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HOUSE BILL NO. 771

Offered January 11, 2012

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A BILL to amend and reenact §§ 9.1-101, 9.1-187, and 18.2-308 of the Code of Virginia, and to repeal § 23-235 of the Code of Virginia, relating to law-enforcement officers; campus police officers.

Patrons—Landes, Bell, Robert B. and Cline

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-101, 9.1-187, and 18.2-308 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; (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; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under subdivision (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes the Virginia State Crime Commission.

"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

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59 thereof, and who is responsible for the prevention and detection of crime and the enforcement of the
60 penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the
61 Department of Alcoholic Beverage Control; (ii) police agent appointed under the provisions of § 56-353;
62 (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn
63 member of the enforcement division of the Department of Game and Inland Fisheries; (v) investigator
64 who is a full-time sworn member of the security division of the State Lottery Department; (vi)
65 conservation officer of the Department of Conservation and Recreation commissioned pursuant to
66 § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor
67 Vehicles appointed pursuant to § 46.2-217; ~~or~~ (viii) animal protection police officers employed under
68 § 15.2-632; *or (ix) campus police officer appointed pursuant to Chapter 17 (§ 23-232 et seq.) of Title*
69 *23. Part-time employees are those compensated officers who are not full-time employees as defined by*
70 *the employing police department or sheriff's office.*

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

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

79 § 9.1-187. Establishment of crisis intervention team programs.

80 A. By January 1, 2010, the Department of Criminal Justice Services and the Department of
81 Behavioral Health and Developmental Services, utilizing such federal or state funding as may be
82 available for this purpose, shall support the development and establishment of crisis intervention team
83 programs in areas throughout the Commonwealth. Areas may be composed of any combination of one
84 or more counties, cities, towns, or colleges or universities contained therein that may have
85 law-enforcement officers as defined in § 9.1-101; ~~or campus police officers appointed pursuant to the~~
86 ~~provisions of Chapter 17 (§ 23-232 et seq.) of Title 23.~~ The crisis intervention teams shall assist
87 law-enforcement officers in responding to crisis situations involving persons with mental illness,
88 substance abuse problems, or both. The goals of the crisis intervention team programs shall be:

- 89 1. Providing immediate response by specially trained law-enforcement officers;
- 90 2. Reducing the amount of time officers spend out of service awaiting assessment and disposition;
- 91 3. Affording persons with mental illness, substance abuse problems, or both, a sense of dignity in
92 crisis situations;
- 93 4. Reducing the likelihood of physical confrontation;
- 94 5. Decreasing arrests and use of force;
- 95 6. Identifying underserved populations with mental illness, substance abuse problems, or both, and
96 linking them to appropriate care;
- 97 7. Providing support and assistance for mental health treatment professionals;
- 98 8. Decreasing the use of arrest and detention of persons experiencing mental health and/or substance
99 abuse crises by providing better access to timely treatment;
- 100 9. Providing a therapeutic location or protocol for officers to bring individuals in crisis for
101 assessment that is not a law-enforcement or jail facility;
- 102 10. Increasing public recognition and appreciation for the mental health needs of a community;
- 103 11. Decreasing injuries to law-enforcement officers during crisis events;
- 104 12. Reducing inappropriate arrests of individuals with mental illness in crisis situations; and
- 105 13. Decreasing the need for mental health treatment in jail.

106 B. The Department, in collaboration with the Department of Behavioral Health and Developmental
107 Services, shall establish criteria for the development of crisis intervention teams that shall include
108 assessment of the effectiveness of the area's plan for community involvement, training, and therapeutic
109 response alternatives and a determination of whether law-enforcement officers have effective agreements
110 with mental health care providers and all other community stakeholders.

111 C. By November 1, 2009, the Department, and the Department of Behavioral Health and
112 Developmental Services, shall submit to the Joint Commission on Health Care a report outlining the
113 status of the crisis intervention team programs, including copies of any requests for proposals and the
114 criteria developed for such areas.

115 § 18.2-308. Personal protection; carrying concealed weapons; when lawful to carry.

