

15101016D

HOUSE BILL NO. 2206

Offered January 15, 2015

A BILL to amend and reenact § 19.2-13 of the Code of Virginia, relating to special conservators of the peace; application; appointment order.

Patron—Campbell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

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

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

A. Upon the application of (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. *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.* 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 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. 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, 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. 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 applications 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 and shall specify the duties for which the applicant is qualified.~~

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

INTRODUCED

HB2206

59 a form provided by the Department to be used for the conduct of a national criminal records search and
60 a Virginia criminal history records search, and (iii) met all other requirements of this article and Board
61 regulations. No person with a criminal conviction for a misdemeanor involving (a) moral turpitude, (b)
62 assault and battery, (c) damage to real or personal property, (d) controlled substances or imitation
63 controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (e)
64 prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, (f)
65 firearms, or (g) any felony, shall be registered as a special conservator of the peace. All appointments
66 for special conservators of the peace shall become void on September 15, 2004, unless they have
67 obtained a valid registration issued by the Department of Criminal Justice Services.

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

76 D. E. Individuals listed in § 19.2-12, individuals who have complied with or been exempted pursuant
77 to subsection A of § 9.1-141, individuals employed as law-enforcement officers as defined in § 9.1-101
78 who have met the minimum qualifications set forth in § 15.2-1705 shall be exempt from the
79 requirements in subsections A through C. Further, individuals appointed under subsection A and
80 employed by a private corporation or entity that meets the requirements of subdivision (ii) of the
81 definition of criminal justice agency in § 9.1-101, shall be exempt from the registration requirements of
82 subsection A and from subsections B C and C D provided they have met the minimum qualifications set
83 forth in § 15.2-1705. The Department of Criminal Justice Services shall, upon request by the circuit
84 court, provide evidence to the circuit court of such employment prior to appointing an individual special
85 conservator of the peace. The employing agency shall notify the circuit court within 30 days after the
86 date such individual has left employment and all powers of the special conservator of the peace shall be
87 void. Failure to provide such notification shall be punishable by a fine of \$250 plus an additional \$50
88 per day for each day such notice is not provided.

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

117 If any such special conservator of the peace is the employee, agent or servant of another, his
118 appointment as special conservator of the peace shall not relieve his employer, principal or master, from
119 civil liability to another arising out of any wrongful action or conduct committed by such special
120 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.

2. That 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.