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HOUSE BILL NO. 2092

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 4, 2015)

(Patrons Prior to Substitute—Delegates Peace and McClellan [HB 1954])

A BILL to amend and reenact § 9.1-102 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 1 of Title 9.1 sections numbered 9.1-116.2 and 9.1-116.3, relating to powers and duties of the Department of Criminal Justice Services; committees related to sexual and domestic violence.

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-102 of the Code of Virginia is amended and reenacted and the Code of Virginia is amended by adding in Article 1 of Chapter 1 of Title 9.1 sections numbered 9.1-116.2 and 9.1-116.3 as follows:

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

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

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

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

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

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

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

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

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

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

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;

HOUSE
SUBSTITUTE

HB2092H1

60 12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state
61 and federal governmental agencies, and with universities, colleges, community colleges, and other
62 institutions, whether located in or outside the Commonwealth, concerning the development of police
63 training schools and programs or courses of instruction;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

109 28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and
110 activities for the Commonwealth and units of general local government, or combinations thereof, in the
111 Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal
112 justice at every level throughout the Commonwealth;

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

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

121 31. Do all things necessary on behalf of the Commonwealth and its units of general local

122 government, to determine and secure benefits available under the Omnibus Crime Control and Safe
123 Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and
124 programs for strengthening and improving law enforcement, the administration of criminal justice, and
125 delinquency prevention and control;

126 32. Receive, administer, and expend all funds and other assistance available to the Board and the
127 Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe
128 Streets Act of 1968, as amended;

129 33. Apply for and accept grants from the United States government or any other source in carrying
130 out the purposes of this chapter and accept any and all donations both real and personal, and grants of
131 money from any governmental unit or public agency, or from any institution, person, firm or
132 corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section
133 shall be detailed in the annual report of the Board. Such report shall include the identity of the donor,
134 the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section
135 shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall
136 have the power to comply with conditions and execute such agreements as may be necessary;

137 34. Make and enter into all contracts and agreements necessary or incidental to the performance of
138 its duties and execution of its powers under this chapter, including but not limited to, contracts with the
139 United States, units of general local government or combinations thereof, in Virginia or other states, and
140 with agencies and departments of the Commonwealth;

141 35. Adopt and administer reasonable regulations for the planning and implementation of programs
142 and activities and for the allocation, expenditure and subgranting of funds available to the
143 Commonwealth and to units of general local government, and for carrying out the purposes of this
144 chapter and the powers and duties set forth herein;

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

146 37. Establish training standards and publish a model policy for law-enforcement personnel in the
147 handling of family abuse, domestic violence, sexual assault and stalking cases, including standards for
148 determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall
149 provide technical support and assistance to law-enforcement agencies in carrying out the requirements
150 set forth in § 9.1-1301 and shall by December 1, 2009, submit a report on the status of implementation
151 of these requirements to the chairmen of the House and Senate Courts of Justice Committees;

152 38. Establish training standards and publish a model policy for law-enforcement personnel in
153 communicating with and facilitating the safe return of individuals diagnosed with Alzheimer's disease;

154 39. Establish compulsory training standards for basic training and the recertification of
155 law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for
156 biased policing;

157 40. Review and evaluate community-policing programs in the Commonwealth, and recommend where
158 necessary statewide operating procedures, guidelines, and standards which strengthen and improve such
159 programs, including sensitivity to and awareness of cultural diversity and the potential for biased
160 policing;

161 41. Publish and disseminate a model policy or guideline that may be used by state and local agencies
162 to ensure that law-enforcement personnel are sensitive to and aware of cultural diversity and the
163 potential for biased policing;

164 42. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation with
165 Virginia law-enforcement agencies, provide technical assistance and administrative support, including
166 staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center
167 may provide accreditation assistance and training, resource material, and research into methods and
168 procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia
169 accreditation status;

170 43. Promote community policing philosophy and practice throughout the Commonwealth by
171 providing community policing training and technical assistance statewide to all law-enforcement
172 agencies, community groups, public and private organizations and citizens; developing and distributing
173 innovative policing curricula and training tools on general community policing philosophy and practice
174 and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia
175 organizations with specific community policing needs; facilitating continued development and
176 implementation of community policing programs statewide through discussion forums for community
177 policing leaders, development of law-enforcement instructors; promoting a statewide community policing
178 initiative; and serving as a statewide information source on the subject of community policing including,
179 but not limited to periodic newsletters, a website and an accessible lending library;

