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HOUSE BILL NO. 1015

Offered January 13, 2016

Prefiled January 13, 2016

A BILL to amend and reenact § 23-234 of the Code of Virginia, relating to institutions of higher education; law-enforcement agencies; response to sexual assault.

Patrons—Massie and Filler-Corn

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:**1. That § 23-234 of the Code of Virginia is amended and reenacted as follows:****§ 23-234. Powers and duties; jurisdiction; mutual aid agreements; memoranda of understanding.***A. For purposes of this section:*

"Campus" means (i) any building or property owned or controlled by an institution of higher education located within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls, and (ii) any building or property that is within or reasonably contiguous to the area described in clause (i) that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes, such as a food or other retail vendor.

"Noncampus building or property" means (i) any building or property owned or controlled by a student organization that is officially recognized by an institution of higher education or (ii) any building or property owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

"Public property" means all public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus or immediately adjacent to and accessible from the campus.

B. A campus police officer appointed as provided in § 23-233 or appointed and activated pursuant to § 23-233.1 may exercise the powers and duties conferred by law upon police officers of cities, towns, or counties, and shall be so deemed, including but not limited to the provisions of Chapters 5 (§ 19.2-52 et seq.), 7 (§ 19.2-71 et seq.), and 23 (§ 19.2-387 et seq.) of Title 19.2, (i) upon any property owned or controlled by the relevant public or private institution of higher education, or, upon request, any property owned or controlled by another public or private institution of higher education and upon the streets, sidewalks, and highways, immediately adjacent thereto, (ii) pursuant to a mutual aid agreement provided for in § 15.2-1727 between the governing board of a public or private institution and such other institution of higher education, public or private, in the Commonwealth or adjacent political subdivisions, (iii) in close pursuit of a person as provided in § 19.2-77, and (iv) upon approval by the appropriate circuit court of a petition by the local governing body for concurrent jurisdiction in designated areas with the police officers of the county, city, or town in which the institution, its satellite campuses, or other properties are located. The local governing body may petition the circuit court pursuant only to a request by the local law-enforcement agency for concurrent jurisdiction.

C. All public or private institutions of higher education that have campus police forces established in accordance with the provisions of this chapter shall enter into and become a party to mutual aid agreements with one or more of the following: (i) an adjacent local law-enforcement agency or (ii) the Department of State Police, for the use of their joint forces, both regular and auxiliary, equipment, and materials when needed in the investigation of any felony criminal sexual assault or medically unattended death occurring on property owned or controlled by the institution of higher education or any death resulting from an incident occurring on such property. Such mutual aid agreements shall include provisions requiring either the campus police force or the agency with which it has established a mutual aid agreement pursuant to this subsection, in the event that such police force or agency conducts an investigation that involves a felony criminal sexual assault as set forth in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 occurring on campus, in or on a noncampus building or property, or on public property, to notify the local attorney for the Commonwealth of such investigation within 48 hours of beginning such investigation. Such notification shall not require a campus police force or the agency with which it has established a mutual aid agreement to disclose identifying information about the victim. The provisions of this section shall not prohibit a campus police force from requesting assistance from any appropriate law-enforcement agency of the Commonwealth, even though a mutual aid agreement has not been executed with that agency.

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59 C. D. All public or private institutions of higher education that (i) do not have campus police forces
60 established in accordance with the provisions of this chapter and (ii) have security departments, rely on
61 municipal, county, or state police forces, or contract for security services from private parties pursuant to
62 § 23-238 shall enter into and become a party to a memorandum of understanding with an adjacent local
63 law-enforcement agency or the Department of State Police (the Department) to require either such local
64 law-enforcement agency or the Department, in the event that such agency or the Department conducts an
65 investigation that involves a felony criminal sexual assault as set forth in Article 7 (§ 18.2-61 et seq.) of
66 Chapter 4 of Title 18.2 occurring on campus, in or on a noncampus building or property, or on public
67 property, to notify the local attorney for the Commonwealth of such investigation within 48 hours of
68 beginning such investigation. Such notification shall not require the law-enforcement agency or the
69 Department to disclose identifying information about the victim.

70 D. For purposes of this section:

71 "Campus" means (i) any building or property owned or controlled by an institution of higher
72 education located within the same reasonably contiguous geographic area of the institution and used by
73 the institution in direct support of, or in a manner related to, the institution's educational purposes,
74 including residence halls, and (ii) any building or property that is within or reasonably contiguous to the
75 area described in clause (i) that is owned by the institution but controlled by another person, is
76 frequently used by students, and supports institutional purposes, such as a food or other retail vendor.

77 "Noncampus building or property" means (i) any building or property owned or controlled by a
78 student organization that is officially recognized by an institution of higher education or (ii) any building
79 or property owned or controlled by an institution of higher education that is used in direct support of, or
80 in relation to, the institution's educational purposes, is frequently used by students, and is not within the
81 same reasonably contiguous geographic area of the institution.

82 "Public property" means all public property, including thoroughfares, streets, sidewalks, and parking
83 facilities, that is within the campus, or immediately adjacent to and accessible from the campus.

84 E. Each public and private institution of higher education shall enter into and become a party to a
85 memorandum of understanding with an adjacent local law-enforcement agency or the Department of
86 State Police to address the prevention of and response to sexual assault. Such memorandum of
87 understanding may include (a) a description of coordinated efforts to prevent sexual assault; (b) a
88 process for the timely sharing of reports of sexual assault made to the campus police department and
89 the law-enforcement agency; (c) specific delegation of primary investigative responsibility for a report of
90 sexual assault occurring on property owned or controlled by the institution of higher education; (d)
91 specific delegation of responsibility for providing transportation and other support services to the
92 victim; (e) specific delegation of responsibility for the collection and preservation of evidence; (f) a
93 provision relating to the timing of or specific delegation of responsibility for interviewing the victim, the
94 accused, and other witnesses; (g) procedures for involving a sexual assault response team established
95 pursuant to § 15.2-1627.4; and (h) a process for coordination between a criminal investigation and an
96 investigation conducted pursuant to Title IX, 20 U.S.C. § 1681 et seq.

97 F. Nothing in this section shall be construed to (i) require a campus police department or the
98 law-enforcement agency with which it has established a mutual aid agreement or memorandum of
99 understanding pursuant to this section to disclose identifying information about any victim or (ii)
100 prohibit a campus police department from requesting assistance from any appropriate law-enforcement
101 agency of the Commonwealth, even though a mutual aid agreement or memorandum of understanding
102 has not been executed with that agency.