**SCORECARD FOR CRIMINAL JUSTICE SYSTEM AND POLICE REFORM LEGISLATION**

|  |  | **House** | **Senate** |
| --- | --- | --- | --- |
| **Topic/Issue Area** | **Description/Comment** | **Bill/Result** | **Comment** | **Bill/Result** | **Comment** |
|  |  |  |  |  |  |
| **Addressing Racism Generally** |  |  |  |  |  |
| Public health crisis | Declare racism a public health crisis and direct agencies to adopt policies to address it | HR [570](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hr570), HR [582](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hr582) Not yet referred to committee | Because both are resolutions, they would not have force off law. Because they are still in limbo as far as a committee assignment is concerned, it is doubtful any action will be taken. | n/a |  |
| Bridge gaps | Uncover racial disparities in all areas and create solutions to bridge the gaps | n/a | Hard to envision what legislation would be introduced to implement this goal. None has. |  |  |
| Hate crimes | Expand hate crimes to include false 911 calls based on race | [HB 5098](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5098) Passed House | There is not a separate penalty for “hate crimes”. Some offenses carry an enhanced penalty if committed because of the victim’s race, religion, gender, etc. This bill would make it a Class 6 felony to make a false 911 report or to summon police against a person because of that person’s race, etc. | n/a |  |
| **Police Accountability, Training, and Regulation** |  |  |  |  |  |
| Citizen review boards | Provide for the establishment of citizen review boards to investigate citizen complaints, use of force by law-enforcement, as well as conducting other actions. | [HB 5055](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5055) Passed House | Would be mandated for counties and cities (not towns). Would apply to sheriffs and to campus police, as well as local police departments. Locality would set policies and procedures for review board, which could include making binding disciplinary determinations for serious breaches of dept. policy; investigation of policies and practices; and review of internal investigations. Board authorized to apply to circuit court for subpoena for witnesses and records. | [SB 5035](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5035) Passed Senate | Would be optional for counties and cities. Only police departments and campus police would be subject to such review boards; sheriffs would be exempted. Locality would set policies and procedures for review board, which could include making binding disciplinary determinations for serious breaches of dept. policy; investigation of policies and practices; and review of internal investigations. Board authorized to apply to circuit court for subpoena for witnesses and records. |
| Access of prosecutor to personnel records | Require chief law-enforcement office to provide Commonwealth’s attorney access to all records, including police reports, disciplinary records, and internal investigations relating to wrongful arrest or use of force complaints. |  |  | [SB 5030](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5030) (omnibus) Passed Senate |  |
| Qualified immunity | Create a civil action for the deprivation of a person's rights by a law-enforcement officer and provides that a plaintiff may be awarded compensatory damages, punitive damages, and equitable relief, as well as reasonable attorney fees and costs.  | [HB 5013](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5013) Passed House; killed in Senate Committee |  | [SB 5065](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5065) Killed in Senate committee |  |
| Standardize and reform police administration, training, and accountability | Increase required minimum training | [HB 5109](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5109) Passed House | Requires more training in bias recognition and interaction with persons with mental illness. Requires establishment of uniform curriculum to be used by all training facilities. | [SB 5030](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5030) (omnibus) Passed Senate | Adds requirement for training in de-escalation attempts. Like House, requires establishment of uniform curriculum to be used by all training facilities. Does not go as far as House does in dealing with bias-based profiling. |
| Standards of conduct | Requires Board of Criminal Justice Services Board to adopt statewide professional standards of conduct applicable to all law-enforcement officers | [HB 5136](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5136) In Committee |  | [SB 5030](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5030) (omnibus) Passed Senate |  |
| Increase reporting of incidents | Require law enforcement to submit reports to State Police on traffic stops, stop-and-frisk stops, and other investigatory detentions that do not result in arrest or summons | n/a |  | [SB 5030](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5030) (omnibus) Passed Senate | Also requires that report submitted to State Police indicate if the officer used physical force or if the person stopped used physical force against the officer |