116 A. If any person carries about his person, hidden from common observation, (i) any pistol, revolver,
117 or other weapon designed or intended to propel a missile of any kind by action of an explosion of any
118 combustible material; (ii) any dirk, bowie knife, switchblade knife, ballistic knife, machete, razor,
119 slingshot, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more
120 rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun

chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart; or (v) any weapon of like kind as those enumerated in this subsection, he shall be guilty of a Class 1 misdemeanor. A second violation of this section or a conviction under this section subsequent to any conviction under any substantially similar ordinance of any county, city, or town shall be punishable as a Class 6 felony, and a third or subsequent such violation shall be punishable as a Class 5 felony. For the purpose of this section, a weapon shall be deemed to be hidden from common observation when it is observable but is of such deceptive appearance as to disguise the weapon's true nature.

B. This section shall not apply to any person while in his own place of abode or the curtilage thereof.

Except as provided in subsection J1, this section shall not apply to:

1. Any person while in his own place of business;
2. Any law-enforcement officer, wherever such law-enforcement officer may travel in the Commonwealth;

3. Any regularly enrolled member of a target shooting organization who is at, or going to or from, an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported;

4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped while being transported;

5. Any person carrying such weapons between his place of abode and a place of purchase or repair, provided the weapons are unloaded and securely wrapped while being transported;

6. Any person actually engaged in lawful hunting, as authorized by the Board of Game and Inland Fisheries, under inclement weather conditions necessitating temporary protection of his firearm from those conditions, provided that possession of a handgun while engaged in lawful hunting shall not be construed as hunting with a handgun if the person hunting is carrying a valid concealed handgun permit;

7. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Alcoholic Beverage Control Board, any conservation police officer retired from the Department of Game and Inland Fisheries, and any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 15 years of service with any such law-enforcement agency, board or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be forwarded by the chief or the Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) of this subdivision who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) of this subdivision for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation. A retired law-enforcement officer who receives proof of consultation and favorable review pursuant to this subdivision is authorized to carry a concealed handgun in the same manner as a law-enforcement officer authorized to carry a concealed handgun pursuant to subdivision 2 of this subsection.

7a. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency or board mentioned in subdivision 7 who has resigned in good standing from such law-enforcement agency or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or the Alcoholic Beverage Control Board. A copy of the proof of consultation

182 and favorable review shall be forwarded by the chief, Board or Commission to the Department of State
183 Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall
184 not without cause withhold such written proof if the law-enforcement officer otherwise meets the
185 requirements of this section.

186 For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege
187 to carry a concealed handgun pursuant to subdivision 7 or this subdivision, while carrying the proof of
188 consultation and favorable review required, shall be deemed to have been issued a concealed handgun
189 permit.

190 For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired
191 or resigned law-enforcement officer who receives proof of consultation and review pursuant to
192 subdivision 7 or this subdivision shall have the opportunity to annually participate, at the retired or
193 resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is
194 required of active law-enforcement officers in the Commonwealth. If such retired or resigned
195 law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer
196 shall issue the retired or resigned officer certification, valid one year from the date of issuance,
197 indicating that the retired or resigned officer has met the standards of the agency to carry a firearm;

198 8. Any State Police officer who is a member of the organized reserve forces of any of the armed
199 services of the United States, national guard, or naval militia, while such officer is called to active
200 military duty, provided such officer carries with him written proof of consultation with and favorable
201 review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof
202 of consultation and favorable review shall be valid as long as the officer is on active military duty and
203 shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of
204 consultation and favorable review shall be entered into the Virginia Criminal Information Network. The
205 Superintendent of State Police shall not without cause withhold such written proof if the officer is in
206 good standing and is qualified to carry a weapon while on active law-enforcement duty.

207 For purposes of applying the reciprocity provisions of subsection P, any person granted the privilege
208 to carry a concealed handgun pursuant to this subdivision, while carrying the proof of consultation and
209 favorable review required, shall be deemed to have been issued a concealed handgun permit;

210 9. Any attorney for the Commonwealth or assistant attorney for the Commonwealth, wherever such
211 attorney may travel in the Commonwealth; and

212 10. Any person who may lawfully possess a firearm and is carrying a handgun while in a personal,
213 private motor vehicle or vessel and such handgun is secured in a container or compartment in the
214 vehicle or vessel.

215 C. This section shall also not apply to any of the following individuals while in the discharge of
216 their official duties, or while in transit to or from such duties:

- 217 1. Carriers of the United States mail;
- 218 2. Officers or guards of any state correctional institution;
- 219 3. [Repealed.]

