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SENATE BILL NO. 1195

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee on February 27, 2015)

(Patron Prior to Substitute—Senator Norment)

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; registration; etc.

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-150.1, 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

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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 the results of a background*
89 *investigation, from* (i) any sheriff or chief of police of any county, city, or town; (ii) any corporation
90 authorized to do business in the Commonwealth; (iii) the owner, proprietor, or authorized custodian of
91 any place within the Commonwealth; or (iv) any museum owned and managed by the Commonwealth, a
92 circuit court judge of any county or city shall appoint special conservators of the peace who shall serve
93 as such for such length of time as the court may designate, but not exceeding four years under any one
94 appointment, *during which time the court shall retain jurisdiction over the appointment order*, upon a
95 showing by the applicant of a necessity for the security of property or the peace and presentation of
96 evidence that the person or persons to be appointed as a special conservator of the peace possess a valid
97 registration issued by the Department of Criminal Justice Services in accordance with the provisions of
98 subsection ~~B~~ C. *Upon an application made pursuant to clause (ii), (iii), or (iv), the court shall, prior to*
99 *entering the order of appointment, transmit a copy of the application to the local attorney for the*
100 *Commonwealth and the local sheriff or chief of police who may submit to the court a sworn, written*
101 *statement indicating whether the order of appointment should be granted.* However, a judge may deny
102 the appointment for good cause, and shall state the specific reasons for the denial in writing in the order
103 denying the appointment. *A judge also may revoke the appointment order for good cause shown, upon*
104 *the filing of a sworn petition by the attorney for the Commonwealth, sheriff, or chief of police for any*
105 *locality in which the special conservator of the peace is authorized to serve or by the Department of*
106 *Criminal Justice Services. Prior to revocation, a hearing shall be set and the special conservator of the*
107 *peace shall be given notice and the opportunity to be heard. The judge may temporarily suspend the*
108 *appointment pending the hearing for good cause shown. A hearing on the petition shall be heard by the*
109 *court as soon as practicable. If the appointment order is suspended or revoked, the clerk of court shall*
110 *notify the Department of Criminal Justice Services, the Department of State Police, the applicable local*
111 *law-enforcement agencies in all cities and counties where the special conservator of the peace is*
112 *authorized to serve, and the employer of the special conservator of the peace.*

113 The order of appointment may provide that a special conservator of the peace shall have all the
114 powers, functions, duties, responsibilities and authority of any other conservator of the peace within such
115 geographical limitations as the court may deem appropriate within the confines of the county, city or
116 town that makes application or ~~within the county, city or town~~ *on the real property* where the corporate
117 applicant is located, *or any real property contiguous to such real property*, limited, except as provided
118 in subsection ~~E~~ F, to the ~~judicial circuit~~ *city or county* wherein application has been made, whenever
119 such special conservator of the peace is engaged in the performance of his duties as such. *The order*
120 *may provide that the special conservator of the peace shall have the authority to make an arrest outside*
121 *of such geographical limitations if the arrest results from a close pursuit that was initiated when the*

122 special conservator of the peace was within the confines of the area wherein he has been authorized to
 123 have the powers and authority of a special conservator of the peace; the order may further delineate a
 124 geographical limitation or distance beyond which the special conservator of the peace may not
 125 effectuate such an arrest that follows from a close pursuit. The order shall require the special
 126 conservator of the peace to comply with the provisions of the United States Constitution and the
 127 Constitution of Virginia. The order shall not identify the special conservator of the peace as a
 128 law-enforcement officer pursuant to § 9.1-101. The order may also provide, however, that the special
 129 conservator of the peace is a "law-enforcement officer" for the purposes of Article 4 (§ 37.2-808 et seq.)
 130 of Chapter 8 of Title 37.2 or Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1, but such
 131 designation shall not qualify the special conservator of the peace as a "qualified law-enforcement
 132 officer" or "qualified retired law-enforcement officer" within the meaning of the federal Law
 133 Enforcement Officer Safety Act, 18 U.S.C. § 926(B) et seq., and the order of appointment shall
 134 specifically state this. The Upon request and for good cause shown the order may also provide that the
 135 special conservator of the peace is authorized to use the seal of the Commonwealth in a badge or other
 136 credential of office as the court may deem appropriate. The Upon request and for good cause shown the
 137 order may also provide that the special conservator of the peace may use the title "police" on any badge
 138 or uniform worn in the performance of his duties as such. The order may also provide that a special
 139 conservator of the peace who has completed the minimum training standards established by the
 140 Department of Criminal Justice Services Board, has the authority to affect arrests, using up to the same
 141 amount of force as would be allowed to a law-enforcement officer employed by the Commonwealth or
 142 any of its political subdivisions when making a lawful arrest. The order also may (a) require the local
 143 sheriff or chief of police to conduct a background investigation which may include a review of the
 144 applicant's school records, employment records, or interviews with persons possessing general knowledge
 145 of the applicant's character and fitness for such appointment and (b) limit the use of flashing lights and
 146 sirens on personal vehicles used by the conservator in the performance of his duties. The order shall
 147 prohibit blue flashing lights, but upon request and for good cause shown may provide that the special
 148 conservator of the peace may use flashing lights and sirens on vehicle used by the special conservator
 149 of the peace when he is in the performance of his duties. Prior to granting an application for
 150 appointment, the circuit court shall ensure that the applicant has met the registration requirements
 151 established by the Criminal Justice Services Board.