| Police decertification | Expand grounds for decertification of law enforcement officers to include violation of state law or serious misconduct as defined by statewide professional standards of conduct | [HB 5051](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5051) Passed House | The House bill also would require a sheriff or police chief to notify the Board of Criminal Justice Services and the local civilian review board if an officer had been the subject of three complaints of excessive force within the past five years. | [SB 5030](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5030) (omnibus) Passed Senate | The Senate bill is not as extensive as the House bill. |
| Establish statewide officer database |  | n/a |  | n/a | Dept. of Criminal Justice Services has a database for tracking individual officers’ compliance with training requirements. It is assumed this database could be used to track certifications, as well. |
| Prohibit hiring of officers fired or who resigned during use of force investigations | There was no specific bill on this subject. The bills dealing with decertification (see above) would prohibit the hiring of an officer decertified due to use of force. However, there does seem to be a prohibition on hiring an officer who was terminated, or resigned, due to force, but was not decertified. This issue is closely related to next issue below. | n/a |  | n/a |  |
| Background of law enforcement applicants | Require law enforcement agency considering hiring someone who had been previously employed by another law-enforcement agency to obtain background information on the applicant from previous employers. | [HB 5104](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5104) Passed House | In addition to requiring the obtaining of the employment history, the House would require that applicants undergo a psychological examination. | [SB 5030](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5030) (omnibus) Passed Senate | The Senate bill gives the law-enforcement agency the option to require applicants to undergo psychological examinations. |
| Body cameras | Expand the use of body cameras | [HB 5135](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5135) In committee | Would require all law-enforcement agencies to require all officers to use body cameras. | n/a |  |
| Independent investigation of all police-involved shootings/deaths  | No separate legislation. Issue covered by legislation on citizen review boards. See above. | n/a |  | n/a |  |
| Sex with individuals arrested  | Prohibit law-enforcement officers from having sex with persons arrested, comparable to ban on correctional officers having sex with prisoner. | [HB 5045](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5045) Passed House  | The offense would be a Class 6 felony. | [SB 5030](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5030) (omnibus) Passed Senate | Class 6 felony |
| Investigative files | End FOIA exemption for police investigative files | [HB 5090](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5090)  Passed House | Allows public access under cetain restrictions | n/a |  |
| **Use of Force** |  |  |  |  |  |
| Excess use of force | Define degree of force and situations in which it can be used by law enforcement | [HB 5114](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5114) In committee |  | n/a |  |
| Use of choke holds and other force | Prohibit or restrict the use of various types of force by law enforcement officers | [HB 5069](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5069) Passed House | Prohibits the use of choke hold (“neck restraint”) by law-enforcement officer. Violation would be a Class 6 felony. | [SB 5030](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5030) (omnibus) Passed Senate | Prohibits the use of choke holds and shooting into or at a moving vehicle unless the actions are immediately necessary to protect the law-enforcement officer or another person. Prohibits the use of other forms of deadly force unless: it is immediately necessary to protect the office or another person; if feasible, the officer has provided a warning of the use of deadly force; the officer’s actions are reasonable given the totality of the circumstances, and all other options have been exhausted or are not reasonably available. Violations of these provisions would subject the officer to disciplinary action, including dismissal, demotion, suspension, or decertification. |
| No-knock warrants | Regulate whether law-enforcements can execute a search warrant without announcing their presence | [HB 5099](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5099) Passed House | Flat prohibition on no-knock warrants | [SB 5030](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5030) (omnibus) Passed Senate | Prohibits no-knock warrants and warrants executed at night unless judge, for good cause, allows such warrants. |
| De-escalation | Require attempts at de-escalation prior to use of force | [HB 5114](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5114)  In committee |  | [SB 5030](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5030) (omnibus) Passed Senate |  |
| Warning  | Require warnings before shots fired | n/a |  | [SB 5030](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5030) (omnibus) Passed Senate |  |