220 4. Conservators of the peace, except that an attorney for the Commonwealth or assistant attorney for
221 the Commonwealth may carry a concealed handgun pursuant to subdivision B 9. However, the following
222 conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a
223 permit as provided in subsection D hereof: (a) notaries public; (b) registrars; (c) drivers, operators or
224 other persons in charge of any motor vehicle carrier of passengers for hire; or (d) commissioners in
225 chancery;

226 5. Noncustodial employees of the Department of Corrections designated to carry weapons by the
227 Director of the Department of Corrections pursuant to § 53.1-29; and

228 6. Harbormaster of the City of Hopewell.

229 D. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the
230 county or city in which he resides, or if he is a member of the United States Armed Forces, the county
231 or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no
232 requirement regarding the length of time an applicant has been a resident or domiciliary of the county or
233 city. The application shall be made under oath before a notary or other person qualified to take oaths
234 and shall be made only on a form prescribed by the Department of State Police, in consultation with the
235 Supreme Court, requiring only that information necessary to determine eligibility for the permit. The
236 clerk shall enter on the application the date on which the application and all other information required
237 to be submitted by the applicant is received. The court shall consult with either the sheriff or police
238 department of the county or city and receive a report from the Central Criminal Records Exchange. As a
239 condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting if
240 required by local ordinance in the county or city where the applicant resides and provide personal
241 descriptive information to be forwarded with the fingerprints through the Central Criminal Records
242 Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record
243 information regarding the applicant, and obtaining fingerprint identification information from federal

records pursuant to criminal investigations by state and local law-enforcement agencies. However, no local ordinance shall require an applicant to submit to fingerprinting if the applicant has an existing concealed handgun permit issued pursuant to this section and is applying for a new five-year permit pursuant to subsection I. Where feasible and practical, the local law-enforcement agency may transfer information electronically to the State Police instead of inked fingerprint cards. Upon completion of the criminal history records check, the State Police shall return the fingerprint cards to the submitting local agency or, in the case of scanned fingerprints, destroy the electronic record. The local agency shall then promptly notify the person that he has 21 days from the date of the notice to request return of the fingerprint cards, if any. All fingerprint cards not claimed by the applicant within 21 days of notification by the local agency shall be destroyed. All optically scanned fingerprints shall be destroyed upon completion of the criminal history records check without requiring that the applicant be notified. Fingerprints taken for the purposes described in this section shall not be copied, held or used for any other purposes. The court shall issue the permit and notify the State Police of the issuance of the permit within 45 days of receipt of the completed application unless it is determined that the applicant is disqualified. A court may authorize the clerk to issue concealed handgun permits, without judicial review, to applicants who have submitted complete applications, for whom the criminal history records check does not indicate a disqualification and, after consulting with either the sheriff or police department of the county or city, about which there are no outstanding questions or issues concerning the application. The court clerk shall be immune from suit arising from any acts or omissions relating to the issuance of concealed handgun permits without judicial review pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct. This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law, or to affect any cause of action accruing prior to July 1, 2010. Upon denial of the application, the clerk shall provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law. Any order denying issuance of the permit shall state the basis for the denial of the permit and the applicant's right to and the requirements for perfecting an appeal of such order pursuant to subsection L. Only a circuit court judge may deny issuance of a permit. An application is deemed complete when all information required to be furnished by the applicant is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check. If the court has not issued the permit or determined that the applicant is disqualified within 45 days of the date of receipt noted on the application, the clerk shall certify on the application that the 45-day period has expired, and mail or send via electronic mail a copy of the certified application to the applicant within five business days of the expiration of the 45-day period. The certified application shall serve as a de facto permit, which shall expire 90 days after issuance, and shall be recognized as a valid concealed handgun permit when presented with a valid government-issued photo identification pursuant to subsection H, until the court issues a five-year permit or finds the applicant to be disqualified. If the applicant is found to be disqualified after the de facto permit is issued, the applicant shall surrender the de facto permit to the court and the disqualification shall be deemed a denial of the permit and a revocation of the de facto permit. If the applicant is later found by the court to be disqualified after a five-year permit has been issued, the permit shall be revoked. The clerk of court may withhold from public disclosure the social security number contained in a permit application in response to a request to inspect or copy any such permit application, except that such social security number shall not be withheld from any law-enforcement officer acting in the performance of his official duties.

