

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 744

An Act to amend and reenact §§ 9.1-101 and 9.1-113 of the Code of Virginia, relating to the definition of law-enforcement officer; training standards.

[H 2612]

Approved March 19, 2003

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-101 and 9.1-113 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-101. Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so and (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities employs officers appointed under § 15.2-1737, or special conservators of the peace or special policemen appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers, special conservators or special policemen to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.) of this chapter, but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities.

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Department of Alcoholic Beverage Control; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) game warden who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries; (v) agent, investigator, or inspector appointed under § 56-334; ~~or~~ (vi) investigator who is a full-time sworn member of the security division of the State Lottery Department; *or* (vii) *conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.* Part-time employees are those compensated

officers who are not full-time employees as defined by the employing police department or sheriff's office. Full-time sworn members of the enforcement division of the Department of Motor Vehicles meeting the Department of Criminal Justice Services qualifications shall be deemed to be "law-enforcement officers" when fulfilling their duties pursuant to § 46.2-217.

"School resource officer" means a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.

"School security officer" means an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.

§ 9.1-113. Compliance with minimum training standards by certain officers; exceptions.

The provisions of this chapter shall not be construed to require (i) law-enforcement officers serving under permanent appointment on July 1, 1971, ~~or~~ (ii) officers serving under permanent appointment under the provisions of § 56-353 appointed prior to July 1, 1982, *or (iii) officers serving under permanent appointment under the provisions of § 10.1-115 appointed prior to July 1, 2003;* to meet the compulsory minimum training standards provided for in subdivision 2 of § 9.1-102. Nor shall failure of any such officer to meet such standards make him ineligible for any promotional examination for which he is otherwise eligible. However, any law-enforcement officer designated under the provisions of § 53.1-120 to provide courthouse and courtroom security shall be required to meet the standards provided under subdivision 7 of § 9.1-102. Any full-time deputy sheriff who is a law-enforcement officer and who is exempted from the compulsory minimum training standards under this section shall be eligible for the minimum salary established pursuant to Article 3 (§ 15.2-1609 et seq.) of Chapter 16 of Title 15.2.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.