

# 2018 SESSION

LEGISLATION NOT PREPARED BY DLS  
INTRODUCED

18105615D

## HOUSE BILL NO. 1599

Offered January 19, 2018

A *BILL to amend and reenact § 9.1-101 of the Code of Virginia, relating to the Department of Criminal Justice Services; definitions; law-enforcement officer.*

Patron—Landes

Referred to Committee on Militia, Police and Public Safety

**Be it enacted by the General Assembly of Virginia:**

**1. That § 9.1-101 of the Code of Virginia is amended and reenacted as follows:**

**§ 9.1-101. (Effective until January 15, 2018) Definitions.**

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of

INTRODUCED

HB1599

59 the Commonwealth, and shall include any (i) special agent of the Department of Alcoholic Beverage  
60 Control; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine  
61 Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of  
62 the Department of Game and Inland Fisheries; (v) investigator who is a full-time sworn member of the  
63 security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and  
64 Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement  
65 division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection  
66 police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under  
67 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; or (x) private police officer employed by a  
68 private police department. Part-time employees are those compensated officers who are not full-time  
69 employees as defined by the employing police department, sheriff's office, or private police department.

70 "Private police department" means any police department, other than a department that employs  
71 police agents under the provisions of § 56-353, that employs private police officers operated by an entity  
72 authorized by statute or an act of assembly to establish a private police department or operated by such  
73 entity's successor in interest, provided it complies with the requirements set forth herein. No entity is  
74 authorized to operate a private police department or represent that it is a private police department  
75 unless such entity has been authorized by statute or an act of assembly or such entity is the successor in  
76 interest of an entity that has been authorized pursuant to this section, provided it complies with the  
77 requirements set forth herein. The authority of a private police department shall be limited to real  
78 property owned, leased, or controlled by the entity and, if approved by the local chief of police or  
79 sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction  
80 vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609  
81 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter  
82 into a memorandum of understanding with the private police department that addresses the duties and  
83 responsibilities of the private police department and the chief law-enforcement officer in the conduct of  
84 criminal investigations. Private police departments and private police officers shall be subject to and  
85 comply with the Constitution of the United States; the Constitution of Virginia; the laws governing  
86 municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708,  
87 15.2-1719, 15.2-1721, and 15.2-1722; and any regulations adopted by the Board that the Department  
88 designates as applicable to private police departments. Any person employed as a private police officer  
89 pursuant to this section shall meet all requirements, including the minimum compulsory training  
90 requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not  
91 entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement  
92 System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within  
93 the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall  
94 not be deemed an employee of the Commonwealth or any locality. An authorized private police  
95 department may use the word "police" to describe its sworn officers and may join a regional criminal  
96 justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any  
97 private police department in existence on January 1, 2013, that was not otherwise established by statute  
98 or an act of assembly and whose status as a private police department was recognized by the  
99 Department at that time is hereby validated and may continue to operate as a private police department  
100 as may such entity's successor in interest, provided it complies with the requirements set forth herein.

101 "School resource officer" means a certified law-enforcement officer hired by the local  
102 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary  
103 and secondary schools.

104 "School security officer" means an individual who is employed by the local school board for the  
105 singular purpose of maintaining order and discipline, preventing crime, investigating violations of school  
106 board policies, and detaining students violating the law or school board policies on school property or at  
107 school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of  
108 all students, faculty, staff, and visitors in the assigned school.

109 **§ 9.1-101. (Effective January 15, 2018) Definitions.**

110 As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires  
111 a different meaning:

112 "Administration of criminal justice" means performance of any activity directly involving the  
113 detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication,  
114 correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection,  
115 storage, and dissemination of criminal history record information.

116 "Board" means the Criminal Justice Services Board.

117 "Conviction data" means information in the custody of any criminal justice agency relating to a  
118 judgment of conviction, and the consequences arising therefrom, in any court.

119 "Correctional status information" means records and data concerning each condition of a convicted  
120 person's custodial status, including probation, confinement, work release, study release, escape, or

termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries; (v) investigator who is a full-time sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) *members of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or non-state agency*; or ~~(xi)~~ (xi) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department or such entity's successor in interest, provided it complies with the requirements set forth herein. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The

182 chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum  
183 of understanding with the private police department that addresses the duties and responsibilities of the  
184 private police department and the chief law-enforcement officer in the conduct of criminal investigations.  
185 Private police departments and private police officers shall be subject to and comply with the  
186 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police  
187 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721,  
188 and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable  
189 to private police departments. Any person employed as a private police officer pursuant to this section  
190 shall meet all requirements, including the minimum compulsory training requirements, for  
191 law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits  
192 under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a  
193 "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of  
194 the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an  
195 employee of the Commonwealth or any locality. An authorized private police department may use the  
196 word "police" to describe its sworn officers and may join a regional criminal justice academy created  
197 pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in  
198 existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and  
199 whose status as a private police department was recognized by the Department at that time is hereby  
200 validated and may continue to operate as a private police department as may such entity's successor in  
201 interest, provided it complies with the requirements set forth herein.

202 "School resource officer" means a certified law-enforcement officer hired by the local  
203 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary  
204 and secondary schools.

205 "School security officer" means an individual who is employed by the local school board for the  
206 singular purpose of maintaining order and discipline, preventing crime, investigating violations of school  
207 board policies, and detaining students violating the law or school board policies on school property or at  
208 school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of  
209 all students, faculty, staff, and visitors in the assigned school.