| Use of means other than force | Require law enforcement to exhaust all other means prior to shooting | [HB 5114](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5114)  in committee |  | [SB 5030](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5030) (omnibus) Passed Senate |  |
| Officer intervention in uses of force | Require law-enforcement witnessing another officer engaging, or attempting to engage, in the use of force against another to intervene. | [HB 5029](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5029) Passed House | The House bill uses the terms “excessive force” and “deadly force.” Knowing failure to intervene would be criminal offense:Nondeadly excessive force—Class 1 misdemeanorDeadly force (significant injury)—Class 6 felonyDeadly or nondeadly force that results in death or permanent and significant physical disability—Class 4 felony | [SB 5030](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5030) (omnibus) Passed Senate | Uses term “unlawful force” ( which, in context of bill, would include choke holds, shooting into moving vehicles, and deadly force, defined as causing serious bodily injury or death). Failure to intervene would subject officer to disciplinary action, including decertification. |
| Reporting wrongdoing by fellow officer | Requires law-enforcement officer who witnesses, or has knowledge of, a fellow officer violating any law or department rule to report such action to his supervisor.  | [HB 5112](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5112) Passed House | Failure to report wrongdoing that is not a criminal offense would make the office subject to disciplinary action. Failure to report a criminal offense would be a Class 1 misdemeanor. | n/a |  |
| Shooting at vehicles | Prohibit shooting into or at moving vehicles | n/a |  | [SB 5030](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5030) (omnibus) Passed Senate |  |
| Use-of-force continuum | Require police department to use a use-of-force continuum | n/a |  | n/a |  |
| Use of tear gas | Restricts the use of tear gas and such weapons as rubber bullets to certain circumstances. | [HB 5049](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5049) Passed House |  | n/a |  |
| Militarization of Police | Prohibit law enforcement from acquiring military-style equipment such as tracked armored vehicles, grenade launchers, and high caliber weapons | [HB 5049](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5049) Passed House | More extensive than Senate version | [SB 5030](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5030) (omnibus) Passed Senate |  |
| Funding for police | Condition the receipt of state 599 funds on police departments complying with new reporting requirements and on being accredited | n/a |  | [SB 5030](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5030) (omnibus) Passed Senate | This provision would not hurt the police, per se, because 599 money goes into the general fund of the local governments. Also, it would do nothing to those counties in which sheriffs provide law enforcement because they don’t get 599 money.  |
| **Reduction of role of law enforcement in certain circumstances** |  |  |  |  |  |
| Mental health awareness (MARCUS system) | Provides for primary response to situations dealing with people in a mental health crisis to be the responsibility of mental health professionals, rather than law enforcement. There would be a provision whereby 911 calls involving such situations would be routed to crisis teams. | [HB 5043](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5043) Passed House | Community care team would consist of mental health professions who would provide immediate response. Law enforcement would serve as backup if scene becomes unstable or unsafe. Law-enforcement officers could carry only nonlethal weapons, could not wear uniforms or use vehicles with law-enforcement markings. The Dept. of Behavioral Health and Developmental Services (DBHDS) would be responsible for establishing teams, which would be organized in community services board regions. The boards would be phased in:By July 1, 2021:Northwestern CSB (Front Royal/Winchester)Alexandria CSBMr. Rogers CSB (Wytheville/Galax)RichmondHampton-Newport News CSBBy July 1, 2023: Five more CSB regionsBy July 1, 2026—one in each CSB region | [SB 5038](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5038) Passed Senate | Less prescriptive than the House bill. Provides DBHDS with major responsibility of working out parameters of system. Law enforcement has more prominent role than in the House plan; protocols for law enforcement participation would be developed locally in accordance with standards developed by DBHDS. By July 1, 2021, DBHDS required to develop plan outlining roles of DBHDS and law enforcement. By July 1, 2022, every locality would have to be served by a MARCUS system. |
| School resource officers | Reduce the role of SROs and replace with mental health professionals | [HB 5126](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5126)  In committee | Would prohibit SROs from enforcing school disciplinary policies that have no connection to law enforcement and security services | n/a |  |
