

2020

# LEGISLATIVE REPORT

ACLU  
Virginia

Every legislative session, the ACLU of Virginia heads to the Capitol to defend and expand the civil rights of all Virginians. This year, we centered our priorities around creating a more equitable Commonwealth through criminal legal reforms and expanding the right to vote.

The following report on our priority legislation and bills we supported shows the groundbreaking impact this session will have on Virginia, as well as the work still left to do. Our work would not be possible without the help of our partner organizations, community members, and more than 100,000 Virginia-based donors, members and supporters.

## BY THE NUMBERS

Numbers of bills tracked	130
Numbers of actions taken	3,484

# 1 Criminal Legal Reforms

The General Assembly ignored, amended or voted against legislation that would make the biggest impact on reducing racial disparities in the criminal legal system. We will continue to work with lawmakers until our criminal legal system is just and fair for all Virginians.

## MARIJUANA REFORM



### HB 972 (Herring) & SB 2 (Ebbin): Decriminalize Marijuana

Marijuana laws are enforced more harshly on Black people and communities of color. Although the General Assembly said they “decriminalized” marijuana, the fact is that possession is still illegal, only the penalty has changed. This means Black people will likely still be subjected disproportionately to police stops based on the “smell of marijuana,” and a loophole in the law allows police to choose, regardless of the amount of marijuana involved, to arrest anyone they suspect might have an intent to distribute marijuana, even if it’s just to share with a friend. The new law, effective July 1, defines juveniles in possession as delinquents (i.e. criminals) subject to juvenile detention rather than treating them as “children in need of services.”

### SJ 67 (McClellan): Study of Marijuana Legalization

In a victory for equitable marijuana reform, however, a separate resolution passed that asks the General Assembly’s professional research staff to study how future marijuana regulation can be implemented in a way that is centered around the communities of color that have been most harmed by the war on drugs.

## SOLITARY CONFINEMENT



### HB 1284 (Hope): Study of Solitary Confinement in Local and Regional Jails

Solitary confinement can cause serious lifelong psychological harm and trauma, even if a person is only held there for a short period of time. We know it is a widespread and overused practice, but we don’t know who is being held in solitary, for how long, or why. We also don’t know if there are racial, gender or other disparities at play. Along with a coalition of advocates and organizations, we were successful in pushing through a bill to gather data on how solitary is being used in Virginia local and regional jails and for what purpose. The goal is to get the Board of Corrections to adopt accreditation standards for jails that prohibit the use of solitary except in very unusual and limited circumstances.

## PRETRIAL REFORMS



### SB 723 (McClellan): Pretrial Transparency

### HB 1462 (Scott): Eliminate Presumption Against Bail

The General Assembly rejected a number of bills aimed at reforming the pretrial detention system, including a right to legal counsel on first appearance and eliminating presumptions against bail to make it easier for people who have been charged with a misdemeanor to return home while awaiting trial. Lawmakers even rejected a bill that would have brought transparency to the blacked-out pretrial system in Virginia.

## FELONY LARCENY REFORMS



### SB 788 (McClellan): Increase Felony Larceny Threshold to \$1,000

### SB 807 (Morrisey): Eliminate “Three Strikes”

The felony larceny threshold was raised this session from \$500 to \$1,000. Even with this increase, however, Virginia lags behind the national average and will continue to felonize more people than necessary to keep us and our property secure. Sadly, lawmakers failed to overturn the three-strikes petit larceny law, which means a person convicted of petit larceny three times becomes a felon regardless of the circumstances or the amount stolen (e.g., could be three bags of chips stolen on three occasions).

# 2 | Voting Rights

Before new legislation was passed by the General Assembly, Virginia was one of the most difficult states in which to vote – second only to Mississippi. Now, many unnecessary barriers to the ballot box will be repealed and will improve the ability of marginalized communities to participate in our democracy.

## SAME-DAY VOTER REGISTRATION

WIN

### HB 201 (Ayala):

Virginia is the first state in the south to allow voter registration on Election Day. Other states that have enacted same-day registration noted a 7-10% increase in voter turnout, meaning Virginia can expect about 850,000 additional voters once this law goes into effect in 2022.

## NO-EXCUSE ABSENTEE VOTING

WIN

### HB 1 (Herring):

Virginia previously used an excuse-based system for absentee voting that privileged some voters over others and required the public disclosure of potentially private information, such as pregnancy status and travel plans. Beginning July 1, all voters can vote absentee, either in person or by mail, up to 45 days before any election without having to choose from a list of approved excuses.

## CONSTITUTIONAL AMENDMENT GUARANTEEING THE RIGHT TO VOTE

TBD

### SJ 8 (Locke):

Right now, hundreds of thousands of Virginians cannot vote, because Virginia is one of only three states that permanently bans people from voting after a felony conviction. We need to pass a constitutional amendment that fulfills the promise of democracy by ensuring every Virginian 18 and over can vote. A resolution was introduced to start the amendment process which was carried over to the 2021 session.

# 3 | Legislation We Support

We tracked more than 130 pieces of legislation, working with community members and ally organizations to amplify their efforts to bring civil rights to all.

## CRIMINAL LEGAL REFORMS

We support systemic change to our criminal legal system focused on eliminating racial disparities. The General Assembly passed the “Fishback Bill” to make eligible for parole 367 individuals whose juries were not told about the abolishment of parole when they imposed sentences, but they chose not to act on a number of other important reforms. More work needs to be done to expand expungement and end discrimination against people re-entering society, close the school-to-prison pipeline, repeal mandatory minimums, end inhumane sentencing, and eliminate racial bias in policing.

## GENDER EQUITY

No one is equal until we are all equal, and we are committed to ensuring no individual is discriminated against based on sex or gender identity. In an historic victory, Virginia became the 38th and final state needed to ratify the Equal Rights Amendment to the United States Constitution. Additionally, a new law known as the Pregnant Worker Fairness Act will bring meaningful statewide protections against discrimination based on pregnancy status. The Reproductive Health Protection Act will repeal Virginia’s harmful laws restricting abortions, including the two-trip requirement, mandatory ultrasounds, and the physicians-only requirement for giving medication abortions.

## EQUALITY FOR ALL

We work toward a Commonwealth where everyone is free to be and live openly as themselves. We worked with our friends at Equality Virginia to pass the Virginia Values Act, a comprehensive set of civil rights protections that prohibit discrimination in housing, employment and public accommodations. This historic law made Virginia the first state in the south to guarantee equal opportunities to LGBTQ+ people and brought Virginia into alignment with almost all other states by protecting people against discrimination based on race, national origin, religion, sex, age, disability, and veteran status.

We supported passage of a new law making all Virginia residents eligible for in-state tuition regardless of immigration status, and are continuing to work toward final passage of a law that allows all Virginia residents, regardless of immigration status, to get a non-REAL ID state driver’s license.

## TAKE ACTION:

- The governor can ask the General Assembly to amend any bills before they are finalized. Visit [acluva.org/act](https://acluva.org/act) to ask for more equitable reforms.
- Follow [@acluva](https://www.facebook.com/acluva) on Facebook, Twitter and Instagram, and sign up to receive our emails to stay updated.
- We can’t do this work without you. Please join the ACLU today: [acluva.org/join](https://acluva.org/join)