma compensable ► The General Assembly may wish to consider amending Title 65.2 of the Code of Virginia to make cumulative trauma injuries compensable under the Workers' Compensation Act. (Recommendation 16)

Comparing medical fees with Medicare reimbursement rates ► The General Assembly may wish to consider amending § 65.2-605.2 of the Code of Virginia to authorize and direct the Virginia Workers' Compensation Commission (VWC) to include in its existing biennial reviews of Virginia's workers' compensation medical costs a comparison of Virginia's medical fees to Medicare reimbursement rates for the same services in Virginia. (Recommendation 17)

Scientific review of proposed disease presumptions ► The General Assembly may wish to consider amending Title 65.2 of the Code of Virginia to establish a process for reviewing the scientific research on proposed new presumptions or modifications to existing presumptions under the Virginia's Workers' Compensation Act prior to legislative action, with consideration given to (i) the strength of the association between the occupation and the disease and the relevant hazards to which workers in the occupation are exposed and (ii) the relevance, quality, and quantity of the literature and data available to determine the strength of evidence. (Recommendation 19)

Disease presumption eligibility ► The General Assembly may wish to consider amending § 65.2-402 of the Code of Virginia to clarify that, for the purposes of establishing the presumptions, (i) a total or partial disability may be demonstrated through wage loss, lost work time, or medical evidence and that (ii) workers seeking only medical benefits may demonstrate a total or partial disability solely through medical evidence. (Recommendation 21)

POLICY OPTION

Sunset date for certain disease presumptions ► The General Assembly could consider amending § 65.2-402 of the Code of Virginia to specify that the presumptions for breast, colon, ovarian, and pancreatic cancers covered by the statute shall not apply to workers' compensation claims submitted after June 30, 2030. Prior to June 30, 2030, the General Assembly could direct an examination of the latest national research on the association between firefighting and these cancers. (Option 3)

OFFICE OF THE STATE INSPECTOR GENERAL

Operations and Performance of the Office of the State Inspector General, 2019

RECOMMENDATION

Behavioral health oversight ► The General Assembly may wish to consider including language in the Appropriation Act to direct the Office of the State Inspector General (OSIG) to develop and implement a plan to conduct system-level oversight of the quality of care and safety across Department of Behavioral Health and Developmental Services facilities and community-based providers. The plan should set forth the primary oversight activities that OSIG plans to undertake, as well as the number of additional staff positions and types of expertise necessary to carry out these activities. OSIG should submit the plan to the House Appropriations and Health, Welfare and Institutions Committees, and the Senate Finance and Education and Health Committees no later than June 30, 2020. (Recommendation 11)

POLICY OPTION

Future JLARC review of audit program ► The General Assembly could direct staff with the Joint Legislative Audit and Review Commission to conduct a follow-up review of the Office of the State Inspector General performance audit program after FY24 to determine whether the scaled-back program has been successful. (Option 1)

LOCAL AND REGIONAL JAILS

State Oversight of Local and Regional Jails, 2019

RECOMMENDATION

Transferring inspection staff ► The General Assembly may wish to consider including language in the Appropriation Act transferring current Department of Corrections jail inspection staff positions—and the funding to employ them—to the Board of Corrections. (Recommendation 8)

BEHAVIORAL HEALTH

Implementation of STEP-VA, 2019

RECOMMENDATIONS

Flexible use of funding for STEP-VA ► The General Assembly may wish to consider including language in the Appropriation Act allowing the Department of Behavioral Health and Developmental Services (DBHDS) to use a portion of future STEP-VA funding for STEP-VA oversight and administration functions at DBHDS. (Recommendation 5)

Extending STEP-VA implementation deadline ► The General Assembly may wish to consider amending clause 3 of Chapter 607 of the 2017 Acts of Assembly to require community services boards to initiate the provision of all STEP-VA services by July 1, 2022. (Recommendation 8)

STEP-VA planning ► The General Assembly may wish to consider including language in the Appropriation Act (i) directing the Department of Behavioral Health and Developmental Services (DBHDS) to submit requirements, performance measures, and funding allocation plans for each of the remaining steps of STEP-VA to the staff and chairs of the House Appropriations and Senate Finance committees, the Secretary of Health and Human Resources, and the Secretary of Finance, and (ii) directing the Department of Accounts to withhold appropriated funds for each of the remaining steps of STEP-VA until DBHDS and the community services boards demonstrate that planning is complete, including requirements, performance measures, and funding allocation plans. (Recommendation 10)

CSB Funding, 2019

POLICY OPTION

Funding allocation strategy ► The General Assembly could consider including language in the Appropriation Act (i) establishing specific objectives for the extent to which funding that the Department of Behavioral Health and Developmental Services (DBHDS) allocates to community services boards (CSBs) should support consistent services statewide versus services that address each community's needs and (ii) directing DBHDS, in collaboration with the CSBs, to develop and submit a proposed funding allocation strategy to meet these objectives to the Joint Subcommittee on Mental Health Services in the Twenty-First Century. (Option 1)

