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**HOUSE BILL NO. 1656**

Offered January 9, 2019

Prefiled November 29, 2018

*A BILL to amend and reenact §§ 9.1-101, 18.2-57, and 22.1-280.2:1 of the Code of Virginia, relating to school security officers; private or religious schools; carrying a firearm in performance of duties.*

Patrons—Cole and McGuire

Referred to Committee on Education

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

**1. That §§ 9.1-101, 18.2-57, and 22.1-280.2:1 of the Code of Virginia are amended and reenacted as follows:**

**§ 9.1-101. 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

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59 thereof, or any full-time or part-time employee of a private police department, and who is responsible  
60 for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of  
61 the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control  
62 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia  
63 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement  
64 division of the Department of Game and Inland Fisheries; (v) investigator who is a full-time sworn  
65 member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of  
66 Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the  
67 enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii)  
68 animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer  
69 appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the  
70 investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate  
71 allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee  
72 with internal investigations authority designated by the Department of Corrections pursuant to  
73 subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of  
74 § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are  
75 those compensated officers who are not full-time employees as defined by the employing police  
76 department, sheriff's office, or private police department.

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

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

111 "School security officer" means an individual who is employed by the local school board *or a*  
112 *private or religious school* for the singular purpose of maintaining order and discipline, preventing  
113 crime, investigating violations of *the policies of the school board policies or the private or religious*  
114 *school*, and detaining students violating the law or *the policies of the school board or the private or*  
115 *religious school policies* on school property, *school buses*, or at school-sponsored events and who is  
116 responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors  
117 in the assigned school.

118 **§ 18.2-57. Assault and battery; penalty.**

119 A. Any person who commits a simple assault or assault and battery is guilty of a Class 1  
120 misdemeanor, and if the person intentionally selects the person against whom a simple assault is

committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious conviction, color or national origin, the person is guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

C. In addition, if any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is a judge, a magistrate, a law-enforcement officer as defined in subsection F, a correctional officer as defined in § 53.1-1, a person directly involved in the care, treatment, or supervision of inmates in the custody of the Department of Corrections or an employee of a local or regional correctional facility directly involved in the care, treatment, or supervision of inmates in the custody of the facility, a person directly involved in the care, treatment, or supervision of persons in the custody of or under the supervision of the Department of Juvenile Justice, an employee or other individual who provides control, care, or treatment of sexually violent predators committed to the custody of the Department of Behavioral Health and Developmental Services, a firefighter as defined in § 65.2-102, or a volunteer firefighter or any emergency medical services personnel member who is employed by or is a volunteer of an emergency medical services agency or as a member of a bona fide volunteer fire department or volunteer emergency medical services agency, regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such firefighters or emergency medical services personnel as employees, engaged in the performance of his public duties anywhere in the Commonwealth, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of six months.

Nothing in this subsection shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

D. In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time employee of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he is guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to § 18.2-308.1, the person shall serve a mandatory minimum sentence of confinement of six months.

E. In addition, any person who commits a battery against another knowing or having reason to know that such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the performance of his duties in a hospital or in an emergency room on the premises of any clinic or other facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall be a mandatory minimum term of confinement.

F. As used in this section:

"Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

"Judge" means any justice or judge of a court of record of the Commonwealth including a judge designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission, and any judge of a district court of the Commonwealth or any substitute judge of such district court.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, any special agent of the Virginia Alcoholic Beverage Control Authority, conservation police officers appointed pursuant to § 29.1-200, full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10, and such officer also includes jail officers in local and regional correctional facilities, all deputy sheriffs, whether assigned to law-enforcement duties, court services or local jail responsibilities, auxiliary police officers appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, auxiliary deputy sheriffs appointed pursuant to § 15.2-1603, police officers

182 of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and fire marshals appointed  
183 pursuant to § 27-30 when such fire marshals have police powers as set out in §§ 27-34.2 and 27-34.2:1.

184 "School security officer" means ~~an individual who is employed by the local school board for the~~  
185 ~~purpose of maintaining order and discipline, preventing crime, investigating violations of school board~~  
186 ~~policies and detaining persons violating the law or school board policies on school property, a school~~  
187 ~~bus or at a school-sponsored activity and who is responsible solely for ensuring the safety, security and~~  
188 ~~welfare of all students, faculty and staff in the assigned school the same as that term is defined in~~  
189 ~~§ 9.1-101.~~

190 G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any  
191 school security officer or full-time or part-time employee of any public or private elementary or  
192 secondary school while acting in the course and scope of his official capacity, any of the following: (i)  
193 incidental, minor or reasonable physical contact or other actions designed to maintain order and control;  
194 (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a  
195 disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and  
196 necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and  
197 necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain  
198 possession of weapons or other dangerous objects or controlled substances or associated paraphernalia  
199 that are upon the person of the student or within his control.

200 In determining whether a person was acting within the exceptions provided in this subsection, due  
201 deference shall be given to reasonable judgments that were made by a school security officer or  
202 full-time or part-time employee of any public or private elementary or secondary school at the time of  
203 the event.

204 **§ 22.1-280.2:1. Employment of school security officers.**

205 Local school boards *and private or religious schools* may employ school security officers, as defined  
206 in § 9.1-101, for the purposes set forth therein. Such school security officer may carry a firearm in the  
207 performance of his duties if (i) within 10 years immediately prior to being hired by the local school  
208 board *or private or religious school* he was an active law-enforcement officer as defined in § 9.1-101 in  
209 the Commonwealth; (ii) he retired or resigned from his position as a law-enforcement officer in good  
210 standing; (iii) he meets the training and qualifications described in subsection C of § 18.2-308.016; (iv)  
211 he has provided proof of completion of a training course that includes training in active shooter  
212 emergency response, emergency evacuation procedure, and threat assessment to the Department of  
213 Criminal Justice Services pursuant to subdivision 42 of § 9.1-102, provided that if he received such  
214 training from a local law-enforcement agency he received the training in the locality in which he is  
215 employed; (v) the local school board *or private or religious school* solicits input from the chief  
216 law-enforcement officer of the locality regarding the qualifications of the school security officer and  
217 receives verification from such chief law-enforcement officer that the school security officer is not  
218 prohibited by state or federal law from possessing, purchasing, or transporting a firearm; and (vi) the  
219 local school board *or private or religious school* grants him the authority to carry a firearm in the  
220 performance of his duties.