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HOUSE BILL NO. 2065

Offered January 14, 2015

Prefiled January 14, 2015

A BILL to amend and reenact §§ 2.2-511, 24.2-953.5, and 24.2-1019 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 1 of Title 24.2 an article numbered 7, consisting of sections numbered 24.2-124, 24.2-125, and 24.2-126; and to repeal § 24.2-104 of the Code of Virginia, relating to the Office of the Election Fraud Ombudsman.

Patron—Keam

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-511, 24.2-953.5, and 24.2-1019 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 24.2 an article numbered 7, consisting of sections numbered 24.2-124, 24.2-125, and 24.2-126, as follows:

§ 2.2-511. Criminal cases.

A. Unless specifically requested by the Governor to do so, the Attorney General shall have no authority to institute or conduct criminal prosecutions in the circuit courts of the Commonwealth except in cases involving (i) violations of the Alcoholic Beverage Control Act (§ 4.1-100 et seq.), (ii) violation of laws relating to elections and the electoral process as provided in § 24.2-104, (iii) violation of laws relating to motor vehicles and their operation, (iv) the handling of funds by a state bureau, institution, commission or department, (v) the theft of state property, (vi) violation of the criminal laws involving child pornography and sexually explicit visual material involving children, (vii) the practice of law without being duly authorized or licensed or the illegal practice of law, (viii) violations of § 3.2-4212 or 58.1-1008.2, (ix) with the concurrence of the local attorney for the Commonwealth, violations of the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.), (x) with the concurrence of the local attorney for the Commonwealth, violations of the Air Pollution Control Law (§ 10.1-1300 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), and the State Water Control Law (§ 62.1-44.2 et seq.), (xi) with the concurrence of the local attorney for the Commonwealth, violations of Chapters 2 (§ 18.2-18 et seq.), 3 (§ 18.2-22 et seq.), and 10 (§ 18.2-434 et seq.) of Title 18.2, if such crimes relate to violations of law listed in clause (x) of this subsection, (xii) with the concurrence of the local attorney for the Commonwealth, criminal violations by Medicaid providers or their employees in the course of doing business, or violations of Chapter 13 (§ 18.2-512 et seq.) of Title 18.2, in which cases the Attorney General may leave the prosecution to the local attorney for the Commonwealth, or he may institute proceedings by information, presentment or indictment, as appropriate, and conduct the same, (xiii) with the concurrence of the local attorney for the Commonwealth, violations of Article 9 (§ 18.2-246.1 et seq.) of Chapter 6 of Title 18.2, (xiv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of §§ 18.2-186.3 and 18.2-186.4, (xv) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of § 18.2-46.2, 18.2-46.3, or 18.2-46.5 when such violations are committed on the grounds of a state correctional facility, and (xvi) with the concurrence of the local attorney for the Commonwealth, assisting in the prosecution of violations of Article 10 (§ 18.2-246.6 et seq.) of Chapter 6 of Title 18.2.

In all other criminal cases in the circuit courts, except where the law provides otherwise, the authority of the Attorney General to appear or participate in the proceedings shall not attach unless and until a petition for appeal has been granted by the Court of Appeals or a writ of error has been granted by the Supreme Court. In all criminal cases before the Court of Appeals or the Supreme Court in which the Commonwealth is a party or is directly interested, the Attorney General shall appear and represent the Commonwealth. In any criminal case in which a petition for appeal has been granted by the Court of Appeals, the Attorney General shall continue to represent the Commonwealth in any further appeal of a case from the Court of Appeals to the Supreme Court.

