

VIRGINIA ACTS OF ASSEMBLY -- 2015 RECONVENED SESSION

CHAPTER 766

An Act to amend and reenact §§ 9.1-150.2, 15.2-1748, and 19.2-13 of the Code of Virginia, relating to special conservators of the peace; training; registration; etc.

[H 2206]

Approved April 30, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-150.2, 15.2-1748, 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.

The Board ~~may~~ *shall* adopt regulations establishing compulsory minimum, entry-level, in-service, and advanced training standards for special conservators of the peace. The regulations 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 *require training to be obtained at a criminal justice training academy established pursuant to § 15.2-1747, or at a private security training school certified by the Department, and 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 that shall not exceed, but shall be a minimum of 98 hours for unarmed special conservators of the peace or in excess of 40 and that shall not exceed, but shall be a minimum of 130 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.

§ 15.2-1748. Powers of the academies.

A. Upon organization of an academy, it shall be a public body corporate and politic, the purposes of which shall be to establish and conduct training for public law-enforcement and correctional officers, those being trained to be public law-enforcement and correctional officers ~~and~~, other personnel who assist or support such officers, *and those persons seeking appointments as special conservators of the peace pursuant to § 19.2-13*. The persons trained by an academy need not be employed by a locality ~~which~~ *that* has joined in the agreement creating the academy.

B. Criminal justice training academies may:

1. Adopt and have a common seal and alter that seal at the pleasure of the board of directors;
2. Sue and be sued;
3. Adopt bylaws and make rules and regulations for the conduct of its business;
4. Make and enter into all contracts or agreements, as it may determine are necessary, incidental or convenient to the performance of its duties and to the execution of the powers granted under this article;
5. Apply for and accept, disburse and administer for itself or for a member governmental unit any loans or grants of money, materials or property from any private or charitable source, the United States of America, the Commonwealth, any agency or instrumentality thereof, or from any other source;
6. Employ engineers, attorneys, planners and such other professional experts or consultants, and general and clerical employees as may be deemed necessary and prescribe such experts, consultants, and employees' powers, duties, and compensation;

7. Perform any acts authorized under this article through or by means of its own officers, agents and employees, or by contracts with any person, firm or corporation;

8. Acquire, whether by purchase, exchange, gift, lease or otherwise, any interest in real or personal property, and improve, maintain, equip and furnish academy facilities;

9. Lease, sell, exchange, donate and convey any interest in any or all of its projects, property or facilities in furtherance of the purposes of the academy as set forth in this article;

10. Accept contributions, grants and other financial assistance from the United States of America and its agencies or instrumentalities thereof, the Commonwealth, any political subdivision, agency or public instrumentality thereof or from any other source, for or in aid of the construction, acquisition, ownership, maintenance or repair of the academy facilities, for the payment of principal of, or interest on, any bond of the academy, or other costs incident thereto, or make loans in furtherance of the purposes of this article of such money, contributions, grants, and other financial assistance, and comply with such conditions and to execute such agreements, trust indentures, and other legal instruments as may be necessary, convenient or desirable and agree to such terms and conditions as may be imposed;

11. Borrow money from any source for capital purposes or to cover current expenditures in any given year in anticipation of the collection of revenues;

12. Mortgage and pledge any or all of its projects, property or facilities or parts thereof and pledge the revenues therefrom or from any part thereof as security for the payment of principal and premium, if any, and interest on any bonds, notes or other evidences of indebtedness;

13. Create an executive committee which may exercise the powers and authority of the academy under this article pursuant to authority delegated to it by the board of directors;

14. Establish fees or other charges for the training services provided;

15. Exercise the powers granted in the agreement creating the academy; and

16. Execute any and all instruments and do and perform any and all acts necessary, convenient or desirable for its purposes or to carry out the powers expressly given in this article.

§ 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, which shall include the results of a background investigation, 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, *during which time the court shall retain jurisdiction over the appointment order*, 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. *Upon an application made pursuant to clause (ii), (iii), or (iv), the court shall, prior to entering the order of appointment, transmit a copy of the application to the local attorney for the Commonwealth and the local sheriff or chief of police who may submit to the court a sworn, written statement indicating whether the order of appointment should be granted.* 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. *A judge also may revoke the appointment order for good cause shown, upon the filing of a sworn petition by the attorney for the Commonwealth, sheriff, or chief of police for any locality in which the special conservator of the peace is authorized to serve or by the Department of Criminal Justice Services. Prior to revocation, a hearing shall be set and the special conservator of the peace shall be given notice and the opportunity to be heard. The judge may temporarily suspend the appointment pending the hearing for good cause shown. A hearing on the petition shall be heard by the court as soon as practicable. If the appointment order is suspended or revoked, the clerk of court shall notify the Department of Criminal Justice Services, the Department of State Police, the applicable local law-enforcement agencies in all cities and counties where the special conservator of the peace is authorized to serve, and the employer of the special conservator of the peace.*