STATE LEGAL SERVICES

Operations and Performance of the Office of the Attorney General, 2019

RECOMMENDATION

Dedicated client services position ► The General Assembly may wish to consider including funding and language in the Appropriation Act directing the Office of the Attorney General to create a permanent, full-time director of client services position. (Recommendation 5)

GAMING REGULATIONS

Gaming in the Commonwealth, 2019

RECOMMENDATIONS

Evaluating gambling prevention and treatment efforts ► The General Assembly may wish to consider including in any legislation authorizing additional forms of gaming a requirement that the Department of Behavioral Health and Developmental Services contract with a university or other expert to conduct an ongoing evaluation of problem gambling in Virginia and the effectiveness of the state's prevention and treatment efforts. (Recommendation 3)

Competitive selection process for casino licensing ► The General Assembly may wish to consider including a requirement in any casino authorizing legislation that casino licenses will be awarded through a competitive selection process. (Recommendation 6)

Evaluation committee for casino proposals ► The General Assembly may wish to consider including a provision in any casino authorizing legislation that establishes a committee to evaluate and select proposals for the operation and development of casinos, and which comprises individuals with business, finance, and operations experience and who represent both the statewide and local perspectives. (Recommendation 7)

Independent consultant to review casino proposals ► The General Assembly may wish to consider including a requirement in any casino authorizing legislation that an independent consultant, hired by the state, assess the accuracy and reasonableness of the projected financial, economic, and other benefits included in casino development proposals prior to selecting a winning proposal. (Recommendation 8)

POLICY OPTIONS

Collaboration between behavioral health providers and gaming operators ► The General Assembly could include in any legislation authorizing additional forms of gaming a requirement that the Department of Behavioral Health and Developmental Services and Virginia’s gaming oversight agency establish and coordinate a stakeholder group to enable collaboration among prevention and treatment providers and gaming operators. (Option 1)

Licensing nongaming employees and vendors ► The General Assembly could consider including language in any casino authorizing legislation a requirement that nongaming vendors and nongaming employees be licensed by the gaming oversight agency. (Option 3)

Potential gaming oversight consolidation ► The General Assembly could consider including language in any casino authorizing legislation that requires an evaluation of the roles, responsibilities, and performance of all Virginia gaming oversight agencies after additional forms of gaming have been implemented to determine whether any consolidation of gaming oversight responsibilities is warranted. (Option 4)

WILDLIFE CONSERVATION AND ENFORCEMENT

Operations and Performance of the Department of Game and Inland Fisheries, 2019

RECOMMENDATION

Board of Game and Inland Fisheries membership ► The General Assembly may wish to consider amending §29.1-102.A of the Code of Virginia to require that at least one member of the Board of Game and Inland Fisheries be a current or former senior law enforcement official. (Recommendation 10)

POLICY OPTIONS

Boat registration fees ► The General Assembly could include language in the Appropriation Act granting the Board of Game and Inland Fisheries temporary authority to increase boat registration fees by more than the \$5 every three years specified in §29.1-701.1 of the Code of Virginia. (Option 2)

Fees for exempt hunters and anglers ► The General Assembly could amend §29.1-301 of the Code of Virginia to authorize the Board of Game and Inland Fisheries to charge exempt hunters and anglers a nominal registration fee of several dollars, thereby allowing Virginia to claim forgone federal revenue. (Option 4)

FOSTER CARE

Improving Virginia's Foster Care System, 2018

RECOMMENDATIONS

Child health and safety ► The General Assembly may wish to include language in the Appropriation Act directing the Virginia Department of Social Services to thoroughly review all the information collected through the agency case reviews conducted in 2017 and 2018 by regional staff, re-communicate all serious case-specific or systemic safety-related concerns identified in past reviews to the relevant departments of social services, communicate such concerns to the relevant local boards of social services, and work with local department staff to resolve all identified safety problems. The commissioner should be directed to submit a letter to the House Health, Welfare and Institutions Committee and the Senate Rehabilitation and Social Services Committee certifying that all safety-related concerns identified in the 2017 and 2018 reports have been resolved no later than November 1, 2019. (Recommendation 1)

