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HOUSE BILL NO. 1181

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact § 9.1-102 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 1 of Title 9.1 an article numbered 11, consisting of sections numbered 9.1-187 through 9.1-187.4, relating to Department of Criminal Justice Services; canine unit certification.

Patron—Carrico

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-102 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 9.1 an article numbered 11, consisting of sections numbered 9.1-187 through 9.1-187.4, as follows:

§ 9.1-102. Powers and duties of the Board and the Department.

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. Establish compulsory training courses for law-enforcement officers in laws and procedures relating to entrapment, search and seizure, evidence, and techniques of report writing, which training shall be completed by law-enforcement officers who have not completed the compulsory training standards set out in subdivision 2, prior to assignment of any such officers to undercover investigation work. Failure to complete the training shall not, for that reason, constitute grounds to exclude otherwise properly admissible testimony or other evidence from such officer resulting from any undercover investigation;

7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards for persons employed as deputy sheriffs and jail officers by local criminal justice agencies and for correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and establish the time required for completion of such training;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

11. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and with universities, colleges, community colleges, and other institutions, whether located in or outside the Commonwealth, concerning the development of police

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59 training schools and programs or courses of instruction;

60 12. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth,
61 for school operation for the specific purpose of training law-enforcement officers; but this shall not
62 prevent the holding of any such school whether approved or not;

63 13. Establish and maintain police training programs through such agencies and institutions as the
64 Board deems appropriate;

65 14. Establish compulsory minimum qualifications of certification and recertification for instructors in
66 criminal justice training schools approved by the Department;

67 15. Conduct and stimulate research by public and private agencies which shall be designed to
68 improve police administration and law enforcement;

69 16. Make recommendations concerning any matter within its purview pursuant to this chapter;

70 17. Coordinate its activities with those of any interstate system for the exchange of criminal history
71 record information, nominate one or more of its members to serve upon the council or committee of any
72 such system, and participate when and as deemed appropriate in any such system's activities and
73 programs;

74 18. Conduct inquiries and investigations it deems appropriate to carry out its functions under this
75 chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to
76 submit information, reports, and statistical data with respect to its policy and operation of information
77 systems or with respect to its collection, storage, dissemination, and usage of criminal history record
78 information and correctional status information, and such criminal justice agencies shall submit such
79 information, reports, and data as are reasonably required;

80 19. Conduct audits as required by § 9.1-131;

81 20. Conduct a continuing study and review of questions of individual privacy and confidentiality of
82 criminal history record information and correctional status information;

83 21. Advise criminal justice agencies and initiate educational programs for such agencies with respect
84 to matters of privacy, confidentiality, and security as they pertain to criminal history record information
85 and correctional status information;

86 22. Maintain a liaison with any board, commission, committee, or other body which may be
87 established by law, executive order, or resolution to regulate the privacy and security of information
88 collected by the Commonwealth or any political subdivision thereof;

89 23. Adopt regulations establishing guidelines and standards for the collection, storage, and
90 dissemination of criminal history record information and correctional status information, and the privacy,
91 confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and
92 court orders;

93 24. Operate a statewide criminal justice research center, which shall maintain an integrated criminal
94 justice information system, produce reports, provide technical assistance to state and local criminal
95 justice data system users, and provide analysis and interpretation of criminal justice statistical
96 information;

97 25. Develop a comprehensive, statewide, long-range plan for strengthening and improving law
98 enforcement and the administration of criminal justice throughout the Commonwealth, and periodically
99 update that plan;

100 26. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the
101 Commonwealth, and units of general local government, or combinations thereof, including planning
102 district commissions, in planning, developing, and administering programs, projects, comprehensive
103 plans, and other activities for improving law enforcement and the administration of criminal justice
104 throughout the Commonwealth, including allocating and subgranting funds for these purposes;

105 27. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and
106 activities for the Commonwealth and units of general local government, or combinations thereof, in the
107 Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal
108 justice at every level throughout the Commonwealth;

109 28. Review and evaluate programs, projects, and activities, and recommend, where necessary,
110 revisions or alterations to such programs, projects, and activities for the purpose of improving law
111 enforcement and the administration of criminal justice;

112 29. Coordinate the activities and projects of the state departments, agencies, and boards of the
113 Commonwealth and of the units of general local government, or combination thereof, including planning
114 district commissions, relating to the preparation, adoption, administration, and implementation of
115 comprehensive plans to strengthen and improve law enforcement and the administration of criminal
116 justice;

117 30. Do all things necessary on behalf of the Commonwealth and its units of general local
118 government, to determine and secure benefits available under the Omnibus Crime Control and Safe
119 Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and
120 programs for strengthening and improving law enforcement, the administration of criminal justice, and

delinquency prevention and control;

31. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

32. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

33. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

34. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

35. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

36. Establish training standards and publish a model policy for law-enforcement personnel in the handling of family abuse, domestic violence, sexual assault and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3;

37. Establish training standards and publish a model policy for law-enforcement personnel in communicating with and facilitating the safe return of individuals diagnosed with Alzheimer's disease;

38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;

39. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs, including sensitivity to and awareness of cultural diversity and the potential for biased policing;

40. Publish and disseminate a model policy or guideline that may be used by state and local agencies to ensure that law-enforcement personnel are sensitive to and aware of cultural diversity and the potential for biased policing;

41. [Expired.]