The order of appointment may provide that a special conservator of the 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~~ *on the real property* where the corporate applicant is located, *or any real property contiguous to such real property*, limited, except as provided in subsection E F, to the ~~judicial circuit~~ *city or county* 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 provide that the special conservator of the peace shall have the authority to make an arrest outside of such geographical limitations if the arrest results from a close pursuit that was initiated when the special conservator of the peace was within the confines of the area wherein he has been authorized to have the powers and authority of a special conservator of the peace; the order may further delineate a geographical limitation or distance beyond which the special conservator of the peace may not*

effectuate such an arrest that follows from a close pursuit. The order shall require the special conservator of the peace to comply with the provisions of the United States Constitution and the Constitution of Virginia. The order shall not identify the special conservator of the peace as a law-enforcement officer pursuant to § 9.1-101. The order may also provide, however, 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, but such designation shall 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., and the order of appointment shall specifically state this. 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. The order may also provide that a special conservator of the peace who has completed the minimum training standards established by the Department of Criminal Justice Services Board, 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. The order shall prohibit blue flashing lights, but upon request and for good cause shown may provide that the special conservator of the peace may use flashing lights and sirens on any vehicle used by the special conservator of the peace when he is in the performance of his duties. 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 and orders for appointments of special conservators of the peace shall be submitted on forms developed by the Office of the Executive Secretary of the Supreme Court of Virginia in consultation with the Department of Criminal Justice Services and shall specify the duties for which the applicant is qualified. The applications and orders shall specify the geographic limitations consistent with subsection A.

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) submitted the results of a background investigation, performed by any state or local law-enforcement agency, which may, at its discretion, charge a reasonable fee to the applicant and 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 (iv) 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, or (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 eligible for registration or appointment as a special conservator of the peace. A special conservator of the peace shall report if he is arrested for, charged with, or convicted of any misdemeanor or felony offense to the Department of Criminal Justice Services and the chief law-enforcement officer of all localities in which he is authorized to serve within 3 days of such arrest. Any appointment for a special conservator of the peace shall be eligible for suspension and revocation after a hearing pursuant to subsection A if the special conservator of the peace is convicted of any offense listed in clauses (a) through (f) or of any felony. 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.

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.~~

E. Effective July 1, 2015, all persons currently appointed or seeking appointment or reappointment as a special conservator of the peace are required to register with the Department of Criminal Justice Services, regardless of any other standing the person may have as a law-enforcement officer or other position requiring registration or licensure by the Department. The employing agency employer of any special conservator of the peace shall notify the circuit court, the Department of Criminal Justice Services, the Department of State Police, and the chief law-enforcement officer of all localities in which the special conservator of the peace is authorized to serve 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 geographic jurisdiction of the special conservator of the peace. ~~Court~~ Such appointments shall be limited to the city or county wherein application has been made. 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 real property where the special conservator of the peace is authorized to serve. Such appointments shall be limited to the judicial circuit specific real property within the county, city, or town 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. Effective July 1, 2004, the~~ The clerk of the appointing circuit court shall transmit to the Department of State Police, the clerk of the circuit court of each locality where the special conservator of the peace is authorized to serve, and the sheriff or chief of police of each such locality a copy of the order of appointment that shall specify the following information: 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 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 of real property 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 to the circuit court a temporary registration letter issued by the Department of Criminal Justice Services to include the results of the background check 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 document. If the court appointment includes any real property owned or leased by the corporation or business in other specifically named cities and counties not within the city or county wherein application has been made, the clerk of the appointing court shall transmit a copy of the order of appointment to (i) the clerk of the circuit court for each jurisdiction where the special conservator of the peace is authorized to serve and (ii) the sheriff or chief of police of each jurisdiction where the special conservator of the peace is authorized to serve.

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. The governing body of any locality or the sheriff of a county where no police department has been established may enter into mutual aid agreements with any entity employing special conservators of the peace that is located in such locality for the use of their joint forces and their equipment and materials to maintain peace and good order. Any law-enforcement officer or special conservator of the peace, while performing his duty under any such agreement, shall have the same authority as lawfully conferred on him within his own jurisdiction.

2. That the Office of the Executive Secretary of the Supreme Court of Virginia shall establish reasonable judicial training regarding the use of application forms for the appointment of special conservators of the peace and the powers that may be granted in appointment orders to special conservators of the peace.

3. That any existing special conservator of the peace appointed under a court order in effect on July 1, 2015, has 36 months to comply with the new compulsory, minimum, entry-level training standards and requirements as may be established pursuant to this act following his appointment.