



Crimes and Law Enforcement

During the 2018 legislative session, the General Assembly introduced numerous bills concerning crimes, criminal penalties, and law enforcement. Following is a recap of the major legislation considered in these subject areas.

Crimes and Penalties

Several bills passed in 2018 created new crimes, or made changes to existing crimes and penalties. *House Bill 18-1200* changes the criminal classification of certain computer crimes, now called “cybercrime” as a result of the bill’s passage, and adds three new cybercrimes to the criminal code. Previously, cybercrimes were generally classified as a class 2 misdemeanor, and could fall within a range of petty offense to class 2 felony. The bill eliminates the petty offense charge and makes any cybercrime with an impact of less than \$300 a class 3 misdemeanor. Cybercrimes may be up to a class 2 felony based on the circumstances. HB 18-1200 creates the following class 5 felony cybercrimes:

- soliciting or arranging prostitution of a minor through computer technology;
- using a scanning device to access payment card information without authorization and with intent to defraud;
- using an encoding machine to place payment card information on another payment card with intent to defraud.

The Medicaid Fraud Control Unit was established by executive order in 1979 in the

Office of the Attorney General to investigate and prosecute Medicaid fraud and patient abuse cases. *House Bill 18-1211* codifies the unit in state law, and outlines Medicaid fraud as a crime.

House Bill 18-1264 changes the elements that constitute the crimes of posting a private image for harassment and posting a private image for pecuniary gain (known as “revenge porn”). The bill changes the elements as follows:

- adds the posting of images of sexual acts that may not include nude images;
- removes the requirement that the defendant intended to inflict serious emotional distress;
- removes as an exception to the crimes that the image relates to a newsworthy event; and
- clarifies that the images subject to the crimes may be disclosed by law enforcement personnel, human or social services personnel, prosecutors, and court personnel in the course of normal business.

Impeding first responders from performing their duties is a class 2 misdemeanor, and the offense includes the use of an obstacle to create the impedance. *House Bill 18-1314* clarifies that the use of an unmanned aircraft system (commonly known as a “drone”) in a manner that obstructs a first responder is not considered obstruction if the operator meets certain requirements.

Crimes and Law Enforcement (cont'd)

Under current law, a person may be charged with a class 2 or 3 misdemeanor, based on the circumstances, for making a false report to authorities. *Senate Bill 18-068* makes it an extraordinary risk class 1 misdemeanor to falsely report an imminent threat to public safety by use of a deadly weapon if the report causes a government agency that deals with emergencies to initiate action to evacuate a public place, or if the response results in bodily injury. The crime is a felony if:

- the emergency response to the false report causes serious bodily harm (class 4 felony); or
- death occurs as a result of the emergency response (class 3 penalty).

The bill also establishes the venue where the crime may be tried, and stipulates that offenders must pay restitution based on the cost of the evacuation or emergency response. The legislation comes in response to the phenomenon of “swatting,” whereby a person targets another for harassment by falsely alerting authorities to an emergency situation at the location of the other person.

Senate Bill 18-119 increases the penalty for false imprisonment from a class 2 misdemeanor to a class 5 felony when, under circumstances that cause injury or serious emotional distress, the person confines or detains someone under the age of 18:

- in a locked or barricaded room, and the confinement was part of a pattern of cruel punishment or unreasonable isolation; or
- by means of tying, caging, chaining, or using similar restraints to restrict the child’s movement.

House Bill 18-1059, which was postponed indefinitely, would have made the failure to call 911 or use another means to summon emergency assistance a class 1 misdemeanor if

a person knows or should know that someone is in need of emergency assistance. The crime was to escalate to a class 6 felony if the person in need of assistance died as a result of the failure to summon assistance.

Peace Officers

Four bills passed in 2018 that impact law enforcement. Under a process called “civil forfeiture” or “asset forfeiture,” law enforcement agencies may take assets from those suspected of criminal activity. When state and local law enforcement agencies partner with federal law enforcement agencies on a seizure, they often split the proceeds. *House Bill 17-1313* stipulated that, if the value of the property seized in a federal seizure is not at least \$50,000, state and local law enforcement partners may not share in the proceeds. The bill also required a federal seizure to be related to a filed criminal case for state and local governments to receive seizure proceeds. *House Bill 18-1020* creates the Law Enforcement Assistance Grant Program, under which local governments may seek reimbursement for losses incurred due to the changes instituted by HB 17-1313. Agencies awarded grants may only use the proceeds for purposes allowed under federal equitable sharing guidelines, such as operations and investigations, training, and equipment procurement. The bill requires agencies to report on the use of the grant proceeds.

HB 18-1020 also creates the Law Enforcement Community Services Grant Program to improve services to the community through policing; outreach; drug intervention, prevention, treatment, and recovery; technology; training; and other community services. HB 18-1020 changes the civil forfeiture distribution formula to provide revenue to this fund, redirecting a portion of revenue from the managed service organization contracting with the Department of Human Services to serve the

Crimes and Law Enforcement (cont'd)

judicial district where the seizure was prosecuted.

HB 17-1313 required state and local agencies involved in civil forfeiture to report to the Department of Regulatory Agencies (DOLA) on its civil forfeiture activities on a biannual basis. HB 18-1020 clarifies which agencies are required to report to DOLA, and adds seizures related to local public nuisance laws or ordinances to the list of seizures to be reported.

In an effort to better protect service horses, *House Bill 18-1041* makes cruelty to a certified police working horse a crime and also grants immunity from civil liability for persons who report such an incident in good faith. Prior to the passage of this bill, immunity was only offered in cases involving cruelty to certified police working dogs.

House Bill 18-1076, which was postponed indefinitely, would have required the revocation of a peace officer standards and training (POST) certification when the POST Board receives notice from a law enforcement agency that a peace officer made untruthful statements or omitted material facts on an official law enforcement document or while providing testimony.