E. The following persons shall be deemed disqualified from obtaining a permit:

1. An individual who is ineligible to possess a firearm pursuant to § 18.2-308.1:1, 18.2-308.1:2 or 18.2-308.1:3 or the substantially similar law of any other state or of the United States.

2. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:1 and who was discharged from the custody of the Commissioner pursuant to § 19.2-182.7 less than five years before the date of his application for a concealed handgun permit.

3. An individual who was ineligible to possess a firearm pursuant to § 18.2-308.1:2 and whose competency or capacity was restored pursuant to § 37.2-1012 less than five years before the date of his application for a concealed handgun permit.

4. An individual who was ineligible to possess a firearm under § 18.2-308.1:3 and who was released from commitment less than five years before the date of this application for a concealed handgun permit.

5. An individual who is subject to a restraining order, or to a protective order and prohibited by § 18.2-308.1:4 from purchasing or transporting a firearm.

6. An individual who is prohibited by § 18.2-308.2 from possessing or transporting a firearm, except

305 that a permit may be obtained in accordance with subsection C of that section.

306 7. An individual who has been convicted of two or more misdemeanors within the five-year period
307 immediately preceding the application, if one of the misdemeanors was a Class 1 misdemeanor, but the
308 judge shall have the discretion to deny a permit for two or more misdemeanors that are not Class 1.
309 Traffic infractions and misdemeanors set forth in Title 46.2 shall not be considered for purposes of this
310 disqualification.

311 8. An individual who is addicted to, or is an unlawful user or distributor of, marijuana, synthetic
312 cannabinoids, or any controlled substance.

313 9. An individual who has been convicted of a violation of § 18.2-266 or a substantially similar local
314 ordinance, or of public drunkenness, or of a substantially similar offense under the laws of any other
315 state, the District of Columbia, the United States, or its territories within the three-year period
316 immediately preceding the application, or who is a habitual drunkard as determined pursuant to
317 § 4.1-333.

318 10. An alien other than an alien lawfully admitted for permanent residence in the United States.

319 11. An individual who has been discharged from the Armed Forces of the United States under
320 dishonorable conditions.

321 12. An individual who is a fugitive from justice.

322 13. An individual who the court finds, by a preponderance of the evidence, based on specific acts by
323 the applicant, is likely to use a weapon unlawfully or negligently to endanger others. The sheriff, chief
324 of police, or attorney for the Commonwealth may submit to the court a sworn written statement
325 indicating that, in the opinion of such sheriff, chief of police, or attorney for the Commonwealth, based
326 upon a disqualifying conviction or upon the specific acts set forth in the statement, the applicant is
327 likely to use a weapon unlawfully or negligently to endanger others. The statement of the sheriff, chief
328 of police, or the attorney for the Commonwealth shall be based upon personal knowledge of such
329 individual or of a deputy sheriff, police officer, or assistant attorney for the Commonwealth of the
330 specific acts, or upon a written statement made under oath before a notary public of a competent person
331 having personal knowledge of the specific acts.

332 14. An individual who has been convicted of any assault, assault and battery, sexual battery,
333 discharging of a firearm in violation of § 18.2-280 or 18.2-286.1 or brandishing of a firearm in violation
334 of § 18.2-282 within the three-year period immediately preceding the application.

335 15. An individual who has been convicted of stalking.

336 16. An individual whose previous convictions or adjudications of delinquency were based on an
337 offense which would have been at the time of conviction a felony if committed by an adult under the
338 laws of any state, the District of Columbia, the United States or its territories. For purposes of this
339 disqualifier, only convictions occurring within 16 years following the later of the date of (i) the
340 conviction or adjudication or (ii) release from any incarceration imposed upon such conviction or
341 adjudication shall be deemed to be "previous convictions."

342 17. An individual who has a felony charge pending or a charge pending for an offense listed in
343 subdivision 14 or 15.

344 18. An individual who has received mental health treatment or substance abuse treatment in a
345 residential setting within five years prior to the date of his application for a concealed handgun permit.

346 19. An individual not otherwise ineligible pursuant to this section, who, within the three-year period
347 immediately preceding the application for the permit, was found guilty of any criminal offense set forth
348 in Article 1 (§ 18.2-247 et seq.) of Chapter 7 or of a criminal offense of illegal possession or
349 distribution of marijuana, synthetic cannabinoids, or any controlled substance, under the laws of any
350 state, the District of Columbia, or the United States or its territories.

