14101374D

SENATE BILL NO. 495

Offered January 8, 2014
Prefiled January 8, 2014

A BILL to amend and reenact §§ 9.1-150.2 and 19.2-13 of the Code of Virginia, relating to special conservators of the peace.

Patron—Norment

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-150.2 and 19.2-13 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-150.2. Powers of Criminal Justice Services Board relating to special conservators of the peace appointed pursuant to § 19.2-13.

A. The Board ~~may adopt regulations establishing~~ *shall establish* compulsory minimum, entry-level, in-service, and advanced training standards for special conservators of the peace. *Such training shall be graduated and based on the type of duties to be performed by the special conservator of the peace. In establishing compulsory training standards, the Board shall ensure the public safety and welfare against incompetent or unqualified persons engaging in the activities regulated by this section.* The *Board shall adopt* regulations *that* may include provisions delegating to the Board's staff the right to inspect the facilities and programs of persons conducting training to ensure compliance with the law and its regulations. ~~In establishing compulsory training standards for special conservators of the peace, the Board shall ensure the public safety and welfare against incompetent or unqualified persons engaging in the activities regulated by this section.~~ The regulations may provide for exemption from training of persons having previous employment as law-enforcement officers for a state or the federal government. However, no such exemption shall be granted to persons having less than five continuous years of such employment, nor shall an exemption be provided for any person whose employment as a law-enforcement officer was terminated because of his misconduct or incompetence *or who has been decertified as a law-enforcement officer*. The regulations may include provisions for ~~partial~~ exemption from such training for persons having previous training that meets or exceeds the minimum training standards and has been approved by the Department. The Board may also adopt regulations that (i) establish the qualifications of applicants for registration; (ii) cause to be examined the qualifications of each applicant for registration; (iii) provide for collection of fees for registration and renewal that are sufficient to cover all expenses for administration and operation of a program of registration; (iv) ensure continued competency and prevent deceptive or misleading practices by practitioners; (v) effectively administer the regulatory system promulgated by the Board; (vi) provide for receipt of complaints concerning the conduct of any person whose activities are regulated by the Board; (vii) provide for investigations, and appropriate disciplinary action if warranted; and (viii) allow the Board to revoke, suspend, or refuse to renew a registration~~, certification, or license~~ for just cause as enumerated in regulations of the Board. ~~The Board shall not adopt compulsory, minimum, entry-level training standards in excess of 24 hours for unarmed special conservators of the peace or in excess of 40 hours for armed special conservators of the peace. In adopting its regulations, the Board shall seek the advice of the Private Security Services Advisory Board established pursuant to § 9.1-143.~~

B. Notwithstanding any provision of subsection A, any special conservator of the peace shall have one year following the approval by the Board to comply with any additional compulsory minimum training standards as may be established following his appointment.

§ 19.2-13. Special conservators of the peace; authority; jurisdiction; registration; bond; liability of employers; penalty; report.

A. Upon ~~the~~ *submission of an* application ~~of~~ *from* (i) any sheriff or chief of police of any county, city, or town; (ii) any corporation authorized to do business in the Commonwealth; (iii) the owner, proprietor, or authorized custodian of any place within the Commonwealth; or (iv) any museum owned and managed by the Commonwealth, a circuit court judge of any county or city shall appoint special conservators of the peace who shall serve as such for such length of time as the court may designate, but not exceeding four years under any one appointment, upon a showing by the applicant of a necessity for the security of property or the peace and presentation of evidence that the person or persons to be appointed as a special conservator of the peace possess a valid registration issued by the Department of Criminal Justice Services in accordance with the provisions of subsection ~~B~~ *C*. However, a judge may deny the appointment for good cause, and shall state the specific reasons for the denial in writing in the order denying the appointment. The order of appointment may provide that a special conservator of the