| Divest from law enforcement budgets and invest more in communities | This is a budget issue and is more applicable to localities. | n/a |  | n/a |  |
| **Changes in court systems and processes** |  |  |  |  |  |
| Expungement of criminal records | Make it easier, or automatic, to expunge criminal records | [HB 5146](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5146) Passed House | Authorizes automatic expungement of certain criminal records without individual having to request the action. Also restricts access to criminal history information. | [SB 5043](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5043)  Passed Senate | Sets up conditions under which criminal records can be expunged and sets up special fund to cover costs. Not as far-reaching as House bill. |
| Cash bail | Reform cash bail process | n/a |  | n/a |  |
| Prosecutorial discretion | Confirm authority of prosecutors to drop charges. | [HB 5142](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5142)  In committee |  | [SB 5033](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5033) Passed Senate |  |
| Jury sentencing | Eliminate jury sentencing. Unless otherwise requested by defendant, judge would impose sentence without recommendation from jury. | [HB 5084](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5084)Still in committee |  | [SB 5007](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5007)Passed Senate |  |
| Jury trial during state of emergency | Eliminate prosecutors’ right to demand jury trial when jury trials suspended for state of emergency | n/a |  | n/a |  |
| **Racial profiling** |  |  |  |  |  |
| Marijuana odor | Prohibit searches of persons based on odor of marijuana without probable cause for other offenses | [HB 5058](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5058)  Passed House |  | [SB 5029](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5007)  Passed Senate |  |
| Traffic stops | Eliminate minor pretexts for traffic stops | [HB 5058](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5058)  Passed House | Prohibits the giving of a citation or summons for many offenses except as a secondary offense. No evidence found as a result may be used in a criminal proceeding. | [SB 5029](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5007)  Passed Senate | Prohibits the giving of a citation or summons for many offenses except as a secondary offense. |
| Defective equipment | Make it a secondary offense for vehicle to have defective equipment and dangling objects. | [HB 5058](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5058)  Passed House |  | [SB 5029](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5007)  Passed Senate |  |
| **Corrections reforms** |  |  |  |  |  |
| Earned sentence credits | Increase earned sentence credits for certain offenders in state prisons from a maximum of 4.5 days per 30 days served to a maximum of 30 days for each 30 days served. The expansion of credits would not be applicable to offenders convicted of many violent offenses. The expansion for eligible offenders would be retroactive to the offender’s entire sentence. | [HB 5148](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5148) Passed House |  | [SB 5034](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5034) Passed Senate |  |
| Parole | Reinstate parole | n/a |  | [SB 5016](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5016)  Killed in committee |  |
| Compassionate release | Provide discretion to Parole Board for compassionate release of terminally ill or permanently disabled inmates | [HB 5053](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5053) In committee |  | [SB 5034](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5016)  Passed Senate[SB 5018](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5016)  Passed Senate | SB 5018 would be restricted to terminally ill inmates |
| **Criminal law changes** |  |  |  |  |  |
|  |  |  |  |  |  |
| Assault of law enforcement officer | Decrease the felony penalty for assault of public safety personnel, including law enforcement officers | n/a |  | [SB 5032](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5032) Passed Senate | Keeps the Class 6 felony, but removes minimum mandatory sentence of 6 months. Also provides that, if the person charged with the assault had diminished mental or physical capacity or a pervasive developmental disorder or if there were no bodily injury, the court or jury could find the person guilty of a Class 1 misdemeanor instead of a felony.In the case of a juvenile charged with the offense, the bill would require that, before the arrest could be made, the case would have to be investigated by another officer and the arrest approved by the Commonwealth’s attorney. |
| Marijuana | Legalize marijuana | [HB 5141](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5141)  In committee |  | n/a |  |
| **Other** |  |  |  |  |  |
| Cost of legislation | Require agencies to determine cost savings for introduced criminal justice legislation—expansion of Woodrum bill | n/a |  | [SB 5045](https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5045)  Passed Senate | Would need to be reenacted by 2021 General Assembly before becoming effective  |