351 20. An individual, not otherwise ineligible pursuant to this section, with respect to whom, within the
352 three-year period immediately preceding the application, upon a charge of any criminal offense set forth
353 in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of this title or upon a charge of illegal possession or
354 distribution of marijuana, synthetic cannabinoids, or any controlled substance under the laws of any
355 state, the District of Columbia, or the United States or its territories, the trial court found that the facts
356 of the case were sufficient for a finding of guilt and disposed of the case pursuant to § 18.2-251 or the
357 substantially similar law of any other state, the District of Columbia, or the United States or its
358 territories.

359 F. The making of a materially false statement in an application under this section shall constitute
360 perjury, punishable as provided in § 18.2-434.

361 G. The court shall require proof that the applicant has demonstrated competence with a handgun and
362 the applicant may demonstrate such competence by one of the following, but no applicant shall be
363 required to submit to any additional demonstration of competence, nor shall any proof of demonstrated
364 competence expire:

365 1. Completing any hunter education or hunter safety course approved by the Department of Game
366 and Inland Fisheries or a similar agency of another state;

2. Completing any National Rifle Association firearms safety or training course;
 3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services;
 4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;
 5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition or current military service or proof of an honorable discharge from any branch of the armed services;
 6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;
 7. Completing any firearms training or safety course or class, including an electronic, video, or on-line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;
 8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or
 9. Completing any other firearms training which the court deems adequate.
- A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document which shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this subsection.
- H. The permit to carry a concealed handgun shall specify only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and signature of the permittee; the signature of the judge issuing the permit, of the clerk of court who has been authorized to sign such permits pursuant to subsection D; the date of issuance; and the expiration date. The permit to carry a concealed handgun shall be no larger than two inches wide by three and one-fourth inches long and shall be of a uniform style prescribed by the Department of State Police. The person issued the permit shall have such permit on his person at all times during which he is carrying a concealed handgun and shall display the permit and a photo-identification issued by a government agency of the Commonwealth or by the United States Department of Defense or United States State Department (passport) upon demand by a law-enforcement officer.
- H1. If a permit holder is a member of the Virginia National Guard, Armed Forces of the United States, or the Armed Forces reserves of the United States, and his five-year permit expires during an active-duty military deployment outside of the permittee's county or city of residence, such permit shall remain valid for 90 days after the end date of the deployment. In order to establish proof of continued validity of the permit, such a permittee shall carry with him and display, upon request of a law-enforcement officer, a copy of the permittee's deployment orders or other documentation from the permittee's commanding officer that order the permittee to travel outside of his county or city of residence and that indicate the start and end date of such deployment.
- I. Persons who previously have held a concealed handgun permit shall be issued, upon application as provided in subsection D, and upon receipt by the circuit court of criminal history record information as provided in subsection D, a new five-year permit unless it is found that the applicant is subject to any of the disqualifications set forth in subsection E. Persons who previously have been issued a concealed handgun permit pursuant to subsection D shall not be required to appear in person to apply for a new five-year permit pursuant to this subsection, and the application for the new permit may be submitted via the United States mail. The circuit court that receives the application shall promptly notify an applicant if the application is incomplete or if the fee submitted for the permit pursuant to subsection K is incorrect. If the new five-year permit is issued while an existing permit remains valid, the new five-year permit shall become effective upon the expiration date of the existing permit, provided that the application is received by the court at least 90 days but no more than 180 days prior to the expiration of the existing permit. If the circuit court denies the permit, the specific reasons for the denial shall be stated in the order of the court denying the permit. Upon denial of the application, the clerk shall provide the person with notice, in writing, of his right to an ore tenus hearing. Upon request of the applicant made within 21 days, the court shall place the matter on the docket for an ore tenus hearing. The applicant may be represented by counsel, but counsel shall not be appointed, and the rules of evidence shall apply. The final order of the court shall include the court's findings of fact and conclusions of law.
- J. Any person convicted of an offense that would disqualify that person from obtaining a permit

under subsection E or who violates subsection F shall forfeit his permit for a concealed handgun and surrender it to the court. Upon receipt by the Central Criminal Records Exchange of a record of the arrest, conviction or occurrence of any other event that would disqualify a person from obtaining a concealed handgun permit under subsection E, the Central Criminal Records Exchange shall notify the court having issued the permit of such disqualifying arrest, conviction or other event. Upon receipt of such notice of a conviction, the court shall revoke the permit of a person disqualified pursuant to this subsection, and shall promptly notify the State Police and the person whose permit was revoked of the revocation.

