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SENATE BILL NO. 1195

Offered January 14, 2015

Prefiled January 13, 2015

A BILL 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 standards, registration, etc.

Patron—Norment

Referred to Committee for Courts of Justice

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 98 hours for unarmed special conservators of the peace or in excess of 40 and 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

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59 general and clerical employees as may be deemed necessary and prescribe such experts, consultants, and  
 60 employees' powers, duties, and compensation;

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

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

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

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

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

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

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

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

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

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

86 **§ 19.2-13. Special conservators of the peace; authority; jurisdiction; registration; bond; liability**  
 87 **of employers; penalty; report.**

88 A. Upon the *submission of an application of, which shall include a temporary letter of qualification*  
 89 *and results of a background investigation, from* (i) any sheriff or chief of police of any county, city, or  
 90 town; (ii) any corporation authorized to do business in the Commonwealth; (iii) the owner, proprietor, or  
 91 authorized custodian of any place within the Commonwealth; or (iv) any museum owned and managed  
 92 by the Commonwealth, a circuit court judge of any county or city ~~shall~~ *may* appoint special conservators  
 93 of the peace who shall serve as such for such length of time as the court may designate, but not  
 94 exceeding four years under any one appointment, upon a showing by the applicant of a necessity for the  
 95 security of property or the peace and presentation of evidence that the person or persons to be appointed  
 96 as a special conservator of the peace possess a ~~valid registration~~ *temporary letter of qualification* issued  
 97 by the Department of Criminal Justice Services in accordance with the provisions of subsection B.  
 98 ~~However, a Notice of the application, the temporary letter of qualification, and results of the applicant's~~  
 99 ~~background check shall be given by the applicant to the chief law-enforcement officer and the attorney~~  
 100 ~~for the Commonwealth of the county, city, or town where the application is made, who may file a~~  
 101 ~~motion on whether a necessity for the security of property or the peace exists and whether the applicant~~  
 102 ~~is qualified for the appointment. A judge may deny the appointment for good cause, and shall state the~~  
 103 ~~specific reasons for the denial in writing in the order denying the appointment. The order of~~  
 104 ~~appointment may provide that a special conservator of the peace shall have all the powers, functions,~~  
 105 ~~duties, responsibilities, and authority of any other conservator of the peace within such geographical~~  
 106 ~~limitations as the court may deem appropriate within the confines of the county, city or town that makes~~  
 107 ~~application or within the county, city or town on the real property where the corporate applicant is~~  
 108 ~~located, limited, except as provided in subsection E, to the judicial circuit wherein application has been~~  
 109 ~~made, whenever such special conservator of the peace is engaged in the performance of his duties as~~  
 110 ~~such. The order shall require the special conservator of the peace to comply with the provisions of the~~  
 111 ~~United States Constitution and the Constitution of Virginia. The order shall not identify the special~~  
 112 ~~conservator of the peace as a law-enforcement officer pursuant to § 9.1-101. The order may also~~  
 113 ~~provide, however, that the special conservator of the peace is a "law-enforcement officer" for the~~  
 114 ~~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~~  
 115 ~~Chapter 11 of Title 16.1, but such designation shall not qualify the special conservator of the peace as~~  
 116 ~~a "qualified law-enforcement officer" or "qualified retired law-enforcement officer" within the meaning~~  
 117 ~~of the federal Law Enforcement Officer Safety Act, 18 U.S.C. § 926 B et seq. The order may also~~  
 118 ~~provide that the special conservator of the peace is authorized to use the seal of the Commonwealth in a~~  
 119 ~~badge or other credential of office as the court may deem appropriate. The order may also provide that~~  
 120 ~~shall prohibit the special conservator of the peace may use from using the title "police" on any badge or,~~

121 uniform worn, or vehicle displayed in the performance of his duties as such. The order may also provide  
 122 that a special conservator of the peace who has completed the minimum training standards established  
 123 by the Department of Criminal Justice Services; Board has the authority to affect arrests, using up to the  
 124 same amount of force as would be allowed to a law-enforcement officer employed by the  
 125 Commonwealth or any of its political subdivisions when making a lawful arrest. The order also may (a)  
 126 require the local sheriff or chief of police to conduct a background investigation which may include a  
 127 review of the applicant's school records, employment records, or interviews with persons possessing  
 128 general knowledge of the applicant's character and fitness for such appointment and (b) limit shall  
 129 prohibit the use of blue flashing lights and sirens on any personal or business vehicles used by the  
 130 conservator in the performance of his duties. The order shall prohibit the special conservator of the  
 131 peace from displaying any insignia or words indicating he is a law-enforcement officer. Prior to granting  
 132 an application for appointment, the circuit court shall ensure that the applicant has met the registration  
 133 requirements established by the Criminal Justice Services Board.