152 B. Effective September 15, 2004, no All applications and orders for appointments of special
 153 conservators of the peace shall be submitted on forms developed by the Office of the Executive Secretary
 154 of the Supreme Court of Virginia in consultation with the Department of Criminal Justice Services and
 155 shall specify the duties for which the applicant is qualified. The applications and orders shall specify the
 156 geographic limitations consistent with subsection A.

157 C. No person shall seek appointment as a special conservator of the peace from a circuit court judge
 158 without possessing a valid registration issued by the Department of Criminal Justice Services, except as
 159 provided in this section. Applicants for registration may submit an application on or after January 1,
 160 2004. A temporary registration may be issued in accordance with regulations established by the Criminal
 161 Justice Services Board while awaiting the results of a state and national fingerprint search. However, no
 162 person shall be issued a temporary registration until he has (i) complied with, or been exempted from
 163 the compulsory minimum training standards as set forth in this section; (ii) submitted his fingerprints on
 164 a form provided by the Department to be used for the conduct of a national criminal records search and
 165 a Virginia criminal history records search; and; (iii) submitted the results of a background investigation,
 166 performed by any state or local law-enforcement agency, which may, at its discretion, charge a
 167 reasonable fee to the applicant and which may include a review of the applicant's school records,
 168 employment records, or interviews with persons possessing general knowledge of the applicant's
 169 character and fitness for such appointment; and (vi) met all other requirements of this article and Board
 170 regulations. No person with a criminal conviction for a misdemeanor involving (a) moral turpitude, (b)
 171 assault and battery, (c) damage to real or personal property, (d) controlled substances or imitation
 172 controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (e)
 173 prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or (f)
 174 firearms, or (g) any felony or who is required to register with the Sex Offender and Crimes Against
 175 Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 shall be registered eligible for
 176 registration or appointment as a special conservator of the peace. A special conservator of the peace
 177 shall report if he is arrested for any misdemeanor or felony offense to the Department of Criminal
 178 Justice Services and the chief law-enforcement officer of all localities in which he is authorized to serve
 179 within 15 days of such arrest. Any appointment for a special conservator of the peace shall be eligible
 180 for suspension and revocation after a hearing pursuant to subsection A if the special conservator of the
 181 peace is convicted of any offense listed in clauses (a) through (f) or of any felony. All appointments for
 182 special conservators of the peace shall become void on September 15, 2004, unless they have obtained a

183 valid registration issued by the Department of Criminal Justice Services.

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

192 ~~D.~~ Individuals listed in § 19.2-12, individuals who have complied with or been exempted pursuant to
193 subsection A of § 9.1-141, individuals employed as law enforcement officers as defined in § 9.1-101
194 who have met the minimum qualifications set forth in § 15.2-1705 shall be exempt from the
195 requirements in subsections A through C. Further, individuals appointed under subsection A and
196 employed by a private corporation or entity that meets the requirements of subdivision (ii) of the
197 definition of criminal justice agency in § 9.1-101, shall be exempt from the registration requirements of
198 subsection A and from subsections B and C provided they have met the minimum qualifications set
199 forth in § 15.2-1705. The Department of Criminal Justice Services shall, upon request by the circuit
200 court, provide evidence to the circuit court of such employment prior to appointing an individual special
201 conservator of the peace. *E. Effective July 1, 2015, all persons seeking appointment or reappointment as
202 a special conservator of the peace are required to register with the Department of Criminal Justice
203 Services, regardless of any other standing the person may have as a law-enforcement officer or other
204 position requiring registration or licensure by the Department. The employing agency employer of any
205 special conservator of the peace shall notify the circuit court, the Department of Criminal Justice
206 Services, the Department of State Police, and the chief law-enforcement officer of all localities in which
207 the special conservator of the peace is authorized to serve within 30 days after the date such individual
208 has left employment and all powers of the special conservator of the peace shall be void. Failure to
209 provide such notification shall be punishable by a fine of \$250 plus an additional \$50 per day for each
210 day such notice is not provided.*

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

245 court shall transmit a copy of the order of appointment to (i) the clerk of the circuit court for each
246 jurisdiction where the special conservator of the peace is authorized to serve and (ii) the sheriff or chief
247 of police of each jurisdiction where the special conservator of the peace is authorized to serve.

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

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

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

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

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

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