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HOUSE BILL NO. 2277

Offered January 16, 2013

A BILL to amend and reenact §§ 9.1-101, 9.1-102, 9.1-110, 9.1-184, 18.2-57, 18.2-308.1, and 51.1-155 of the Code of Virginia, relating to school safety officers and school security officers.

Patrons—Gilbert, Bell, Richard P. and Marshall, R.G.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-101, 9.1-102, 9.1-110, 9.1-184, 18.2-57, 18.2-308.1, and 51.1-155 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.), 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 clause (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 thereof, and who is responsible for the prevention and detection of crime and the enforcement of the

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

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

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

78 "School security officer" means an individual who is employed by the local school board for the
79 singular purpose of maintaining order and discipline, preventing crime, investigating violations of school
80 board policies, and detaining students violating the law or school board policies on school property or at
81 school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of
82 all students, faculty, staff, and visitors in the assigned school a retired law-enforcement officer, or any
83 person who has been certified as a law-enforcement officer within the previous five years, who is
84 employed by a local law-enforcement agency to provide armed security services to any Virginia public
85 elementary or secondary school within such agency's jurisdiction.

86 **§ 9.1-102. Powers and duties of the Board and the Department.**

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

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

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

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

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

104 5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize
105 radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in
106 § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum
107 qualifications for certification and recertification of instructors who provide such training;

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

114 7. Establish compulsory minimum entry-level, in-service and advanced training standards for those
115 persons designated to provide courthouse and courtroom security pursuant to the provisions of
116 § 53.1-120, and to establish the time required for completion of such training;

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

120 9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as

the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies, correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and juvenile correctional officers employed at a juvenile correctional facility as the term is defined in § 66-25.3;

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. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. Such training shall be graduated and based on the type of duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary police officers exempt pursuant to § 15.2-1731;

12. 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 training schools and programs or courses of instruction;

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

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

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

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

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

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

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

20. Conduct audits as required by § 9.1-131;

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

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

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

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

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

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

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

28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and

activities for the Commonwealth and units of general local government, or combinations thereof, in the Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal justice at every level throughout the Commonwealth;

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

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

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

32. 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;

33. 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;

34. 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;

35. 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;

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

37. 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. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in § 9.1-1301 and shall by December 1, 2009, submit a report on the status of implementation of these requirements to the chairmen of the House and Senate Courts of Justice Committees;

38. 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;

39. 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;

40. 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;

41. 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;

42. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, 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 safety officers and* 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 safety officers and* 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 *safety 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.);

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

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;

50. Establish compulsory training standards and publish a model policy for law-enforcement personnel regarding death notification;

51. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established pursuant to § 9.1-187;

52. Establish, publish, and disseminate a model policy or guideline for law-enforcement personnel for questioning individuals suspected of driving while intoxicated concerning the physical location of that individual's last consumption of an alcoholic beverage and for communicating that information to the Alcoholic Beverage Control Board;

53. Establish training standards and publish a model policy for law-enforcement personnel assigned to vehicle patrol duties that embody current best practices for pursuits and for responding to emergency calls;

54. Establish training standards and publish a model policy for law-enforcement personnel involved in criminal investigations that embody current best practices for conducting photographic and live lineups;

55. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;

56. (Effective January 1, 2013) Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of § 46.2-117; and

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

§ 9.1-110. School Resource Officer and School Security Officer Grants Program and Fund.

A. From the funds appropriated for such purpose and from the gifts, donations, grants, bequests, and other funds received on its behalf, there is established (i) the School Resource Officer *and School Security Officer* Grants Program, to be administered by the Board, in consultation with the Board of Education, and (ii) a special nonreverting fund within the state treasury known as the School Resource Officer *and School Security Officer* Incentive Grants Fund, hereinafter known as the "Fund." The Fund shall be established on the books of the Comptroller, and any moneys remaining in the Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

Subject to the authority of the Board to provide for its disbursement, the Fund shall be disbursed to award matching grants to local law-enforcement agencies and local school boards that have established a collaborative agreement to employ uniformed school resource officers *and school security officers*, as defined in § 9.1-101, in *elementary*, middle, and high schools within the relevant school division. The Board may disburse annually up to five percent of the Fund for the training of the school resource officers *and school security officers*. School resource officers shall be certified law-enforcement officers and shall be employed to help ensure safety, to prevent truancy and violence in schools, and to enforce school board rules and codes of student conduct. *School security officers shall be trained, certified, and employed to provide armed security services for any elementary or secondary school.*

B. The Board shall establish criteria for making grants from the Fund, including procedures for determining the amount of a grant and the required local match. Any grant of general funds shall be matched by the locality on the basis of the composite index of local ability to pay. The Board may adopt guidelines governing the Program and the employment and duties of ~~the~~ school resource officers *and school security officers* as it deems necessary and appropriate.

