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# Joint Commission on Technology and Science

## 2020 Interim Proposed Work Plan

July 14, 2020, at 10:00 a.m.

[Electronic Meeting]

<http://dls.virginia.gov/commission/jcots.htm>

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The Joint Commission on Technology and Science (the Commission) received ten bills for study consideration during the 2020 General Assembly session. They are listed below according to their general topic along with recommendations for individualized work plans.

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### **Topic: Coastal Flooding and Sea Level Rise**

#### **Recommended Work Plan:**

VASEM is currently spearheading the creation of a general steering committee and specialist experts to create a report in the Fall

#### ***SJ 38/ HJ 47* Coastal areas; study on economic consequences of weather-related events.**

Senator Cosgrove/ Delegate Sickles

Directs the Joint Commission on Technology and Science (JCOTS) to study the safety, quality of life, and economic consequences of weather and climate-related events on coastal areas in Virginia. In conducting its study, JCOTS shall examine (i) the negative impacts of weather, and geological and climate-related events, including displacement, economic loss, and damage to health or infrastructure; (ii) the area or areas and the number of citizens affected by such impacts; (iii) the frequency or probability and the time dimensions, including near-term, medium-term, and long-term probabilities of such impacts; (iv) alternative actions available to remedy or mitigate such impacts and their expected cost; (v) the degree of certainty that each of these impacts and alternative actions may reliably be known; and (vi) the technical resources available, either in state or otherwise, to effect such alternative actions and improve our knowledge of their effectiveness and cost. This resolution is identical to HJ 47.

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## **Topic: Data Custody and Privacy**

### **Recommended Work Plan:**

Working Groups established by bill patrons to find consensus and bring improved legislation to Full Committee meetings later in the year

### **SB 641 Civil action; sale of personal data.**

Senator Surovell

Requires a person that disseminates, obtains, maintains, or collects personal data about a consumer for a fee to implement security practices to protect the confidentiality of a consumer's personal data, obtain express consent of a parent of a minor before selling the personal data of such minor, provide access to consumers to their own personal data that is held by the entity, refrain from maintaining or selling data that it knows to be inaccurate, and provide a means by which a consumer can opt out of the sale of his personal data. The bill provides that a violation could result in a civil penalty of up to \$7,500 or damages to be awarded to a consumer. The bill also provides for the award of attorney fees and costs.

### **HB 473 Personal data; management and oversight.**

Delegate Sickles

Gives consumers the right to access their data and determine if it has been sold to a data broker. The measure requires a controller, defined in the bill as a person that, alone or jointly with others, determines the purposes and means of the processing of personal data, to facilitate requests to exercise consumer rights regarding access, correction, deletion, restriction of processing, data portability, objection, and profiling. The measure also (i) requires transparent processing of personal data through a privacy notice, (ii) requires controllers to disclose if they process personal data for direct marketing or sell it to data brokers, and (iii) requires controllers to conduct a risk assessment of each of their processing activities involving personal data and an additional risk assessment any time there is a change in processing that materially increases the risk to consumers. The measure applies to any legal entity that conducts business in the Commonwealth or produces products or services that are intentionally targeted to residents of the Commonwealth and that (a) controls or processes personal data of not fewer than 100,000 consumers or (b) derives over 50 percent of gross revenue from the sale of personal data and processes or controls personal data of not fewer than 25,000 customers. A violation of this measure is made a prohibited practice under the Virginia Consumer Protection Act.



**HB 884 Safe destruction of records containing personal identifying information.**

Delegate Subramanyam

Requires a commercial entity that is in possession of, or has within its custody or control, records that (i) contain consumers' unencrypted, unredacted personal identifying information and (ii) are no longer needed by the commercial entity to take reasonable steps to destroy, or arrange for the destruction of, the records by shredding, erasing, or otherwise destroying or modifying the personal identifying information in the records to make it unreadable or indecipherable. The measure does not apply to certain financial institutions, health insurance or health care facilities, consumer reporting agencies, or governmental entities. The measure authorizes a consumer who incurs actual damages due to a reckless or intentional violation of these requirements by a commercial entity to bring a civil action.