B. The Attorney General shall, upon request of a person who was the victim of a crime and subject to such reasonable procedures as the Attorney General may require, ensure that such person is given notice of the filing, of the date, time and place and of the disposition of any appeal or habeas corpus proceeding involving the cases in which such person was a victim. For the purposes of this section, a victim is an individual who has suffered physical, psychological or economic harm as a direct result of the commission of a crime; a spouse, child, parent or legal guardian of a minor or incapacitated victim; or a spouse, child, parent or legal guardian of a victim of a homicide. Nothing in this subsection shall

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confer upon any person a right to appeal or modify any decision in a criminal, appellate or habeas corpus proceeding; abridge any right guaranteed by law; or create any cause of action for damages against the Commonwealth or any of its political subdivisions, the Attorney General or any of his employees or agents, any other officer, employee or agent of the Commonwealth or any of its political subdivisions, or any officer of the court.

Article 7.

Office of the Election Fraud Ombudsman.

§ 24.2-124. Office of the Election Fraud Ombudsman established.

The Department of Elections shall create within it the Office of the Election Fraud Ombudsman to receive and investigate complaints of violations of the laws of this title, including the provisions of the Campaign Finance Disclosure Act of 2006 (§ 24.2-945 et seq.). The Office of the Election Fraud Ombudsman shall be headed by the election fraud ombudsman, who shall be appointed by the Commissioner of Elections, and shall have such staff as necessary to carry out its duties. All state agencies, electoral boards, general registrars, and officers of elections shall assist and cooperate with the Office of the Election Fraud Ombudsman as it may request.

§ 24.2-125. Duties and powers.

The Office of the Election Fraud Ombudsman shall:

1. Assist voters, candidates, and other interested persons in understanding their rights and responsibilities under the laws of this title by providing information and answering inquiries;

2. Maintain a website and hotline phone number by which complaints of alleged violations of the election laws may be made;

3. Investigate election practices in a locality that are alleged to have altered, or may alter, the outcome of an election;

4. Investigate alleged violations of the election laws;

5. Coordinate with the State Board and the attorneys for the Commonwealth to ensure enforcement of the campaign finance laws pursuant to § 24.2-946.3; and

6. Coordinate with the attorneys for the Commonwealth and the Office of the Attorney General to ensure enforcement of the election laws.

§ 24.2-126. Prosecution of violations.

The Office of the Attorney General shall have the authority to enforce and to prosecute violations of the election laws. It may designate the attorney for the Commonwealth of any jurisdiction in which an election law has been violated to enforce and prosecute a violation of the election laws.

§ 24.2-953.5. Additional penalties related to federal political action or out-of-state political committees.

A. Acceptance of contributions of \$10,000 or more in the aggregate in any calendar year from an unregistered federal political action committee or out-of-state political committee shall result in a civil penalty equal to the amount of the contributions made to a candidate campaign committee or political committee.

B. The provisions of this subsection are applicable regardless of the assessment of a civil penalty pursuant to subsection A. The failure of any federal political action committee or out-of-state political committee to comply with the provisions of § 24.2-949.2, 24.2-949.9:1, 24.2-949.9:2, or 24.2-949.9:3 shall result in a civil penalty not to exceed the amount of the contribution made to a candidate campaign committee or political committee.

C. The State Board of Elections shall coordinate with the Office of the Election Fraud Ombudsman to investigate and institute proceedings pursuant to ~~§ 24.2-104~~ § 24.2-125 against any committee that fails to comply with the provisions of § 24.2-947.3:1, 24.2-949.2, 24.2-949.9:1, 24.2-949.9:2, 24.2-949.9:3, or 24.2-949.9:4 and, after notice by the State Board, continues for more than five days to remain noncompliant.

§ 24.2-1019. Complaints and allegations concerning election law offenses.

Any complaint or allegation concerning unlawful conduct under this title shall be filed with the Office of the Election Fraud Ombudsman. Any complaint or allegation received by an attorney for the Commonwealth of the county or city in which the alleged violation occurred, State Board, or other entity shall be referred by that entity to the Office of the Election Fraud Ombudsman. In the case of a complaint or allegation concerning the filing of a false statement in a voter registration application, the violation shall be deemed to have occurred in the county or city where the applicant sought to be registered.

2. That § 24.2-104 of the Code of Virginia is repealed.