42. Establish a Virginia Law-Enforcement Accreditation Center. The Center shall, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;

43. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;

44. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, which training and certification shall be administered by the Virginia Center for School Safety pursuant to § 9.1-184. Such training standards shall include, but shall not be limited to, the role and responsibility of school security officers, relevant state and federal laws, school and personal liability issues, security awareness in the school environment, mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics. The Department shall establish an advisory committee consisting of local school board representatives,

principals, superintendents, and school security personnel to assist in the development of these standards and certification requirements;

45. Establish training standards and publish a model policy and protocols for local and regional sexual assault response teams;

46. License and regulate property bail bondsmen and surety bail bondsmen in accordance with Article 11 (§ 9.1-185 et seq.) of this chapter;

47. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.) of this chapter; ~~and~~

48. *Establish compulsory standards for the certification of canine detection and patrol units pursuant to Article 11 of this chapter; and*

49. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

Article 11.

Canine Detector and Patrol Units.

§ 9.1-187. *Certification of canine units; definitions.*

A. Any canine unit used by a law-enforcement agency in the Commonwealth to detect narcotics or explosives, or to assist in patrolling, shall be certified by the Department pursuant to subdivision 48 of § 9.1-102 and meet the criteria set forth in this article.

B. For purposes of this article:

"Canine unit" means a canine and a canine handler.

§ 9.1-187.1. *Powers of Board relating to certification of canine units.*

The Board may adopt regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) for administration of this article and to establish additional standards or requirements for the certification of canine units not inconsistent with the provisions set forth herein.

§ 9.1-187.2. *Certification of canine narcotic detection units.*

A. In order to be certified as a canine narcotics detection unit, a canine unit shall be required to locate the odor of cocaine, heroin, marijuana, and their derivatives.

B. Each canine unit must complete an evaluation as follows:

1. The canine unit shall search a minimum of four vehicles, with each of the three narcotic odors present. At least one vehicle shall not contain any narcotic odor. Narcotics shall be located both outside and inside of the vehicles.

2. The canine unit shall search a minimum of four rooms, each at least 144 square feet in size. At least one of the rooms shall not contain any narcotic odor. The evaluator shall not place the narcotic odor more than four feet above floor level. When indicating the presence of a narcotic odor within the room, the canine indication as declared by the handler shall take place within close proximity of the location of the narcotic odor, such as near a bookcase, couch, or desk where the narcotic odor is hidden.

3. The canine unit shall search a minimum of 14 pieces of luggage. Three pieces of the luggage shall contain a narcotic odor, and 11 pieces of luggage shall have no narcotic odor.

D. The certification shall be graded on a pass/fail score. In order to receive certification, only one failing score shall be permitted during the entire evaluation. After the search of each vehicle, room, or piece of luggage, the canine handler shall declare the presence or non-presence of a narcotic based on the canine's indication. The evaluator shall not acknowledge the accuracy of the declaration until all vehicles, rooms, or pieces of luggage have been searched. If the handler fails to interpret the canine alert, or if the canine fails to indicate a narcotic odor where one is present, this shall be considered a misidentification.

E. Pseudo-narcotics shall not be used for evaluation purposes. The amount of narcotic substance used for evaluation shall not be less than 10 grams per unit hidden in a vehicle, room, or piece of luggage. Each narcotic odor must be used at least once during the certification. The use of a lead on the canine is optional during the evaluation. In conducting the evaluation, the canine handler may not prestimulate the canine with a narcotic or pseudo-narcotic scented object prior to entering the search area, nor may any reward used during the evaluation contain any narcotic or pseudo-narcotic odor or residue.

9.1-187.3. *Certification of canine explosives detection unit.*

A. In order to be certified as a canine explosives detection unit, the canine unit shall be required to locate the presence of black powder, smokeless powder, dynamite (nitroglycerine), PETN-based explosive, RDX-based explosive, TNT-based explosive, ammonium nitrate-based explosive, and a weapon.

B. Each canine unit must complete an evaluation as follows:

1. The canine unit shall search a minimum of four vehicles. At least one of the vehicles shall not contain the odor of an explosive.

2. The canine unit shall search a minimum of four rooms, each at least 144 square feet in size. At least one room shall not contain the odor of an explosive. The examiner shall not place the explosives

within each room more than four feet above floor level. When indicating the presence of an explosive within a room, the canine indication as declared by the handler must take place within close proximity of the location of the explosive, such as near a bookcase, couch, or desk where the explosive is hidden.

3. The canine unit shall search a wooded area at least 150 feet by 150 feet that contains trees and brush to conceal the explosive materials.

4. The canine unit shall search an open area at least 150 feet by 150 feet that may contain obstacles such as bushes and high grass.

