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HOUSE BILL NO. 2099

Offered January 11, 2017

Prefiled January 10, 2017

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 13 of Title 19.2 a section numbered 19.2-192.2, relating to officer-involved shootings; model policy for investigations; disclosure of report.

Patrons—Price, Bagby, Boysko, Hope, Kory, Lindsey, Plum and Simon

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-102 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 13 of Title 19.2 a section numbered 19.2-192.2 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. [Repealed];

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;

12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and with universities, colleges, community colleges, and other institutions, whether located in or outside the Commonwealth, concerning the development of police

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59 training schools and programs or courses of instruction;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

117 31. Do all things necessary on behalf of the Commonwealth and its units of general local
118 government, to determine and secure benefits available under the Omnibus Crime Control and Safe
119 Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and
120 programs for strengthening and improving law enforcement, the administration of criminal justice, and

delinquency prevention and control;

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

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

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

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

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

37. Establish training standards and publish and periodically update model policies for law-enforcement personnel in the following subjects:

a. The handling of family abuse, domestic violence, sexual assault, and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in subsection A of § 9.1-1301;

b. Communication with and facilitation of the safe return of individuals diagnosed with Alzheimer's disease;

c. Sensitivity to and awareness of cultural diversity and the potential for biased policing;

d. Protocols for local and regional sexual assault response teams;

e. Communication of death notifications;

f. (Effective until July 1, 2018) The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Alcoholic Beverage Control Board;

f. (Effective July 1, 2018) The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Virginia Alcoholic Beverage Control Authority;

g. Vehicle patrol duties that embody current best practices for pursuits and for responding to emergency calls;

h. Criminal investigations that embody current best practices for conducting photographic and live lineups;

i. Sensitivity to and awareness of human trafficking offenses and the identification of victims of human trafficking offenses for personnel involved in criminal investigations or assigned to vehicle or street patrol duties; and

j. Missing children, missing adults, and search and rescue protocol;

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

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

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

41. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement

182 agencies, community groups, public and private organizations and citizens; developing and distributing
183 innovative policing curricula and training tools on general community policing philosophy and practice
184 and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia
185 organizations with specific community policing needs; facilitating continued development and
186 implementation of community policing programs statewide through discussion forums for community
187 policing leaders, development of law-enforcement instructors; promoting a statewide community policing
188 initiative; and serving as a statewide information source on the subject of community policing including,
189 but not limited to periodic newsletters, a website and an accessible lending library;

190 42. Establish, in consultation with the Department of Education and the Virginia State Crime
191 Commission, compulsory minimum standards for employment and job-entry and in-service training
192 curricula and certification requirements for school security officers, which training and certification shall
193 be administered by the Virginia Center for School and Campus Safety pursuant to § 9.1-184. Such
194 training standards shall include, but shall not be limited to, the role and responsibility of school security
195 officers, relevant state and federal laws, school and personal liability issues, security awareness in the
196 school environment, mediation and conflict resolution, disaster and emergency response, and student
197 behavioral dynamics. The Department shall establish an advisory committee consisting of local school
198 board representatives, principals, superintendents, and school security personnel to assist in the
199 development of these standards and certification requirements;

200 43. License and regulate property bail bondsmen and surety bail bondsmen in accordance with
201 Article 11 (§ 9.1-185 et seq.);

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

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

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

219 47. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established
220 pursuant to § 9.1-187;

221 48. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and
222 attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human
223 trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;

224 49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of
225 § 46.2-117;

226 50. Administer the activities of the Virginia Sexual and Domestic Violence Program Professional
227 Standards Committee by providing technical assistance and administrative support, including staffing, for
228 the Committee;

229 51. (Effective July 1, 2017) In accordance with § 9.1-102.1, design and approve the issuance of
230 photo-identification cards to private security services registrants registered pursuant to Article 4
231 (§ 9.1-138 et seq.);

232 52. In consultation with the State Council of Higher Education for Virginia and the Virginia
233 Association of Campus Law Enforcement Administrators, develop multidisciplinary curricula on
234 trauma-informed sexual assault investigation; ~~and~~

235 53. *Establish a model policy for the investigation of an officer-involved shooting as defined in*
236 *§ 52-28.2; and*

237 ~~53- 54.~~ 54. Perform such other acts as may be necessary or convenient for the effective performance of
238 its duties.

239 **§ 19.2-192.2. Disclosure of report; officer-involved shooting.**

240 *Any officer-involved shooting, as defined in § 52-28.2, that is referred to an attorney for the*
241 *Commonwealth shall, if no criminal charge is brought against a law-enforcement officer, release a*
242 *report to the public explaining the findings made by the attorney for the Commonwealth, including the*
243 *basis for the decision not to charge the officer with any criminal offense. Such report shall be posted on*

244 *the website for the attorney for the Commonwealth or, if no website is available, shall be made publicly*
245 *available upon request. If a warrant or summons is issued, or an indictment is presented to a grand*
246 *jury, the attorney for the Commonwealth shall release a statement at the time the warrant or summons*
247 *is issued or the indictment is presented disclosing the general purpose of the warrant, summons, or*
248 *presentment of an indictment to a grand jury, unless the release of such statement would endanger the*
249 *life or physical safety of an individual or lead to flight from prosecution, the destruction of or tampering*
250 *with evidence, or the intimidation of potential witnesses or would otherwise seriously jeopardize the*
251 *investigation.*