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SENATE BILL NO. 1045

Offered January 10, 2007

Prefiled January 9, 2007

A BILL to amend and reenact §§ 15.2-530, 15.2-1704, 15.2-1726, and 52-8 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 53.1-21.1, relating to immigration; powers of law-enforcement officers.

Patrons—O'Brien; Delegate: Hugo

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-530, 15.2-1704, 15.2-1726, and 52-8 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 53.1-21.1 as follows:

§ 15.2-530. Powers and duties of sheriff.

The sheriff shall exercise the powers conferred and perform the duties imposed upon sheriffs by general law and any immigration powers conferred upon the sheriff by agreement with the U.S. Department of Homeland Security. He shall have the custody of, and be charged with the duty of feeding and caring for, all prisoners confined in the county jail. He shall perform such other duties the board imposes upon him.

§ 15.2-1704. Powers and duties of police force.

A. The police force of a locality is hereby invested with all the power and authority which formerly belonged to the office of constable at common law and is responsible for the prevention and detection of crime, the apprehension of criminals, the safeguard of life and property, the preservation of peace and the enforcement of state and local laws, regulations, and ordinances.

B. A police officer has no authority in civil matters, except (i) to execute and serve temporary detention and emergency custody orders and any other powers granted to law-enforcement officers in § 37.2-808 or § 37.2-809, (ii) to serve an order of protection pursuant to §§ 16.1-253.1, 16.1-253.4 and 16.1-279.1, or (iii) to execute all warrants or summons as may be placed in his hands by any magistrate for the locality and to make due return thereof. *A police force of a locality shall have all immigration powers conferred upon it by agreement with the U.S. Department of Homeland Security.* A town police officer, after receiving training under subdivision 8 of § 9.1-102, may, with the concurrence of the local sheriff, also serve civil papers, and make return thereof, only when the town is the plaintiff and the defendant can be found within the corporate limits of the town.

§ 15.2-1726. Agreements for consolidation of police departments or for cooperation in furnishing police services.

Any locality may, in its discretion, enter into a reciprocal agreement with any other locality, any agency of the federal government exercising police powers, police of any state-supported institution of higher learning appointed pursuant to § 23-233, or with any combination of the foregoing, for such periods and under such conditions as the contracting parties deem advisable, for cooperation in the furnishing of police services. *Such services shall include but not be limited to immigration powers vested in the U.S. Department of Homeland Security.* Such localities also may enter into an agreement for the cooperation in the furnishing of police services with the Department of State Police. The governing body of any locality also may, in its discretion, enter into a reciprocal agreement with any other locality, or combination thereof, for the consolidation of police departments or divisions or departments thereof. Subject to the conditions of the agreement, all police officers, officers, agents and other employees of such consolidated or cooperating police departments shall have the same powers, rights, benefits, privileges and immunities in every jurisdiction subscribing to such agreement, including the authority to make arrests in every such jurisdiction subscribing to the agreement; however, no police officer of any locality shall have authority to enforce federal laws unless specifically empowered to do so by statute, and no federal law-enforcement officer shall have authority to enforce the laws of the Commonwealth unless specifically empowered to do so by statute.

The governing body of a county also may enter into a tripartite contract with the governing body of any town, one or more, in such county and the sheriff for such county for the purpose of having the sheriff furnish law-enforcement services in the town. The contract shall be structured as a service contract and may have such other terms and conditions as the contracting parties deem advisable. The sheriff and any deputy sheriff serving as a town law-enforcement officer shall have authority to enforce such town's ordinances. Likewise, subject to the conditions of the contract, the sheriff and deputy

59 sheriffs while serving as a town's law-enforcement officers shall have the same powers, rights, benefits,
60 privileges and immunities as those of regular town police officers. The sheriff under any such contract
61 shall be the town's chief of police.

62 § 52-8. Powers and duties to enforce criminal laws and investigate aircraft accidents.

63 The Superintendent of State Police, his several assistants and police officers appointed by him are
64 vested with the powers of a sheriff for the purpose of enforcing all the criminal laws of this
65 Commonwealth, *as well as all immigration powers conferred upon him by agreement with the U.S.*
66 *Department of Homeland Security*, and for investigating any aircraft accident which occurs in the
67 Commonwealth, and it shall be the duty of the Superintendent, his several assistants and police officers
68 appointed by him to use their best efforts to enforce the same.

69 Nothing in this section shall be construed as relieving any sheriff or sergeant, commissioner of the
70 revenue, police officer, or any other official now or hereafter invested with police powers and duties,
71 state or local, from the duty of aiding and assisting in the enforcement of such laws within the scope of
72 his authority and duty.

73 § 53.1-21.1. *Services rendered in support of federal authorities.*

74 *The Director may receive into any state or local correctional facility any person committed thereto*
75 *under the authority of the United States and keep him safely according to the warrant or precept of*
76 *commitment until he shall be discharged under the laws of the United States.*

77 *The Department of Corrections shall be paid by the United States for the support of such prisoner.*