§ 9.1-184. Virginia Center for School Safety created; duties.

A. From such funds as may be appropriated, the Virginia Center for School Safety (the Center) is hereby established within the Department. The Center shall:

1. Provide training for Virginia public school personnel in school safety, on evidence-based antibullying tactics, and in the effective identification of students who may be at risk for violent behavior and in need of special services or assistance;

2. Serve as a resource and referral center for Virginia school divisions by conducting research, sponsoring workshops, and providing information regarding current school safety concerns, such as conflict management and peer mediation, bullying, school facility design and technology, current state and federal statutory and regulatory school safety requirements, and legal and constitutional issues regarding school safety and individual rights;

3. Maintain and disseminate information to local school divisions on effective school safety initiatives in Virginia and across the nation;

4. Collect, analyze, and disseminate various Virginia school safety data, including school safety audit information submitted to it pursuant to § 22.1-279.8, collected by the Department;

5. Encourage the development of partnerships between the public and private sectors to promote school safety in Virginia;

6. Provide technical assistance to Virginia school divisions in the development and implementation of initiatives promoting school safety;

7. Develop a memorandum of understanding between the Director of the Department of Criminal Justice Services and the Superintendent of Public Instruction to ensure collaboration and coordination of roles and responsibilities in areas of mutual concern, such as school safety audits and crime prevention; and

8. Provide training for and certification of *school safety officers and school security officers*, as defined in § 9.1-101 and consistent with § 9.1-110.

B. All agencies of the Commonwealth shall cooperate with the Center and, upon request, assist the Center in the performance of its duties and responsibilities.

§ 18.2-57. Assault and battery.

A. Any person who commits a simple assault or assault and battery shall be guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious conviction, color or national origin, the person shall be guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

C. In addition, if any person commits an assault or an assault and battery against another knowing or

having reason to know that such other person is a judge, a law-enforcement officer as defined hereinafter, a correctional officer as defined in § 53.1-1, a person employed by the Department of Corrections directly involved in the care, treatment or supervision of inmates in the custody of the Department, a firefighter as defined in § 65.2-102, or a volunteer firefighter or lifesaving or rescue squad member who is a member of a bona fide volunteer fire department or volunteer rescue or emergency medical squad regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such firefighters or members as employees, engaged in the performance of his public duties, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of six months.

Nothing in this subsection shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

D. In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time teacher, principal, assistant principal, or guidance counselor of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he shall be guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to § 18.2-308.1, the person shall serve a mandatory minimum sentence of confinement of six months.

E. In addition, any person who commits a battery against another knowing or having reason to know that such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the performance of his duties as an emergency health care provider in an emergency room of a hospital or clinic or on the premises of any other facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall be a mandatory minimum term of confinement.

F. As used in this section:

"Judge" means any justice or judge of a court of record of the Commonwealth including a judge designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission, and any judge of a district court of the Commonwealth or any substitute judge of such district court.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, any special agent of the Department of Alcoholic Beverage Control, conservation police officers appointed pursuant to § 29.1-200, and full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and such officer also includes jail officers in local and regional correctional facilities, all deputy sheriffs, whether assigned to law-enforcement duties, court services or local jail responsibilities, auxiliary police officers appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, auxiliary deputy sheriffs appointed pursuant to § 15.2-1603, police officers of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and fire marshals appointed pursuant to § 27-30 when such fire marshals have police powers as set out in §§ 27-34.2 and 27-34.2:1.

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

"School security officer" means a retired law-enforcement officer, or any person who has been certified as a law-enforcement officer within the previous five years, who is employed by a local law-enforcement agency to provide armed security services to any Virginia public elementary or secondary school within such agency's jurisdiction

G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any teacher, teacher aide, principal, assistant principal, guidance counselor, school safety officer, school security officer, school bus driver or school bus aide, while acting in the course and scope of his official capacity, any of the following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on

428 himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable
429 and necessary force to obtain possession of weapons or other dangerous objects or controlled substances
430 or associated paraphernalia that are upon the person of the student or within his control.

431 In determining whether a person was acting within the exceptions provided in this subsection, due
432 deference shall be given to reasonable judgments that were made by a teacher, teacher aide, principal,
433 assistant principal, guidance counselor, *school safety officer*, school security officer, school bus driver, or
434 school bus aide at the time of the event.

