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SENATE BILL NO. 1026

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Militia, Police and Public Safety
on February 8, 2013)

(Patron Prior to Substitute—Senator Howell)

A BILL to amend and reenact §§ 15.2-1705 and 15.2-1707 of the Code of Virginia, relating to law-enforcement officers; grounds for decertification; notification.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1705 and 15.2-1707 of the Code of Virginia are amended and reenacted as follows:
§ 15.2-1705. Minimum qualifications; waiver.

A. The chief of police and all police officers of any locality, all deputy sheriffs and jail officers in this Commonwealth, and all law-enforcement officers as defined in § 9.1-101 who enter upon the duties of such office after July 1, 1994, are required to meet the following minimum qualifications for office. Such person shall (i) be a citizen of the United States, (ii) be required to undergo a background investigation including fingerprint-based criminal history records inquiries to both the Central Criminal Records Exchange and the Federal Bureau of Investigation, (iii) have a high school education or have passed the General Educational Development exam, (iv) possess a valid driver's license if required by the duties of office to operate a motor vehicle, (v) undergo a physical examination, subsequent to a conditional offer of employment, conducted under the supervision of a licensed physician, (vi) be at least eighteen years of age, (vii) not have been convicted of or ~~pleaded~~ pled guilty or no contest to a felony or any offense that would be a felony if committed in ~~Virginia~~ the Commonwealth, and (viii) not have produced a positive result on a pre-employment drug screening, if such screening is required by the hiring law-enforcement agency or jail, where the positive result cannot be explained to the law-enforcement agency or jail administrator's satisfaction. *In addition, all such officers who enter upon the duties of such office on or after July 1, 2013, shall not have been convicted of or pled guilty or no contest to (a) any misdemeanor involving moral turpitude, including but not limited to petit larceny under § 18.2-96, or any offense involving moral turpitude that would be a misdemeanor if committed in the Commonwealth, (b) any misdemeanor sex offense in the Commonwealth, another state, or the United States, including but not limited to sexual battery under § 18.2-67.4 or consensual sexual intercourse with a minor 15 or older under clause (ii) of § 18.2-371, or (c) domestic assault under § 18.2-57.2 or any offense that would be domestic assault under the laws of another state or the United States.*

B. Upon request of a sheriff or chief of police, or the director or chief executive of any agency or department employing law-enforcement officers as defined in § 9.1-101, or jail officers as defined in § 53.1-1, the Department of Criminal Justice Services is hereby authorized to waive the requirements for qualification as set out in subsection A of this section for good cause shown.

§ 15.2-1707. Decertification of law-enforcement officers.

~~Upon written notification from the sheriff, chief of police or agency administrator that~~ A. The sheriff, chief of police, or agency administrator shall notify the Criminal Justice Services Board in writing when any certified law-enforcement or jail officer *currently employed by his agency* has (i) been convicted of or pled guilty or no contest to a felony or any offense that would be a felony if committed in ~~Virginia~~ the Commonwealth, (ii) *been convicted of or pled guilty or no contest to a Class 1 misdemeanor involving moral turpitude or any offense that would be any misdemeanor involving moral turpitude, including but not limited to petit larceny under § 18.2-96, or any offense involving moral turpitude that would be a misdemeanor if committed in the Commonwealth,* (iii) *been convicted of or pled guilty or no contest to any misdemeanor sex offense in the Commonwealth, another state, or the United States, including but not limited to sexual battery under § 18.2-67.4 or consensual sexual intercourse with a minor 15 or older under clause (ii) of § 18.2-371,* (iv) *been convicted of or pled guilty or no contest to domestic assault under § 18.2-57.2 or any offense that would be domestic assault under the laws of another state or the United States,* (v) failed to comply with or maintain compliance with mandated training requirements, or ~~(iii)~~ (vi) refused to submit to a drug screening or has produced a positive result on a drug screening reported to the employing agency, where the positive result cannot be explained to the agency administrator's satisfaction, ~~which~~. Notification shall also be provided in writing for any employee who resigned or was terminated in advance of being convicted or found guilty of an offense that requires decertification or who resigned or was terminated in advance of a pending drug screening. The notification, where appropriate, shall be accompanied by a copy of the judgment of conviction. Upon receiving such notice from the sheriff, chief of police, or agency administrator, or from an attorney for the Commonwealth, the Criminal Justice Services Board shall decertify such law-enforcement or jail officer. Such officer shall not have the right to serve as a law-enforcement officer within ~~this~~ the Commonwealth until his certification has been reinstated by the Board.

60 The clerk of any court in which a conviction of a felony is made who has knowledge that a
61 law-enforcement or jail officer has been convicted shall have a duty to report these findings promptly to
62 the employing agency.

63 B. When a conviction has not become final, the Board may decline to decertify the officer until the
64 conviction becomes final, after considering the likelihood of irreparable damage to the officer if such
65 officer is decertified during the pendency of an ultimately successful appeal, the likelihood of injury or
66 damage to the public if the officer is not decertified, and the seriousness of the offense.

67 C. The Department of Criminal Justice Services is hereby authorized to waive the requirements for
68 decertification as set out in subsection A for good cause shown.

69 D. The Criminal Justice Services Board may initiate decertification proceedings against any former
70 law-enforcement or jail officer whom the Board has found to have been convicted of an offense that
71 requires decertification or who has failed to comply with or maintain compliance with mandated
72 training requirements.