INTRODUCED

8/9/22 14:8

peace shall have all the powers, functions, duties, responsibilities and authority of any other conservator of the peace within such geographical limitations as the court may deem appropriate within the confines of the county, city or town that makes application or within the county, city or town where the corporate applicant is located, limited, except as provided in subsection ~~E~~ *F*, to the judicial circuit wherein application has been made, whenever such special conservator of the peace is engaged in the performance of his duties as such. The order may also provide that the special conservator of the peace is a "law-enforcement officer" for the purposes of Article 4 (§ 37.2-808 et seq.) of Chapter 8 of Title 37.2 or Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1~~.~~ ~~The order may also provide that the special conservator of the peace is authorized to use the seal of the Commonwealth in a badge or other credential of office as the court may deem appropriate. The order may also provide that the special conservator of the peace may use the title "police" on any badge or uniform worn in the performance of his duties as such~~ *and if so provided shall require the special conservator of the peace to maintain minimum compulsory law-enforcement training standards established by the Criminal Justice Services Board for law-enforcement officers. The designation of the special conservator of the peace as a "law-enforcement officer" under this section does not qualify the special conservator of the peace as a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officer Safety Act, 18 U.S.C. § 926(B) et seq*. The order may also provide that a special conservator of the peace who has completed the minimum *compulsory law-enforcement* training standards established by the Department of Criminal Justice Services, has the authority to affect arrests, using up to the same amount of force as would be allowed to a law-enforcement officer employed by the Commonwealth or any of its political subdivisions when making a lawful arrest. The order also may (a) require the local sheriff or chief of police to conduct a background investigation which may include a review of the applicant's school records, employment records, or interviews with persons possessing general knowledge of the applicant's character and fitness for such appointment and (b) limit the use of flashing lights and sirens on personal vehicles used by the conservator in the performance of his duties*, provided that such use is in accordance with § 46.2-1023*. Prior to granting an application for appointment, the circuit court shall ensure that the applicant has met the registration requirements established by the Criminal Justice Services Board.

B. ~~Effective September 15, 2004, no~~ *All applications for appointments of special conservators of the peace shall be submitted on forms developed by the Department of Criminal Justice Services in consultation with the Supreme Court of Virginia.*

C. No person shall seek appointment as a special conservator of the peace from a circuit court judge without possessing a valid registration issued by the Department of Criminal Justice Services~~, except as provided in this section. Applicants for registration may submit an application on or after January 1, 2004~~. A temporary registration may be issued in accordance with regulations established by the Criminal Justice Services Board while awaiting the results of a state and national fingerprint search. However, no person shall be issued a temporary registration until he has (i) complied with, or been exempted from the compulsory minimum training standards as set forth in this section, (ii) submitted his fingerprints on a form provided by the Department to be used for the conduct of a national criminal records search and a Virginia criminal history records search, and (iii) met all other requirements of this article and Board regulations. No person with a criminal conviction for a misdemeanor involving (a) moral turpitude, (b) assault and battery, (c) damage to real or personal property, (d) controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (e) prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, (f) firearms, or (g) any felony*, or who is required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1,* shall be registered as a special conservator of the peace. ~~All appointments for special conservators of the peace shall become void on September 15, 2004, unless they have obtained a valid registration issued by the Department of Criminal Justice Services~~ *Effective July 1, 2014, all persons seeking appointment or reappointment as a special conservator of the peace are required to register with the Department as a special conservator of the peace regardless of any other standing that the person may have as a law-enforcement officer or other position requiring registration or licensure by the Department.*

~~C.~~ *D.* Each person registered as or seeking registration as a special conservator of the peace shall be covered by (i) a cash bond, or a surety bond executed by a surety company authorized to do business in the Commonwealth, in a reasonable amount to be fixed by the Board, not to be less than $10,000, conditioned upon the faithful and honest conduct of his business or employment~~;~~ or (ii) evidence of a policy of liability insurance or self-insurance in an amount and with coverage as fixed by the Board. Any person who is aggrieved by the misconduct of any person registered as a special conservator of the peace and recovers a judgment against the registrant, which is unsatisfied in whole or in part, may bring an action in his own name against the bond or insurance policy of the registrant.

