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SENATE BILL NO. 179

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws
on February 26, 2002)

(Patron Prior to Substitute—Senator Trumbo)

*A BILL to amend and reenact §§ 19.2-12, 19.2-13, and 54.1-306 of the Code of Virginia, relating to conferral of conservators of the peace; Department of Professional and Occupational Regulation.***Be it enacted by the General Assembly of Virginia:****1. That §§ 19.2-12, 19.2-13, and 54.1-306 of the Code of Virginia are amended and reenacted as follows:**

§ 19.2-12. Who are conservators of the peace.

Every judge throughout the Commonwealth and every magistrate within the geographical area for which he is appointed or elected, shall be a conservator of the peace. In addition, every commissioner in chancery, while sitting as such commissioner; any special agent or law-enforcement officer of the United States Department of Justice, National Marine Fisheries Service of the United States Department of Commerce, Department of Treasury, Department of Agriculture, Department of Defense, Department of State, and Department of Interior; any inspector, law-enforcement official or police personnel of the United States Postal Inspection Service; any United States marshal or deputy United States marshal whose duties involve the enforcement of the criminal laws of the United States; any officer of the Virginia Marine Patrol; *any criminal investigator of the Department of Professional and Occupational Regulation*; any criminal investigator of the United States Department of Labor; and any special agent of the United States Naval Criminal Investigative Service, shall be a conservator of the peace, while engaged in the performance of their official duties.

§ 19.2-13. Special conservators of the peace; authority; jurisdiction; bond; liability of employers.

A. Upon the application of any corporation authorized to do business in the Commonwealth or the owner, proprietor or authorized custodian of any place within the Commonwealth and the showing of a necessity for the security of property or the peace, a circuit court judge of any county or city, in his discretion, may appoint one or more special conservators of the peace who shall serve as such for such length of time as the court may designate, but not exceeding four years under any one appointment. The order of appointment may provide that a special conservator of the peace shall have all the powers, functions, duties, responsibilities and authority of any other conservator of the peace within such geographical limitations as the court may deem appropriate, whenever such special conservator of the peace is engaged in the performance of his duties as such. The order may also provide that the special conservator of the peace is a "law-enforcement officer" for the purposes of §§ 37.1-67.01 and 37.1-67.1. Prior to granting an application for appointment, the circuit court shall order the local law-enforcement agency to conduct a background investigation, in accordance with § 15.2-1705 (ii), of the prospective appointee and file a report of such investigation with the court unless the prospective appointee is a police officer as defined in § 9.1-101. The local law-enforcement agency may charge the prospective appointee a reasonable fee not to exceed the lesser of the actual cost to the local law-enforcement agency or \$300 for the time and costs expended in preparing the investigative report.

When the application is made by a corporation, the circuit court shall specify in the order of appointment the geographic jurisdiction of the special conservator of the peace, and this jurisdiction may include any or all counties and cities of the Commonwealth wherein the corporation does business. The clerk of the appointing circuit court shall ~~certify a copy of the order of appointment to the circuit court of every jurisdiction specified in said order, and each transmit a copy of the order of appointment that shall specify the following information: the person's complete name, address, date of birth, social security number, gender, race, height, weight, color of hair, color of eyes, firearm authority or limitation as set forth in subsection B, date of the order, and other information as may be required by the Department of State Police. The Department of State Police shall enter the person's name and other information into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Each special conservator of the peace so appointed on application of a corporation shall present his credentials to the chief of police or sheriff of all such jurisdictions. The Department of State Police may charge a fee not to exceed ten dollars to cover its cost associated with processing these orders.~~

Every person initially appointed on or after July 1, 1996, as a special conservator of the peace pursuant to the provisions of this section, before entering upon the duties of such office, shall be required by the court to enter into a bond with approved security before the clerk of the circuit court of the county or city wherein such duties are to be performed, in the penalty of such sum as may be fixed by the court, conditioned upon the faithful performance of such duties. Such bond shall be conditioned

60 upon the faithful performance of such duties in any locality in which he is authorized to act pursuant to
61 the order of the court. No such bond shall be required, however, if such person so appointed has met
62 the minimum entry-level law-enforcement training requirements established by the Department of
63 Criminal Justice Services under § 9.1-102 within three years of the date of initial appointment or has
64 been employed as a law-enforcement officer as defined by § 9.1-101 within the preceding three years.

65 If any such special conservator of the peace is the employee, agent or servant of another, his
66 appointment as special conservator of the peace shall not relieve his employer, principal or master, from
67 civil liability to another arising out of any wrongful action or conduct committed by such special
68 conservator of the peace while within the scope of his employment.

69 B. The court may limit or prohibit the carrying of weapons by any special conservator of the peace
70 initially appointed on or after July 1, 1996, while the appointee is within the scope of his employment
71 as such. If the order of appointment does not prohibit the carrying of weapons, the court may require
72 that the appointee meet the minimum entry training requirements established by the Department of
73 Criminal Justice Service under § 9.1-102 for law-enforcement officers within twelve months of his
74 appointment.

75 § 54.1-306. Enforcement of laws by Director or investigators; authority of investigators appointed by
76 Director.

77 The Director or investigators appointed by him shall be sworn to enforce the statutes and regulations
78 pertaining to the Department, the regulatory boards within Subtitle II (§ 54.1-200 et seq.) of this title,
79 and any of the programs which may be in another title of this Code for which any regulatory board
80 within Subtitle II has enforcement responsibility. The Director or investigators appointed by him shall
81 have the authority to investigate violations of the statutes and regulations that the Director is required to
82 enforce. The Director or investigators appointed by him shall also have the authority to issue summonses
83 for violations of the statutes and regulations governing the unlicensed practice of professions regulated
84 by the Department. In the event a person issued such a summons fails or refuses to discontinue the
85 unlawful acts or refuses to give a written promise to appear at the time and place specified in the
86 summons, the investigator may appear before a magistrate or other issuing authority having jurisdiction
87 to obtain a criminal warrant pursuant to § 19.2-72. *In addition, sworn criminal investigators of the*
88 *Department's Criminal Investigations section shall be statewide conservators of the peace while engaged*
89 *in the performance of their official duties.*

90 All investigators appointed by the Director are vested with the authority to administer oaths or
91 affirmations for the purpose of receiving complaints and conducting investigations of violations of this
92 subtitle, or any regulation promulgated pursuant to authority given by this subtitle or in connection with
93 any investigation conducted on behalf of any regulatory board within this subtitle or a program which
94 may be located in another title in this Code. Such investigators are vested with the authority to obtain,
95 serve and execute any warrant, paper or process issued by any court or magistrate or any regulatory
96 board under the authority of the Director and request and receive criminal history information under the
97 provisions of § 19.2-389.

98 **2. That the provisions of this act shall become effective on July 1, 2003.**