435 **§ 18.2-308.1. Possession of firearm, stun weapon, or other weapon on school property**
436 **prohibited.**

437 A. If any person possesses any (i) stun weapon as defined in this section; (ii) knife, except a pocket
438 knife having a folding metal blade of less than three inches; or (iii) weapon, including a weapon of like
439 kind, designated in subsection A of § 18.2-308, other than a firearm; upon (a) the property of any
440 public, private or religious elementary, middle or high school, including buildings and grounds; (b) that
441 portion of any property open to the public and then exclusively used for school-sponsored functions or
442 extracurricular activities while such functions or activities are taking place; or (c) any school bus owned
443 or operated by any such school, he shall be guilty of a Class 1 misdemeanor.

444 B. If any person possesses any firearm designed or intended to expel a projectile by action of an
445 explosion of a combustible material while such person is upon (i) any public, private or religious
446 elementary, middle or high school, including buildings and grounds; (ii) that portion of any property
447 open to the public and then exclusively used for school-sponsored functions or extracurricular activities
448 while such functions or activities are taking place; or (iii) any school bus owned or operated by any
449 such school, he shall be guilty of a Class 6 felony.

450 C. If any person possesses any firearm designed or intended to expel a projectile by action of an
451 explosion of a combustible material within a public, private or religious elementary, middle or high
452 school building and intends to use, or attempts to use, such firearm, or displays such weapon in a
453 threatening manner, such person shall be guilty of a Class 6 felony and sentenced to a mandatory
454 minimum term of imprisonment of five years to be served consecutively with any other sentence.

455 The exemptions set out in § 18.2-308 shall apply, mutatis mutandis, to the provisions of this section.
456 The provisions of this section shall not apply to (i) persons who possess such weapon or weapons as a
457 part of the school's curriculum or activities; (ii) a person possessing a knife customarily used for food
458 preparation or service and using it for such purpose; (iii) persons who possess such weapon or weapons
459 as a part of any program sponsored or facilitated by either the school or any organization authorized by
460 the school to conduct its programs either on or off the school premises; (iv) any law-enforcement
461 officer; (v) any person who possesses a knife or blade which he uses customarily in his trade; (vi) a
462 person who possesses an unloaded firearm that is in a closed container, or a knife having a metal blade,
463 in or upon a motor vehicle, or an unloaded shotgun or rifle in a firearms rack in or upon a motor
464 vehicle; or (vii) a person who has a valid concealed handgun permit and possesses a concealed handgun
465 while in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress or egress to
466 the school; or (viii) *school security officers as defined in § 9.1-101 in the course of their duties*. For the
467 purposes of this paragraph, "weapon" includes a knife having a metal blade of three inches or longer
468 and "closed container" includes a locked vehicle trunk.

469 As used in this section:

470 "Stun weapon" means any device that emits a momentary or pulsed output, which is electrical,
471 audible, optical or electromagnetic in nature and which is designed to temporarily incapacitate a person.

472 **§ 51.1-155. Service retirement allowance.**

473 A. Retirement allowance. - A member shall receive an annual retirement allowance, payable for life,
474 as follows:

475 1. Normal retirement. - The allowance shall equal 1.70 percent of his average final compensation
476 multiplied by the amount of his creditable service. Notwithstanding the foregoing, for a member who (i)
477 is a person who becomes a member on or after July 1, 2010, or (ii) does not have at least 60 months of
478 creditable service as of January 1, 2013, the allowance shall equal the sum of (a) 1.65 percent of his
479 average final compensation multiplied by the amount of his creditable service performed or purchased
480 on or after January 1, 2013, and (b) 1.70 percent of his average final compensation multiplied by the
481 amount of all other creditable service.

482 2. Early retirement; applicable to teachers, state employees, and certain others. - The allowance shall
483 be determined in the same manner as for normal retirement with creditable service and average final
484 compensation being determined as of the date of actual retirement. If the member has less than 30 years
485 of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial
486 equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal
487 retirement date or (ii) the first date on which he would have completed a total of 30 years of creditable
488 service. The provisions of this subdivision shall apply to teachers and state employees. These provisions
489 shall also apply to employees of any political subdivision that participates in the retirement system if the

political subdivision makes the election provided in subdivision 3.

3. Early retirement; applicable to employees of certain political subdivisions, any person who becomes a member on or after July 1, 2010, and any member who does not have at least 60 months of creditable service as of January 1, 2013. - The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the creditable service of the member equals 30 or more years but the sum of his age at retirement plus his creditable service at retirement is less than 90, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the sum of his then attained age plus his then creditable service would have been equal to 90 or more had he remained in service until such date. If the member has less than 30 years of creditable service, the retirement allowance shall be reduced for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of at least 30 years of creditable service and his then creditable service plus his then attained age would have been equal to 90 or more.

