

2019 SESSION

LEGISLATION NOT PREPARED BY DLS
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SB1645

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SENATE BILL NO. 1645

Offered January 9, 2019

Prefiled January 9, 2019

A BILL to amend the Code of Virginia by adding sections numbered 52-28.3, 53.1-29.1, and 53.1-124.1, relating to use of force; data collection and reporting requirement.

Patron—Boysko

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 52-28.3, 53.1-29.1, and 53.1-124.1 as follows:

§ 52-28.3. Reporting of use of force data; inclusion in annual Crime in Virginia report.

A. As used in this section, "serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ or mental faculty.

B. The Department of State Police shall include information regarding the following incidents involving use of force by a state or local law-enforcement officer in the annual Crime in Virginia report: (i) a civilian fatality that occurs in connection with the use of force by a state or local law-enforcement officer; (ii) any serious bodily injury to a civilian that occurs in connection with the use of force by a state or local law-enforcement officer; and (iii) in the absence of either death or serious bodily injury, the discharge of a firearm by a state or local law-enforcement officer at or in the direction of a person. The information shall include:

1. The date, time, and location of the incident;

2. The number of law-enforcement officers involved in the incident;

3. The basis for the initial contact between the civilian and the officer;

4. If the initial contact was due to unlawful or criminal activity, the most serious reported offenses committed by the civilian prior to or at the time of the incident;

5. The age, sex, gender identity, national origin, race, ethnicity, English proficiency status, and developmental or intellectual disability status, as defined in § 37.2-100, of the civilian;

6. The type of force used against the law-enforcement officer, civilian, or both, including the types of weapons used, if applicable;

7. The type of serious bodily injury or cause of death of the civilian, if applicable;

8. Whether the civilian resisted and the type of resistance, if applicable;

9. Any apparent or known impairment in the physical condition of the civilian, including drug or alcohol impairment, if applicable;

10. Whether, at any time during the incident, the civilian was armed or believed to be armed with a weapon;

11. The age, sex, gender identity, national origin, race, ethnicity, and English proficiency status of the law-enforcement officer;

12. Whether the law-enforcement officer was on duty at the time of the incident; and

13. In the case of a report pursuant to clause (i) or clause (ii), whether the law-enforcement officer discharged a firearm during the incident.

§ 53.1-29.1. Use of force; data collection and reporting; report.

A. As used in this section, "serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ or mental faculty.

B. The Department shall report to the General Assembly and the Governor on or before October 1 of each year information regarding the following incidents involving use of force by a correctional officer, for the previous fiscal year: (i) the fatality of an inmate that occurs in connection with the use of force by a correctional officer; (ii) any serious bodily injury to an inmate that occurs in connection with the use of force by a correctional officer; and (iii) in the absence of either death or serious bodily injury, the discharge of a firearm by a correctional officer at or in the direction of a person. The information shall include:

1. The date, time, and location of the incident;

2. The number of correctional officers involved in the incident;

3. The basis for the initial contact between the inmate and the correctional officer;

4. If the initial contact was due to unlawful or criminal activity, the most serious reported offenses

59 committed by the inmate prior to or at the time of the incident;

60 5. The age, sex, gender identity, national origin, race, ethnicity, English proficiency status, and
61 developmental or intellectual disability status, as defined in § 37.2-100, of the inmate;

62 6. The type of force used against the correctional officer, inmate, or both, including the types of
63 weapons used, if applicable;

64 7. Type of injury or cause of death of the inmate, if applicable;

65 8. Whether the inmate resisted and the type of resistance, if applicable;

66 9. Any apparent or known impairment in the physical condition of the inmate, including drug or
67 alcohol impairment, if applicable;

68 10. Whether, at any time during the incident, the inmate was armed or believed to be armed with a
69 weapon;

70 11. The age, sex, gender identity, national origin, race, ethnicity, and English proficiency status of
71 the correctional officer;

72 12. Whether the correctional officer was on duty at the time of the incident; and

73 13. In the case of a report pursuant to clause (i) or clause (ii), whether the correctional officer
74 discharged a firearm during the incident.

75 C. The Department shall submit the annual report to the Governor and the General Assembly as
76 provided in the procedures of the Division of Legislative Automated Systems for the processing of
77 legislative documents and reports, and the annual report shall be posted on the General Assembly's
78 website. The Department shall publish the annual report on the Department's website no later than 10
79 days following its submission to the Governor and the General Assembly.

80 **§ 53.1-124.1. Use of force; data collection and reporting; report.**

81 A. As used in this section, "serious bodily injury" means bodily injury that involves a substantial risk
82 of death, unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the
83 function of a bodily member or organ or mental faculty.

84 B. The sheriff, jail superintendent, or other jail administrator of every local correctional facility and
85 regional jail shall report to the Board information regarding the following incidents involving use of
86 force by a deputy sheriff or jail officer: (i) the fatality of an inmate that occurs in connection with the
87 use of force by a deputy sheriff or jail officer; (ii) any serious bodily injury to an inmate that occurs in
88 connection with the use of force by a deputy sheriff or jail officer; and (iii) in the absence of either
89 death or serious bodily injury, the discharge of a firearm by a deputy sheriff or jail officer at or in the
90 direction of a person. The information shall include:

91 1. The date, time, and location of the incident;

92 2. The number of deputy sheriffs or jail officers involved in the incident;

93 3. The basis for the initial contact between the inmate and the deputy sheriff or jail officer;

94 4. If the initial contact was due to unlawful or criminal activity, the most serious reported offenses
95 committed by the inmate prior to or at the time of the incident;

96 5. The age, sex, gender identity, national origin, race, ethnicity, English proficiency status, and
97 developmental or intellectual disability status, as defined in § 37.2-100, of the inmate;

98 6. The type of force used against the deputy sheriff or jail officer, inmate, or both, including the
99 types of weapons used, if applicable;

100 7. The type of injury or cause of death of the inmate, if applicable;

101 8. Whether the inmate resisted and the type of resistance, if applicable;

102 9. Any apparent or known impairment in the physical condition of the inmate, including drug or
103 alcohol impairment, if applicable;

104 10. Whether, at any time during the incident, the inmate was armed or believed to be armed with a
105 weapon;

106 11. The age, sex, gender identity, national origin, race, ethnicity, and English proficiency status of
107 the deputy sheriff or jail officer;

108 12. Whether the deputy sheriff or jail officer was on duty at the time of the incident; and

109 13. In the case of a report pursuant to clause (i) or clause (ii), whether the deputy sheriff or jail
110 officer discharged a firearm during the incident.

111 C. The Board shall submit such information to the General Assembly and the Governor on or before
112 October 1 of each year, for the previous fiscal year. The Board shall submit the annual report to the
113 Governor and the General Assembly as provided in the procedures of the Division of Legislative
114 Automated Systems for the processing of legislative documents and reports, and the annual report shall
115 be posted on the General Assembly's website. The Board shall publish the annual report on the Board's
116 website no later than 10 days following its submission to the Governor and the General Assembly.