J1. Any person permitted to carry a concealed handgun, who is under the influence of alcohol or illegal drugs while carrying such handgun in a public place, shall be guilty of a Class 1 misdemeanor. Conviction of any of the following offenses shall be prima facie evidence, subject to rebuttal, that the person is "under the influence" for purposes of this section: manslaughter in violation of § 18.2-36.1, maiming in violation of § 18.2-51.4, driving while intoxicated in violation of § 18.2-266, public intoxication in violation of § 18.2-388, or driving while intoxicated in violation of § 46.2-341.24. Upon such conviction that court shall revoke the person's permit for a concealed handgun and promptly notify the issuing circuit court. A person convicted of a violation of this subsection shall be ineligible to apply for a concealed handgun permit for a period of five years.

J2. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision E 14 or E 15, holding a permit for a concealed handgun, may have the permit suspended by the court before which such charge is pending or by the court that issued the permit.

J3. No person who carries a concealed handgun onto the premises of any restaurant or club as defined in § 4.1-100 for which a license to sell and serve alcoholic beverages for on-premises consumption has been granted by the Virginia Alcoholic Beverage Control Board under Title 4.1 of the Code of Virginia may consume an alcoholic beverage while on the premises. A person who carries a concealed handgun onto the premises of such a restaurant or club and consumes alcoholic beverages is guilty of a Class 2 misdemeanor. However, nothing in this subsection shall apply to a federal, state, or local law-enforcement officer.

J4. The court shall revoke the permit of any individual for whom it would be unlawful to purchase, possess or transport a firearm under § 18.2-308.1:2 or 18.2-308.1:3, and shall promptly notify the State Police and the person whose permit was revoked of the revocation.

K. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Alcoholic Beverage Control Board or as a law-enforcement officer with the Department of State Police, the Department of Game and Inland Fisheries, or a sheriff or police department, bureau or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement officer with the United States Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, Customs Service, Department of State Diplomatic Security Service, U.S. Marshals Service or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia or any of the territories of the United States, after completing 15 years of service; (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii) through (iv), after completing 15 years of service; or (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching age 55. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this section. The \$35 fee shall include any amount assessed by the Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the Federal Bureau of Investigation to the State Police with the fingerprints taken from the applicant. The State Police may charge a fee not to exceed \$5 to cover their costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who accepts the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is accepted by the court as a complete application. The order issuing such permit, or the copy of the permit application certified by the clerk as a de facto permit pursuant to subsection D, shall be provided to the State Police and the law-enforcement agencies of the county or city. The State Police shall enter the permittee's name and description in the Virginia Criminal Information Network so that the permit's existence and current status will be made known to law-enforcement personnel accessing the Network for investigative purposes. The State Police shall withhold from public disclosure permittee information submitted to the State Police for purposes of entry into the Virginia Criminal Information

Network, except that such information shall not be withheld from any law-enforcement agency, officer, or authorized agent thereof acting in the performance of official law-enforcement duties, nor shall such information be withheld from an entity that has a valid contract with any local, state, or federal law-enforcement agency for the purpose of performing official duties of the law-enforcement agency. However, nothing in this subsection shall be construed to prohibit the release of (a) records by the State Police concerning permits issued to nonresidents of the Commonwealth pursuant to subsection P1, or (b) statistical summaries, abstracts, or other records containing information in an aggregate form that does not identify any individual permittees.

K1. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon presentation of the valid permit and proof of a new address of residence by the permit holder, issue a replacement permit specifying the permit holder's new address. The clerk of court shall forward the permit holder's new address of residence to the State Police. The State Police may charge a fee not to exceed \$5, and the clerk of court issuing the replacement permit may charge a fee not to exceed \$5. The total amount assessed for processing a replacement permit pursuant to this subsection shall not exceed \$10, with such fees to be paid in one sum to the person who accepts the information for the replacement permit.