~~D. Individuals listed in § 19.2-12, individuals who have complied with or been exempted pursuant to subsection A of § 9.1-141, individuals employed as law-enforcement officers as defined in § 9.1-101~~

~~who have met the minimum qualifications set forth in § 15.2-1705 shall be exempt from the requirements in subsections A through C. Further, individuals appointed under subsection A and employed by a private corporation or entity that meets the requirements of subdivision (ii) of the definition of criminal justice agency in § 9.1-101, shall be exempt from the registration requirements of subsection A and from subsections B and C provided they have met the minimum qualifications set forth in § 15.2-1705. The Department of Criminal Justice Services shall, upon request by the circuit court, provide evidence to the circuit court of such employment prior to appointing an individual special conservator of the peace. The employing agency~~ *E. Any (i) sheriff or chief of police of any county, city, or town; (ii) corporation authorized to do business in the Commonwealth; (iii) owner, proprietor, or authorized custodian of any place within the Commonwealth; or (iv) museum owned and managed by the Commonwealth, that employs a special conservator of the peace* shall notify the circuit court *and the Department of Criminal Justice Services* within 30 days after the date such individual has left employment and all powers of the special conservator of the peace shall be void. Failure to provide such notification shall be punishable by a fine of $250 plus an additional $50 per day for each day such notice is not provided.

~~E.~~ *F.* When the application is made *by any sheriff or chief of police*, the circuit court shall specify in the order of appointment the name of the applicant authorized under subsection A and the *specific* geographic jurisdiction ~~of~~ *or address where* the special conservator of the peace *is authorized to serve*. *When the application is made by any corporation authorized to do business in the Commonwealth; any owner, proprietor, or authorized custodian of any place within the Commonwealth; or any museum owned and managed by the Commonwealth, the circuit court shall specify in the order of appointment the name of the applicant authorized under subsection A and the specific address where the special conservator of the peace is authorized to serve.* Court appointments shall be limited to the judicial circuit wherein application has been made. In the case of a corporation or other business, the court appointment may also include, for good cause shown, any real property owned or leased by the corporation or business, including any subsidiaries, in other specifically named cities and counties, but shall provide that the powers of the special conservator of the peace do not extend beyond the boundaries of such real property *and shall include the specific addresses of such property*. ~~Effective July 1, 2004, the~~ *The* clerk of the appointing circuit court shall transmit a copy of the order of appointment that shall specify the following information *to the Department of State Police*: the person's complete name, address, date of birth, social security number, gender, race, height, weight, color of hair, color of eyes, firearm authority or limitation as set forth in subsection ~~F~~ *G*, date of the order, and other information as may be required by the Department of State Police. The Department of State Police shall enter the person's name and other information into the Virginia Criminal Information Network established and maintained ~~by the Department~~ pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. The Department of State Police may charge a fee not to exceed $10 to cover its costs associated with processing these orders. Each special conservator of the peace so appointed on *the* application shall present his credentials to the chief of police or sheriff or his designee of all jurisdictions where he has conservator powers. If his powers are limited to certain areas owned or leased by a corporation or business, he shall also provide notice of the exact physical addresses of those areas. Each special conservator shall provide a temporary registration letter issued by the Department of Criminal Justice Services prior to seeking an appointment by the circuit court. Once the applicant receives the appointment from the circuit court the applicant shall file the appointment order *and a copy of the application* with the Department of Criminal Justice Services in order to receive his special conservator of the peace ~~photo~~ registration ~~card~~ *documentation*.

If any such special conservator of the peace is the employee, agent or servant of another, his appointment as special conservator of the peace shall not relieve his employer, principal or master, from civil liability to another arising out of any wrongful action or conduct committed by such special conservator of the peace while within the scope of his employment.

Effective July 1, 2002, no person employed by a local school board as a school security officer, as defined in § 9.1-101, shall be eligible for appointment as a conservator for purposes of maintaining safety in a public school in the Commonwealth. All appointments of special conservators of the peace granted to school security officers as defined in § 9.1-101 prior to July 1, 2002 are void.

~~F.~~ *G.* The court may limit or prohibit the carrying of weapons by any special conservator of the peace initially appointed on or after July 1, 1996, while the appointee is within the scope of his employment as such.

H. Effective October 1, 2014, no special conservator of the peace shall display or use the seal of the Commonwealth or the word "police" on any uniform, badge, credential, or vehicle in the performance of his duties as a special conservator of the peace.

I. The circuit court shall retain jurisdiction for four years over any order it enters pursuant to this section and may revoke such appointment for good cause.