C. The certification shall be graded on a pass/fail score. In order to receive certification, only one failing score shall be allowed during the entire exam. After the search of each vehicle, room, or open or wooded area, the canine handler shall declare the presence or non-presence of an explosive material based on the canine's indication. The evaluator shall not acknowledge the accuracy of the declaration until all vehicles, rooms, or open or wooded areas have been searched. If the handler fails to interpret the canine alert, or if the canine fails to indicate the presence of the odor of an explosive, this shall be considered a misidentification.

E. During the evaluation, the actual explosive, and not pseudo-explosives or man-made chemicals designed to simulate explosives, shall be used. A minimum of 15 grams of explosive shall be used during the evaluation. No blasting caps, squibs, or other ignition devices or explosive devices shall be used.

§ 9.1-187.4. Certification of canine patrol unit.

A. In order to be certified as a canine patrol unit, the unit shall be required to meet standards concerning obedience, aggression control, building search, and tracking. The canine unit must first pass the obedience standards before moving on to the other testing phases. In addition to these phases, the canine unit shall also be familiar with article searching, area searching, and obstacle training.

B. To successfully complete the obedience testing, the canine shall be taken off-lead and the canine unit shall complete the following evaluation:

1. On command, the canine shall "heel" by the handler's side, and remain until released by the handler;

2. The unit shall move together for a distance of 150 feet, during which time the canine shall follow the commands for one right turn, one left turn, one about face turn, one change of pace, and one halt;

3. The handler shall command the canine to "stay." The handler shall move at least 50 feet from the canine, and give the canine the voice commands for "down" and "sit." The handler shall then give the hand commands for "down" and "sit." The canine shall remain in a stay position for two minutes. The handler shall then recall the canine, and when the canine has traveled approximately one half of the distance to the handler, the handler shall command with a voice or hand signal for the canine to stay. The handler shall then recall the canine to a "heel" position.

C. To successfully complete the aggression control testing, the canine unit shall complete the following evaluation:

1. The canine shall be taken off-lead at a "heel/stay" position. A decoy, wearing protective gear, shall move 75 to 100 feet from the canine unit, begin to move briskly back and forth, and fire one shot from a .38 caliber blank gun. During this time, the canine may not break the command of "stay." The handler shall give the canine the command to apprehend the decoy, and the decoy shall fire a second shot when the canine is half the distance to the decoy. The canine shall engage and hold the decoy until the handler gives the command to "release."

2. At a distance of 75 to 100 feet from the unit, the decoy shall move briskly back and forth and then away from the canine. The handler shall give the command to apprehend the decoy. The handler may command the canine to terminate apprehension and "heel" when it is half way to the decoy, or the handler may give the "bark and hold" command, which will instruct the canine to not engage the decoy.

3. At a distance of 75 to 100 feet from the canine unit, the decoy shall move briskly back and forth and then away from the canine unit. The handler shall command the canine to apprehend the decoy. The canine shall bite and hold the decoy, but may not rebite the decoy. The handler shall move towards the engagement, and command the canine to "release" and "stay." The handler shall approach the decoy and conduct a pat-down, while the canine continues to stay. The decoy shall initiate a mock assault on the handler, and the canine shall protect the handler by apprehending the decoy without being commanded by the handler to act. The handler, without touching the canine, shall command the canine to "release," and upon release, the handler shall order the canine to "stay."

4. The unit fails the aggression testing if any of the following occurs:

a. The canine re-apprehends the subject after being called off or engages the decoy on the bark and hold;

b. The canine fails to apprehend the subject;

c. The canine fails to release the decoy upon command from the handler;

d. The handler makes physical contact with the canine during any part of the exercise; or

e. The canine apprehends the decoy without provocation.

305 D. To successfully complete the building search, the canine shall demonstrate proficiency in
306 searching for a concealed subject, locating a concealed subject, alerting the handler as to a concealed
307 subject, or apprehending a concealed subject inside of a building. The canine shall be off-lead, and
308 shall search without the handler. The canine shall demonstrate use of its scent ability to locate the
309 subject, and the handler shall demonstrate his ability to read the canine's alert when the subject is
310 located. The unit shall fail this portion of the testing if the canine is unable to locate the concealed
311 subject.

312 E. To successfully complete the tracking phase, the unit shall follow a track laid out in a vegetated
313 or wooded area that is between 300 and 900 feet long. The track shall contain at least two turns, which
314 shall be laid out in a manner that would be realistic for a human to have made. The evaluator shall lay
315 down the track using adult running or walking strides. An article or reward that has been provided by
316 the handler shall be placed at the end of the track. During this phase, the canine shall remain on-lead.
317 The unit shall be successful if the canine locates the article at the end of the track, or the handler is
318 able to show the evaluator the location he believes to be the end of the track.

319 F. The use of a short lead, traffic lead, or use of a weighted object attached to the canine's collar
320 shall not be permitted during the evaluation, nor may a pinch collar, electric collar, or correction collar
321 be used.

322 G. A unit must pass all four phases to receive patrol certification.