Expediting appeals process for termination of rights ► The General Assembly may wish to include language in the Appropriation Act directing the Supreme Court of Virginia to evaluate the feasibility, costs, and effectiveness of the following options to expedite the appeals process for termination of parental rights (TPR) cases: (i) designate juvenile and domestic relations courts as courts of record for TPR hearings and send appeals directly to the court of appeals; (ii) originate TPR hearings in circuit courts; (iii) shorten the 90-day deadline for circuit courts to hold TPR hearings; (iv) establish a deadline for the court of appeals to hold TPR hearings; and (v) any other options that could expedite the appeals process for TPR cases. The executive secretary of the Supreme Court of Virginia should submit the results of this evaluation to the House and Senate Courts of Justice Committees; the House Health, Welfare and Institutions Committee; and the Senate Rehabilitation and Social Services Committee by November 1, 2020. (Chapter 4) (Recommendation 18)

INMATE HEALTH CARE

Spending on Inmate Health Care, 2018

RECOMMENDATIONS

Reducing reimbursement rates ► The General Assembly may wish to include language in the Appropriation Act directing the Virginia Department of Corrections (VADOC) to design a pilot project that would test the feasibility and assess the impact of using lower rates, potentially based on Medicare rates, for physician and outpatient services. VADOC should submit the pilot project design to the House Appropriations and Senate Finance Committees, and implement the pilot project no later than 2021. (Recommendation 1)

Enhanced academic partnerships ► The General Assembly may wish to include language in the Appropriation Act directing the Virginia Department of Corrections and the VCU Health Authority to undertake a pilot project to provide clinical pharmacy services to a specific population of inmates. (Recommendation 3)

POLICY OPTION

Reducing number of inmates requiring health care ► The General Assembly could amend Title 53.1 of the Code of Virginia to allow inmates to petition the Virginia Parole Board for conditional release based on serious illness. (Option 1)

ELECTIONS ADMINISTRATION

Operations and Performance of Virginia's Department of Elections, 2018

RECOMMENDATION

Nonpartisan, professional agency leadership ► The General Assembly may wish to consider amending § 2.2-2905 of the Code of Virginia to eliminate the appointed positions of chief deputy commissioner and confidential policy advisor for the Virginia Department of Elections. (Recommendation 20)

POLICY OPTION

Exclusive authority for voter registration ► The General Assembly could amend the Code of Virginia to assign the Department of Elections exclusive authority to add and remove voters from the state's voter registration list. (Option 1)

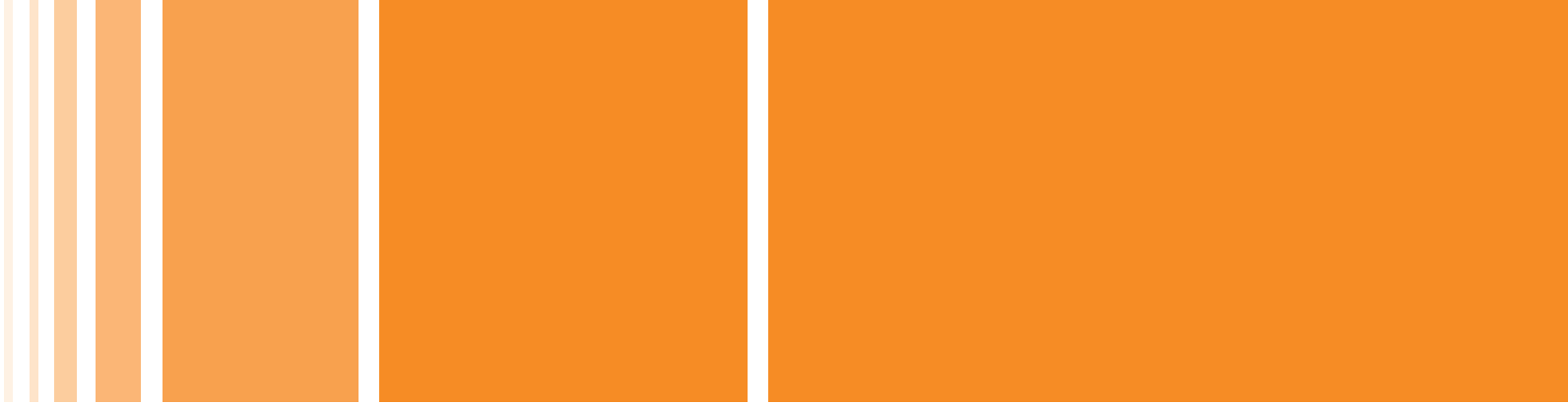
PROFESSIONAL AND OCCUPATIONAL REGULATIONS

Operations and Performance of DPOR, 2018

RECOMMENDATIONS

Regulation of occupations ► The General Assembly may wish to consider amending the Code of Virginia to eliminate the occupational regulation of common interest community managers, opticians, and residential energy analysts and firms. (Recommendation 1)

Verification of license applications ► The General Assembly may wish to consider amending the Code of Virginia to give the Department of Professional and Occupational Regulation authority to request and receive criminal record name searches as part of the review of individuals for initial licensure for any of the occupations that it regulates. (Recommendation 10)



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