180 44. Establish, in consultation with the Department of Education and the Virginia State Crime
181 Commission, compulsory minimum standards for employment and job-entry and in-service training
182 curricula and certification requirements for school security officers, which training and certification shall

183 be administered by the Virginia Center for School and Campus Safety pursuant to § 9.1-184. Such
184 training standards shall include, but shall not be limited to, the role and responsibility of school security
185 officers, relevant state and federal laws, school and personal liability issues, security awareness in the
186 school environment, mediation and conflict resolution, disaster and emergency response, and student
187 behavioral dynamics. The Department shall establish an advisory committee consisting of local school
188 board representatives, principals, superintendents, and school security personnel to assist in the
189 development of these standards and certification requirements;

190 45. Establish training standards and publish a model policy and protocols for local and regional
191 sexual assault response teams;

192 46. License and regulate property bail bondsmen and surety bail bondsmen in accordance with
193 Article 11 (§ 9.1-185 et seq.);

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

195 48. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal
196 justice agencies regarding the investigation, registration, and dissemination of information requirements
197 as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);

198 49. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula,
199 and (iii) certification requirements for campus security officers. Such training standards shall include, but
200 not be limited to, the role and responsibility of campus security officers, relevant state and federal laws,
201 school and personal liability issues, security awareness in the campus environment, and disaster and
202 emergency response. The Department shall provide technical support and assistance to campus police
203 departments and campus security departments on the establishment and implementation of policies and
204 procedures, including but not limited to: the management of such departments, investigatory procedures,
205 judicial referrals, the establishment and management of databases for campus safety and security
206 information sharing, and development of uniform record keeping for disciplinary records and statistics,
207 such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an
208 advisory committee consisting of college administrators, college police chiefs, college security
209 department chiefs, and local law-enforcement officials to assist in the development of the standards and
210 certification requirements and training pursuant to this subdivision;

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

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

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

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

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

225 55. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and
226 attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human
227 trafficking offenses using the common law and existing criminal statutes in the Code of Virginia. The
228 Department shall publish and disseminate a model policy or guideline for law-enforcement personnel
229 involved in criminal investigations or assigned to vehicle or street patrol duties to ensure that
230 law-enforcement personnel are sensitive to and aware of human trafficking offenses and the
231 identification of victims of human trafficking offenses;

232 56. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of
233 § 46.2-117; ~~and~~

234 57. *Administer the activities of the Virginia Sexual and Domestic Violence Program Professional*
235 *Standards Committee by providing technical assistance and administrative support, including staffing,*
236 *for the Committee; and*

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

239 **§ 9.1-116.2. Advisory Committee on Sexual and Domestic Violence; membership; terms;**
240 **compensation and expenses; duties.**

241 *A. The Advisory Committee on Sexual and Domestic Violence (the Advisory Committee) is established*
242 *as an advisory committee in the executive branch of state government. The Advisory Committee shall*
243 *have the responsibility for advising and assisting the Board, the Department, all agencies, departments,*
244 *boards, and institutions of the Commonwealth, and units of local government, or combinations thereof,*

245 on matters related to the prevention and reduction of sexual and domestic violence in the
 246 Commonwealth, and to promote the efficient administration of grant funds to state and local programs
 247 that work in these areas.

248 The Advisory Committee shall have a total of 15 members consisting of the following, or their
 249 designees: the Commissioner of Social Services; the Director of the Department of Criminal Justice
 250 Services; the Commissioner of Health; the Director of the Department of Housing and Community
 251 Development; the Executive Director of the Virginia sexual and domestic violence coalition; one member
 252 of the Senate to be appointed by the Senate Committee on Rules; one member of the House of Delegates
 253 to be appointed by the Speaker of the House; the Chairman of the Virginia State Crime Commission;
 254 and the Attorney General. The membership shall also consist of six nonlegislative citizen members
 255 appointed by the Governor, one of whom shall be a representative of a crime victims' organization or a
 256 victim of sexual or domestic violence, one of whom shall be a member of the board of the Virginia
 257 Victim Assistance Network, and four of whom shall be directors of local sexual and domestic violence
 258 programs, of whom one shall be a director of a program that concentrates solely on domestic violence,
 259 one shall be a director of a program that concentrates solely on sexual violence, and two shall be
 260 directors of programs that work in both sexual and domestic violence. The appointments of the four
 261 directors shall be representative of regional and geographic locations of the Commonwealth.

262 Legislative members and the agency directors shall serve terms coincident with their terms of office.
 263 All other members shall be citizens of the Commonwealth and shall serve a term of four years.
 264 However, no member shall serve beyond the time when he holds the office or employment by reason of
 265 which he was initially eligible for appointment.