The provisions of this subdivision shall apply to the employees of any political subdivision that participates in the retirement system and any other employees as provided by law. The participating political subdivision may, however, elect to provide its employees with the early retirement allowance set forth in subdivision 2. No such election shall be made for a person who becomes a member on or after July 1, 2010, or a member who does not have at least 60 months of creditable service as of January 1, 2013. Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.

Notwithstanding the foregoing, a political subdivision by legally adopted resolution may declare to the Board that, for purposes of this subdivision and subdivisions B 1 and B 3 of § 51.1-153, any person who is employed as a firefighter, emergency medical technician, or law-enforcement officer as those terms are defined in § 15.2-1512.2 shall not be considered a person who becomes a member on or after July 1, 2010. Such resolution shall be irrevocable.

4. Additional allowance. - In addition to the allowance payable under subdivisions 1, 2, and 3, a member shall receive an additional allowance which shall be the actuarial equivalent, for his attained age at the time of retirement, of the excess of his accumulated contributions transferred from the abolished system to the retirement system, including interest credited at the rate of two percent compounded annually since the transfer to the date of retirement, over the annual amounts equal to four percent of his annual creditable compensation at the date of abolishment for a period equal to his period of membership in the abolished system.

5. 50/10 retirement. - The allowance shall be payable in a monthly stream of payments equal to the greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's accumulated contributions, including accrued interest.

B. Beneficiary serving in position covered by this title.

1. Except as provided in subdivisions 2 and 3, if a beneficiary of a service retirement allowance under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed. Any member who retires and later returns to covered employment shall not be entitled to select a different retirement option for a subsequent retirement.

2. Active members of the General Assembly who are eligible to receive a retirement allowance under this title, excluding their service as a member of the General Assembly, shall be eligible to receive a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly. Such members of the General Assembly shall continue to be reported as any other members of the retirement system. Upon ceasing to serve in the General Assembly, members of the General Assembly receiving a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly shall have their retirement allowance recomputed prospectively to include their service as a member of the General Assembly. Active members of the General Assembly shall be prohibited from receiving a service retirement allowance under this title based solely on their service as a member of the General Assembly.

3. (Expires July 1, 2015) Any person receiving a service retirement allowance under this chapter, who is hired as a local school board instructional or administrative employee required to be licensed by the Board of Education, may elect to continue to receive the retirement allowance during such employment, under the following conditions:

551 (a) a. The person has been receiving such retirement allowance for a certain period of time preceding
552 his employment as provided by law;

553 (b) b. The person is not receiving a retirement benefit pursuant to an early retirement incentive
554 program from any local school division within the Commonwealth; and

555 (c) c. At the time the person is employed, the position to which he is assigned is among those
556 identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the
557 relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local school board, pursuant
558 to subdivision 9 of § 22.1-79.

559 If the person elects to continue to receive the retirement allowance during the period of such
560 employment, then his service performed and compensation received during such period of time will not
561 increase, decrease, or affect in any way his retirement benefits before, during, or after such employment.

562 4. Any person receiving a service retirement allowance under the provisions of § 51.1-138, Chapter 2
563 (§ 51.1-200 et seq.), or Chapter 2.1 (§ 51.1-211 et seq.) who is hired as a school security officer on or
564 after July 1, 2013, but before July 1, 2018, may elect to continue to receive the retirement allowance
565 during such employment, under the following conditions:

566 a. The person has attained age 50 and the person's effective date of retirement is at least one full
567 calendar year, or such longer period of time as adopted by the Board in its policies and procedures,
568 prior to the person's commencing employment as a school security officer;

569 b. The person is not receiving a retirement benefit pursuant to an early retirement incentive program
570 from any local school division within the Commonwealth;

571 c. The person is not receiving a retirement benefit pursuant to an early retirement incentive program
572 from any employer, as defined in § 51.1-124.3;

573 d. The person did not participate in any incentive program established under the second or third
574 enactment of Chapters 152 and 811 of the Acts of Assembly of 1995; and

575 e. The hiring law-enforcement agency agrees to and shall pay to the Virginia Retirement System,
576 during such person's employment as a school security officer, the employer share of the retirement
577 funding contribution that would otherwise be due if the person were a covered employee.

578 If the person elects to continue to receive the retirement allowance during the period of such
579 employment, then his service performed and compensation received during such period of time will not
580 increase, decrease, or affect in any way his retirement benefits before, during, or after such employment.