**HB 954 Cybersecurity; care and disposal of customer records; security for connected devices.**

Delegate Ayala

Requires any business to take all reasonable steps to dispose of, or arrange for the disposal of, customer records within its custody or control containing personal information when the records are no longer to be retained by the business by shredding, erasing, or otherwise modifying the personal information in those records to make it unreadable or indecipherable. The measure requires any business that owns, licenses, or maintains personal information about a customer to implement and maintain reasonable security procedures and practices appropriate to the nature of the information in order to protect the personal information from unauthorized access, destruction, use, modification, or disclosure. A violation of these requirements constitutes a prohibited practice under the Virginia Consumer Protection Act. The measure also requires a manufacturer of a device or other physical object that is capable of connecting directly or indirectly to the Internet to (i) equip the device with reasonable security features, (ii) demonstrate conformity with industry standards for cybersecurity and resiliency, (iii) provide an opt-in forum or registration capability to allow consumers to know when a vulnerability or breach is discovered, (iv) make patch notification and end-of-life support events easily obtainable by registered users of the manufacturer's connected devices, and (v) when it is aware of existing vulnerabilities that put more than 500 users at risk, notify the office of the Chief Information Officer of the Commonwealth and provide remediation steps to consumers without unreasonable delay. The bill has a delayed effective date of January 1, 2021.

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**Topic: Protection of Minors Online**

**Recommended Work Plan:**

JCOTS Advisory Committee consisting of members and nonmembers; the ultimate goal being a unified piece of legislation relating to online consumer and privacy protection for minors.



**HB 952 Digital services; protection for minors.**

Delegate Ayala

Requires the operator of a digital service, which is defined as a website, online service, online application, or mobile application, to permit minors to remove, or to request and obtain removal of, content or information posted on a digital service. The measure prohibits an operator of a digital service directed to minors from marketing or advertising to minors specified products or services that minors are prohibited from buying. The measure also prohibits marketing or advertising certain products on the basis of personal information specific to a minor or knowingly using, disclosing, compiling, or allowing a third party to do so. Violations are prohibited practices under the Virginia Consumer Protection Act. The measure has a delayed effective date of January 1, 2021.

**HB 955 Children's online privacy protection.**

Delegate Ayala

Prohibits any person who operates a website for commercial purposes and who collects or maintains personal information from or about the users of or visitors to such website or online service from releasing personal information collected from minors for any purpose, except where the personal information is provided to a person other than an operator that provides support for the internal operations of the website, online service, online application, or mobile application of the operator, excluding any activity relating to targeted marketing directed to minors, and does not disclose or use that personal information for any other purpose. The measure also requires operators to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children. A violation is a prohibited practice under the Virginia Consumer Protection Act. The measure has a delayed effective date of January 1, 2021.

**HB 956 Virginia Consumer Protection Act; advertising or offering for sale of Internet-connected devices targeting children; prohibition.**

Delegate Ayala

Prohibits the advertising or offering for sale of Internet-connected devices for which the target market consists of consumers below 18 years of age by making it unlawful under the Virginia Consumer Protection Act.

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**Topic: Biometric Data Use and Security**

**Recommended Work Plan:**

JCOTS Advisory Committee consisting of stakeholders to evaluate issues and recommend legislation



**HB 1215 Biometric data; employer policy on storage, protection, and destruction; civil penalty.**

Delegate Tran

Establishes the parameters for the capture and safekeeping of biometric data by employers. The bill defines "biometric data" as a retina or iris scan, fingerprint, voiceprint, record of hand or face geometry, or any other means of information, regardless of how it is captured or stored, that is used to identify an individual based on biological identifiers. Once the purpose for capturing the data is complete, or after three years from the date it is last used for its initial purpose, whichever occurs first, the biometric data must be destroyed. An employer who violates the requirements of the bill is subject to a civil penalty of not more than \$25,000 for each violation. The bill also provides a right of action against employers who violate the parameters of capturing and safekeeping biometric data.

**HJ 59 Study; facial recognition; artificial intelligence; report.**

Delegate Aird

Directs the Joint Commission on Technology and Science to convene a working group of relevant agencies, law enforcement, private industry, and academics to study the proliferation and implementation of facial recognition and artificial intelligence. The Commission shall make recommendations and report its findings no later than the first day of the 2021 Regular Session of the General Assembly.

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**Topic: Blockchain economic opportunities**

**Recommended Work Plan:**

JCOTS Advisory Committee formation

**HJ 105 Blockchain technology; joint subcommittee to study emergence & integration in the economy.**

Delegate Subramanyam

Establishes a 19-member, two-year joint subcommittee to identify research and economic development opportunities to inform a statewide, comprehensive, and coordinated strategy relating to blockchain technology.

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For more information, see the [\*Commission's website\*](#) or contact the Division of Legislative Services staff:

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