266 The Advisory Committee shall elect its chairman and vice-chairman from among its members.

267 B. No member of the Advisory Committee appointed by the Governor shall be eligible to serve for
 268 more than two consecutive full terms. A term of three or more years within a four-year period shall be
 269 deemed a full term. Any vacancy on the Advisory Committee shall be filled in the same manner as the
 270 original appointment, but for the unexpired term.

271 C. A majority of the members of the Advisory Committee shall constitute a quorum. The Advisory
 272 Committee shall hold no less than four regular meetings a year. Subject to the requirements of this
 273 subsection, the chairman shall fix the times and places of meetings, either on his own motion or upon
 274 written request of any five members of the Advisory Committee.

275 D. The Advisory Committee may adopt bylaws for its operation.

276 E. Members of the Advisory Committee shall not receive compensation, but shall be reimbursed for
 277 all reasonable and necessary expenses incurred in the performance of their duties as provided in
 278 §§ 2.2-2813 and 2.2-2825. Funding for the costs of the expenses shall be provided from federal funds
 279 received for such purposes by the Department.

280 F. The Advisory Committee shall have the following duties and responsibilities:

281 1. Provide guidance on appropriate standards for the accreditation of sexual and domestic violence
 282 programs;

283 2. Review statewide plans, conduct studies, and make recommendations on needs and priorities for
 284 the development and improvement of local services to victims of sexual and domestic violence in the
 285 Commonwealth;

286 3. Advise on all matters related to federal funds received by the Commonwealth for crime prevention
 287 and crime victim assistance related to sexual and domestic violence and recommend such actions on
 288 behalf of the Commonwealth as may seem desirable to secure benefits of these federal programs;

289 4. Promote coordination among state agencies and local service providers to improve the
 290 Commonwealth's identification of and response to sexual and domestic violence, including the effective
 291 implementation of trauma-informed services, evidence-based homicide reduction strategies, and
 292 evidence-based prevention strategies;

293 5. Develop a comprehensive plan for data collection on sexual and domestic violence;

294 6. Review statewide reports and conduct studies to identify service demands and gaps and make
 295 funding recommendations that ensure adequate funding and improve the administration of both state and
 296 federal funds to local sexual and domestic violence programs; and

297 7. Make recommendations on improving efficiencies in the administration of grants of both state and
 298 federal funds to local sexual and domestic violence programs.

299 G. The Department shall provide staff support to the Advisory Committee. Upon request, each
 300 administrative entity or collegial body within the executive branch of the state government shall
 301 cooperate with the Advisory Committee as it carries out its responsibilities.

302 **§ 9.1-116.3. Virginia Sexual and Domestic Violence Program Professional Standards Committee.**

303 The Virginia Sexual and Domestic Violence Program Professional Standards Committee (the
 304 Committee) shall establish voluntary accreditation standards and procedures by which local sexual and
 305 domestic violence programs can be systematically measured and evaluated with a peer-reviewed process.

306 *The Committee may adopt bylaws for its operation, membership terms, fees, and other items as*
307 *necessary. Fees for accreditation shall be used to support any administrative costs of the Department.*
308 *Upon request of the Committee, the Department and the Virginia sexual and domestic violence coalition*
309 *may provide accreditation assistance and training and resource material that will assist the local*
310 *programs in obtaining or retaining accreditation.*

311 *The Committee shall consist of the following: six directors of local sexual and domestic violence*
312 *programs appointed by the Advisory Committee on Sexual and Domestic Violence, six directors of local*
313 *sexual and domestic violence programs appointed by the Virginia sexual and domestic violence*
314 *coalition, one nonvoting member appointed by the Department, and one nonvoting member appointed by*
315 *the Virginia sexual and domestic violence coalition. The appointments made by the Advisory Committee*
316 *on Sexual and Domestic Violence and the Virginia sexual and domestic violence coalition shall both*
317 *adhere to the following requirements: appointments shall be representative of regional and geographic*
318 *locations and types of local sexual and domestic violence programs and shall include a director of a*
319 *program concentrating solely on sexual violence, a director of a program concentrating solely on*
320 *domestic violence, and four directors of programs concentrating on both sexual and domestic violence.*
321 *A chairman and vice-chairman, who shall be voting members, shall be elected annually, and each*
322 *position shall alternate between a director who is appointed by the Advisory Committee and a director*
323 *who is appointed by the coalition; if the chairman is a director appointed by the Advisory Committee,*
324 *the vice-chairman shall be a person appointed by the coalition, and vice versa.*