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HOUSE BILL NO. 462

Offered January 9, 2008

Prefiled January 4, 2008

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 13, consisting of sections numbered 9.1-187 through 9.1-198, relating to the Department of Criminal Justice Services; regulation of locksmiths.

Patrons—Albo and Marsden

Referred to Committee on General Laws

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 12, consisting of sections numbered 9.1-187 through 9.1-198, 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;

48. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal justice agencies regarding the investigation, registration, and dissemination of information requirements as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);

49. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula, and (iii) certification requirements for campus security officers. Such training standards shall include, but not be limited to, the role and responsibility of campus security officers, relevant state and federal laws, school and personal liability issues, security awareness in the campus environment, and disaster and emergency response. The Department shall provide technical support and assistance to campus police departments and campus security departments on the establishment and implementation of policies and procedures, including but not limited to: the management of such departments, investigatory procedures, judicial referrals, the establishment and management of databases for campus safety and security information sharing, and development of uniform record keeping for disciplinary records and statistics, such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an advisory committee consisting of college administrators, college police chiefs, college security department chiefs, and local law-enforcement officials to assist in the development of the standards and certification requirements and training pursuant to this subdivision; ~~and~~

50. *License and regulate locksmiths in accordance with Article 13 (§ 9.1-187 et seq.) of this chapter; and*

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

Article 13.

Locksmiths.

§ 9.1-187. Definitions.

As used in this article, unless the context requires a different meaning:

"Board" means the Criminal Justice Services Board.

"Code book" means a compilation, in any form, of key codes and combinations.

"License" means a certificate issued by the Board recognizing the person named therein as having met the requirements to perform locksmith services.

"Locksmith" means a person who has been issued a license by the Board.

"Locksmith services" means repairing, rebuilding, rekeying, repinning, servicing, adjusting, or installing locks, mechanical or electronic locking devices, access control devices, egress control devices, safes, vaults, and safe-deposit boxes for compensation or other consideration, including services performed by safe technicians.

"Locksmith tools" means any tools that are designed or used to open a mechanical or electrical locking device in a way other than that which was intended by the manufacturer.

§ 9.1-188. Licenses required; qualifications.

A. No person shall perform or offer to perform locksmith services in the Commonwealth unless the person has been licensed under the provisions of this article. A violation of this section shall be punishable as a Class 3 misdemeanor unless the conduct is covered under some other provision of law providing greater punishment.

B. An applicant shall be licensed as a locksmith if the applicant meets all of the following qualifications:

1. Is of good moral and ethical character;

2. Is at least 18 years of age;

3. Successfully completes an examination administered by the Board that measures the knowledge and skill of the applicant in locksmith services and the laws applicable to licensed locksmiths; and

4. Pays the required fee under § 9.1-190.

C. Any person who submits proof to the Board that the person has been actively engaged as a locksmith in the Commonwealth for at least two consecutive years prior to July 1, 2009, and pays the required fee for the issuance of a license under subsection B shall be licensed without having to satisfy the requirements of subdivision B 3. All persons who do not make application to the Board within one year of July 1, 2009, shall be required to complete all requirements prescribed by the Board and to otherwise comply with the provisions of this article.

§ 9.1-189. Licensure based on experience; licensure of nonresident; reciprocity.

A. The Board may grant, upon application and payment of proper fees, a license to a person who resides in the Commonwealth and has at least three years' experience as a licensed locksmith in another state whose standards of competency are substantially equivalent to those provided in this article.

B. The Board may grant, upon application and payment of proper fees, a license to a nonresident if the person meets the requirements of this article or the person resides in a state that recognizes licenses issued by the Board.

§ 9.1-190. Fees.

The Board shall establish fees not to exceed the following amounts:

1. Issuance of a license, \$100;

2. Renewal of a license, \$100;

3. Examination, \$200;

4. Reinstatement, \$150; and

5. Late fees, \$150.

§ 9.1-191. Issuance, renewal, replacement, and transfer of licenses.

A. The Board shall issue a license, upon payment of the license fee, to any applicant who has satisfactorily met the requirements of this article as administered by the Board. Licenses shall show the full name of the person and an identification number and shall be signed by the chair and one other officer of the Board.

B. All licenses shall expire three years after the date they were issued unless renewed. All applications for renewal shall be filed with the Board and shall be accompanied by the renewal fee as required by § 9.1-190. A license that has expired for failure to renew may be reinstated after the applicant pays the late and reinstatement fees as required by § 9.1-190.