134 B. Effective September 15, 2004, no person shall seek appointment as a special conservator of the  
 135 peace from a circuit court judge without possessing a valid registration issued by the Department of  
 136 Criminal Justice Services; except as provided in this section. Applicants for registration may submit an  
 137 application on or after January 1, 2004. A temporary registration may be issued in accordance with  
 138 regulations established by the Criminal Justice Services Board while awaiting the results of a state and  
 139 national fingerprint search. However, no person shall be issued a temporary registration until he All  
 140 applications and orders for appointments of special conservators of the peace shall be submitted on  
 141 forms developed by the Department of Criminal Justice Services in consultation with the Office of the  
 142 Executive Secretary of the Supreme Court of Virginia and shall specify the geographic limitations  
 143 consistent with subsection A. The Department shall issue a temporary letter of qualification to an  
 144 applicant who has (i) complied with, or been exempted from the compulsory minimum training  
 145 standards as set forth in this section; (ii) submitted his fingerprints on a form provided by the  
 146 Department to be used for the conduct of a national criminal records search and a Virginia criminal  
 147 history records search; and; (iii) submitted the results of a background investigation, performed by any  
 148 state or local law-enforcement agency, which may, at its discretion, charge a reasonable fee to the  
 149 applicant, and which may include a review of the applicant's school records, employment records, or  
 150 interviews with persons possessing general knowledge of the applicant's character and fitness for such  
 151 appointment; and (iv) met all other requirements of this article and Board regulations. No person with a  
 152 criminal conviction for a misdemeanor involving (a) moral turpitude, (b) assault and battery, (c) damage  
 153 to real or personal property, (d) controlled substances or imitation controlled substances as defined in  
 154 Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (e) prohibited sexual behavior as described in  
 155 Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or (f) firearms, or (g) any felony, or who is  
 156 required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9  
 157 (§ 9.1-900 et seq.) of Title 9.1 shall be registered eligible for registration or appointment as a special  
 158 conservator of the peace. A special conservator of the peace shall report if he is arrested for any  
 159 misdemeanor or felony offense to the Department and the chief law-enforcement officer of the locality in  
 160 which he has an appointment within 15 days of the arrest. All appointments for special conservators of  
 161 the peace shall become void on September 15, 2004, unless they have obtained a valid registration  
 162 issued by the Department of Criminal Justice Services.

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

171 D. Individuals listed in § 19.2-12, individuals who have complied with or been exempted pursuant to  
 172 subsection A of § 9.1-141, individuals employed as law-enforcement officers as defined in § 9.1-101  
 173 who have met the minimum qualifications set forth in § 15.2-1705 shall be exempt from the  
 174 requirements in subsections A through C. Further, individuals appointed under subsection A and  
 175 employed by a private corporation or entity that meets the requirements of subdivision (ii) of the  
 176 definition of criminal justice agency in § 9.1-101, shall be exempt from the registration requirements of  
 177 subsection A and from subsections B and C provided they have met the minimum qualifications set  
 178 forth in § 15.2-1705. The Department of Criminal Justice Services shall, upon request by the circuit  
 179 court, provide evidence to the circuit court of such employment prior to appointing an individual special  
 180 conservator of the peace. Effective July 1, 2015, all persons seeking appointment or reappointment as a  
 181 special conservator of the peace are required to register with the Department of Criminal Justice

182 *Services, regardless of any other standing the person may have as a law-enforcement officer or other*  
183 *position requiring registration or licensure by the Department. The employing agency employer of any*  
184 *special conservator of the peace shall notify the circuit court, the Department of Criminal Justice*  
185 *Services, and the Department of State Police within 30 days after the date such individual has left*  
186 *employment and all powers of the special conservator of the peace shall be void. Failure to provide such*  
187 *notification shall be punishable by a fine of \$250 plus an additional \$50 per day for each day such*  
188 *notice is not provided.*

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

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

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

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

230 G. *The circuit court shall retain jurisdiction for four years over any order it enters pursuant to this*  
231 *section and may revoke such appointment at any time for good cause shown.*

232 H. *Effective January 1, 2016, no special conservator of the peace shall display or use the word*  
233 *"police" on any uniform, badge, credential, or vehicle in the performance of his duties as a special*  
234 *conservator of the peace. Other than special conservators of the peace employed by a museum owned*  
235 *and managed by the Commonwealth, no special conservator of the peace shall use the seal of the*  
236 *Commonwealth on any uniform, badge, credential, or vehicle in the performance of his duties as a*  
237 *special conservator of the peace.*

238 **2. That any existing special conservator of the peace appointed under a court order in effect on**  
239 **July 1, 2015, has 24 months to comply with the new compulsory, minimum, entry-level training**  
240 **standards and requirements as may be established pursuant to this act following his appointment.**