K2. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon submission of a notarized statement by the permit holder that the permit was lost or destroyed, issue a replacement permit. The replacement permit shall have the same expiration date as the permit that was lost or destroyed. The clerk shall issue the replacement permit within 10 business days of receiving the notarized statement, and may charge a fee not to exceed \$5.

L. Any person denied a permit to carry a concealed handgun under the provisions of this section may present a petition for review to the Court of Appeals. The petition for review shall be filed within 60 days of the expiration of the time for requesting an ore tenus hearing pursuant to subsection I, or if an ore tenus hearing is requested, within 60 days of the entry of the final order of the circuit court following the hearing. The petition shall be accompanied by a copy of the original papers filed in the circuit court, including a copy of the order of the circuit court denying the permit. Subject to the provisions of subsection B of § 17.1-410, the decision of the Court of Appeals or judge shall be final. Notwithstanding any other provision of law, if the decision to deny the permit is reversed upon appeal, taxable costs incurred by the person shall be paid by the Commonwealth.

M. For purposes of this section:

"Handgun" means any pistol or revolver or other firearm, except a machine gun, originally designed, made and intended to fire a projectile by means of an explosion of a combustible material from one or more barrels when held in one hand.

"Law-enforcement officer" means those individuals defined as a law-enforcement officer in § 9.1-101, ~~campus police officers appointed pursuant to Chapter 17 (§ 23-232 et seq.) of Title 23,~~ law-enforcement agents of the Armed Forces of the United States, the Naval Criminal Investigative Service, and federal agents who are otherwise authorized to carry weapons by federal law. "Law-enforcement officer" shall also mean any sworn full-time law-enforcement officer employed by a law-enforcement agency of the United States or any state or political subdivision thereof, whose duties are substantially similar to those set forth in § 9.1-101.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

"Personal knowledge" means knowledge of a fact that a person has himself gained through his own senses, or knowledge that was gained by a law-enforcement officer or prosecutor through the performance of his official duties.

N. As used in this article:

"Ballistic knife" means any knife with a detachable blade that is propelled by a spring-operated mechanism.

"Spring stick" means a spring-loaded metal stick activated by pushing a button which rapidly and forcefully telescopes the weapon to several times its original length.

O. The granting of a concealed handgun permit shall not thereby authorize the possession of any handgun or other weapon on property or in places where such possession is otherwise prohibited by law or is prohibited by the owner of private property.

P. A valid concealed handgun or concealed weapon permit or license issued by another state shall authorize the holder of such permit or license who is at least 21 years of age to carry a concealed handgun in the Commonwealth, provided (i) the issuing authority provides the means for instantaneous verification of the validity of all such permits or licenses issued within that state, accessible 24 hours a day, and (ii) except for the age of the permit or license holder and the type of weapon authorized to be carried, the requirements and qualifications of that state's law are adequate to prevent possession of a permit or license by persons who would be denied a permit in the Commonwealth under this section.

551 The Superintendent of State Police shall (a) in consultation with the Office of the Attorney General
552 determine whether states meet the requirements and qualifications of this section, (b) maintain a registry
553 of such states on the Virginia Criminal Information Network (VCIN), and (c) make the registry available
554 to law-enforcement officers for investigative purposes. The Superintendent of the State Police, in
555 consultation with the Attorney General, may also enter into agreements for reciprocal recognition with
556 any state qualifying for recognition under this subsection.

557 P1. Nonresidents of the Commonwealth 21 years of age or older may apply in writing to the
558 Virginia Department of State Police for a five-year permit to carry a concealed handgun. Every applicant
559 for a nonresident concealed handgun permit shall submit two photographs of a type and kind specified
560 by the Department of State Police for inclusion on the permit and shall submit fingerprints on a card
561 provided by the Department of State Police for the purpose of obtaining the applicant's state or national
562 criminal history record. As a condition for issuance of a concealed handgun permit, the applicant shall
563 submit to fingerprinting by his local or state law-enforcement agency and provide personal descriptive
564 information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the
565 Federal Bureau of Investigation for the purpose of obtaining criminal history record information
566 regarding the applicant and obtaining fingerprint identification information from federal records pursuant
567 to criminal investigations by state and local law-enforcement agencies. The application shall be made
568 under oath before a notary or other person qualified to take oaths on a form provided by the Department
569 of State Police, requiring only that information necessary to determine eligibility for the permit. If the
570 permittee is later found by the Department of State Police to be disqualified, the permit shall be revoked
571 and the person shall return the permit after being so notified by the Department of State Police. The
572 permit requirement and restriction provisions of subsections E and F shall apply, mutatis mutandis, to
573 the provisions of this subsection.