C. The Board shall replace any license that is lost, destroyed, or mutilated subject to regulations adopted by the Board.

D. A license may not be transferred or assigned.

§ 9.1-192. Photo identification.

Every person licensed under this article shall be issued a photo identification card by the Board. The card shall display a current photograph of the person and the person's name, address, and telephone number. The licensee shall have the photo identification card available for inspection while performing locksmith services.

§ 9.1-193. Posting licenses; advertisements.

A. Every locksmith issued a license under this article shall display the license prominently in the locksmith's place of business.

B. Every person advertising locksmith services performed by the person shall include in the advertisement the identification number that is printed on the license issued by the Board.

§ 9.1-194. Responsibilities of employers.

Every licensee under this article shall provide to the Board the names of each person employed by the licensee who either performs locksmith services or has access to locksmith tools. The licensee shall notify the Board within 30 days of any change in the information provided pursuant to this section.

§ 9.1-195. Customer identification.

When opening a locked door to any vehicle or residential or commercial property, a licensee shall make a reasonable effort to verify that the customer is the legal owner of the vehicle or property or is authorized by the legal owner to gain access to the vehicle or property.

§ 9.1-196. Grounds to refuse, suspend or revoke licenses.

The Board may deny or refuse to renew, suspend, or revoke a license if the licensee or applicant:

1. Gives false information to or withholds information from the Board in procuring or attempting to procure a license;

2. Has been convicted of or pled guilty or no contest to a crime that indicates that the person is unfit or incompetent to perform locksmith services, that involves moral turpitude, or that indicates the person has deceived or defrauded the public;

3. Has demonstrated gross negligence, incompetency, or misconduct in performing locksmith services; or

4. Has willfully violated any of the provisions of this article.

§ 9.1-197. Exemptions.

The provisions of this article shall not apply to:

1. An employee of a licensed locksmith when acting under the control and supervision of the licensed locksmith;

2. A person working as an apprentice under the supervision of a licensed locksmith while fulfilling the requirements for licensure when acting under the control and supervision of the licensed locksmith;

3. A person or business required to be licensed or registered under Article 4 (§ 9.1-138 et seq.) of this chapter as an alarm respondent when acting within the scope of such license or registration;

305 4. An employee of a towing service, a reposessor, a taxi cab service, or a motor vehicle dealer as
306 defined in § 46.2-1500, when opening automotive locks in the normal course of his duties, so long as
307 the employee does not represent himself or herself as a locksmith;

308 5. A property owner, or the owner's employee, when providing locksmith services on the property
309 owner's property, so long as the owner or employee does not represent himself or herself as a
310 locksmith. For purposes of this subdivision, "property" means, but is not limited to, a hotel, motel,
311 apartment, condominium, commercial rental property, and residential rental property;

312 6. A merchant, or retail or hardware store, when it lawfully duplicates keys or installs, services,
313 repairs, rebuilds, reprograms, rekeys, or maintains locks in the normal course of its business, so long as
314 the merchant or store does not represent itself as a locksmith;

315 7. A member of a law-enforcement agency, fire department, or other government agency who, when
316 acting within the scope and course of the member's employment with the agency or department, opens
317 locked doors to vehicles, homes, or businesses;

318 8. A salesperson while demonstrating the use of locksmith tools to persons licensed under this
319 article;

320 9. A contractor licensed under Chapter 1 (§ 54.1-100 et seq.) of Title 54.1 when acting within the
321 scope and course of such license;

322 10. A person or business when lawfully installing or maintaining a safety lock device on wastewater
323 works or waterworks when the safety lock device is required by permit or requested by the owner of the
324 wastewater works or waterworks, provided the person or business does not represent itself as a
325 locksmith. For purposes of this subdivision, "wastewater works" and "waterworks" shall mean the same
326 as those terms are defined in § 54.1-2300;

327 11. Any person or firm that sells gun safes or locking devices for firearms when acting within the
328 scope and course of the sale of gun safes or locking devices for firearms; or

329 12 A person while performing a locksmith service in an emergency situation without receiving any
330 compensation for this service and who does not advertise those services.

331 § 9.1-198. Injunctions.

332 In addition to other powers, the Board may apply to the appropriate circuit court for an order
333 enjoining violations of this article or Board regulations. Upon a showing by the Board that any person
334 has violated the provisions of this article or Board regulations, the court may grant injunctive relief.