574 The applicant shall demonstrate competence with a handgun by one of the following:

575 1. Completing a hunter education or hunter safety course approved by the Virginia Department of
576 Game and Inland Fisheries or a similar agency of another state;

577 2. Completing any National Rifle Association firearms safety or training course;

578 3. Completing any firearms safety or training course or class available to the general public offered
579 by a law-enforcement agency, junior college, college, or private or public institution or organization or
580 firearms training school utilizing instructors certified by the National Rifle Association or the
581 Department of Criminal Justice Services or a similar agency of another state;

582 4. Completing any law-enforcement firearms safety or training course or class offered for security
583 guards, investigators, special deputies, or any division or subdivision of law enforcement or security
584 enforcement;

585 5. Presenting evidence of equivalent experience with a firearm through participation in organized
586 shooting competition approved by the Department of State Police or current military service or proof of
587 an honorable discharge from any branch of the armed services;

588 6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a
589 locality thereof, unless such license has been revoked for cause;

590 7. Completing any firearms training or safety course or class, including an electronic, video, or
591 on-line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

592 8. Completing any governmental police agency firearms training course and qualifying to carry a
593 firearm in the course of normal police duties; or

594 9. Completing any other firearms training that the Virginia Department of State Police deems
595 adequate.

596 A photocopy of a certificate of completion of any such course or class, an affidavit from the
597 instructor, school, club, organization, or group that conducted or taught such course or class attesting to
598 the completion of the course or class by the applicant, or a copy of any document which shows
599 completion of the course or class or evidences participation in firearms competition shall satisfy the
600 requirement for demonstration of competence with a handgun.

601 The Department of State Police may charge a fee not to exceed \$100 to cover the cost of the
602 background check and issuance of the permit. Any fees collected shall be deposited in a special account
603 to be used to offset the costs of administering the nonresident concealed handgun permit program. The
604 Department of State Police shall enter the permittee's name and description in the Virginia Criminal
605 Information Network so that the permit's existence and current status are known to law-enforcement
606 personnel accessing the Network for investigative purposes.

607 The permit to carry a concealed handgun shall contain only the following information: name,
608 address, date of birth, gender, height, weight, color of hair, color of eyes, and photograph of the
609 permittee; the signature of the Superintendent of the Virginia Department of State Police or his designee;
610 the date of issuance; and the expiration date. The person to whom the permit is issued shall have such
611 permit on his person at all times when he is carrying a concealed handgun in the Commonwealth and
612 shall display the permit on demand by a law-enforcement officer.

613 The Superintendent of the State Police shall promulgate regulations, pursuant to the Administrative
614 Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for obtaining a
615 nonresident concealed handgun permit.

616 Q. A valid concealed handgun permit issued by the State of Maryland shall be valid in the
617 Commonwealth provided, (i) the holder of the permit is licensed in the State of Maryland to perform
618 duties substantially similar to those performed by Virginia branch pilots licensed pursuant to Chapter 9
619 (§ 54.1-900 et seq.) of Title 54.1 and is performing such duties while in the Commonwealth, and (ii) the
620 holder of the permit is 21 years of age or older.

621 R. For the purposes of participation in concealed handgun reciprocity agreements with other
622 jurisdictions, the official government-issued law-enforcement identification card issued to an active-duty
623 law-enforcement officer in the Commonwealth who is exempt from obtaining a concealed handgun
624 permit under this section shall be deemed a concealed handgun permit.

625 S. For the purposes of understanding the law relating to the use of deadly and lethal force, the
626 Department of State Police, in consultation with the Supreme Court on the development of the
627 application for a concealed handgun permit under this section, shall include a reference to the Virginia
628 Supreme Court website address or the Virginia Reports on the application.

629 **2. That § 23-235 of the Code of Virginia is repealed.**

630 **3. That the provisions of this act may result in a net increase in periods of imprisonment or**
631 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0**
632 **for periods of imprisonment in state adult correctional facilities and is \$0 for periods of**
633 **commitment to the custody of the Department of Juvenile Justice.**