

20201182D

HOUSE BILL NO. 5049

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary on September 16, 2020)

(Patron Prior to Substitute—Delegate Helmer)

A BILL to amend and reenact §§ 9.1-101, 15.2-1123.1, and 52-11.3 of the Code of Virginia and to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 55.4, consisting of a section numbered 2.2-5515, and by adding a section numbered 15.2-1721.1, relating to acquisition and use of military property by law-enforcement agencies.

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-101, 15.2-1123.1, and 52-11.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 2.2 a chapter number 55.4, consisting of a section numbered 2.2-5515, and by adding a section numbered 15.2-1721.1, as follows:

CHAPTER 55.4.

LIMITATION ON ACQUISITION OF MILITARY PROPERTY.

§ 2.2-5515. Acquisition of military property.

All agencies of the Commonwealth or directors or chief executives of any agency or department employing law-enforcement officers as defined in § 9.1-101 are prohibited from acquiring, purchasing, or otherwise accepting on any terms (i) tracked armored vehicles; (ii) weaponized aircraft, vessels, and vehicles of any kind; (iii) firearms of .50-caliber or higher; (iv) ammunition of .50-caliber or higher; (v) grenade launchers; and (vi) bayonets from the U.S. Department of Defense for use in the law-enforcement activities of any law-enforcement agency of the Commonwealth or its political subdivisions.

§ 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 Criminal Sentencing Commission.

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

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

65 "Department" means the Department of Criminal Justice Services.

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

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

89 "Private police department" means any police department, other than a department that employs
90 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
91 authorized by statute or an act of assembly to establish a private police department or such entity's
92 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
93 to operate a private police department or represent that it is a private police department unless such
94 entity has been authorized by statute or an act of assembly or such entity is the successor in interest of
95 an entity that has been authorized pursuant to this section, provided it complies with the requirements
96 set forth herein. The authority of a private police department shall be limited to real property owned,
97 leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous
98 property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the
99 local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The
100 chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum
101 of understanding with the private police department that addresses the duties and responsibilities of the
102 private police department and the chief law-enforcement officer in the conduct of criminal investigations.
103 Private police departments and private police officers shall be subject to and comply with the
104 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police
105 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721,
106 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as
107 applicable to private police departments. Any person employed as a private police officer pursuant to
108 this section shall meet all requirements, including the minimum compulsory training requirements, for
109 law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits
110 under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a
111 "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of
112 the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an
113 employee of the Commonwealth or any locality. An authorized private police department may use the
114 word "police" to describe its sworn officers and may join a regional criminal justice academy created
115 pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in
116 existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and
117 whose status as a private police department was recognized by the Department at that time is hereby
118 validated and may continue to operate as a private police department as may such entity's successor in
119 interest, provided it complies with the requirements set forth herein.

120 "School resource officer" means a certified law-enforcement officer hired by the local
121 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary

122 and secondary schools.

123 "School security officer" means an individual who is employed by the local school board or a private
124 or religious school for the singular purpose of maintaining order and discipline, preventing crime,
125 investigating violations of the policies of the school board or the private or religious school, and
126 detaining students violating the law or the policies of the school board or the private or religious school
127 on school property, school buses, or at school-sponsored events and who is responsible solely for
128 ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned
129 school.

130 "Unapplied criminal history record information" means information pertaining to criminal offenses
131 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history
132 record of an arrested or convicted person (i) because such information is not supported by fingerprints
133 or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission
134 within the content of the submitted information.

135 **§ 15.2-1123.1. Lynchburg Regional Airport police department.**

136 The City of Lynchburg may by ordinance establish an airport police department at the Lynchburg
137 Regional Airport. The authority of the airport police department shall be limited to real property owned,
138 leased, or controlled by the Airport. Such authority shall not supersede the authority, duties, or
139 jurisdiction vested by law with the local police department or sheriff's office, including as provided in
140 §§ 15.2-1609 and 15.2-1704. The airport police department and airport police officers shall be subject to
141 and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing
142 municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708,
143 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Criminal Justice
144 Services Board that the Department of Criminal Justice Services designates as applicable to private
145 police departments. Any person employed as an airport police officer pursuant to this section shall meet
146 all requirements, including the minimum compulsory training requirements, for law-enforcement officers
147 pursuant to Chapter 1 (§ 9.1-100 et seq.) of Title 9.1. An airport police officer is not entitled to benefits
148 under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a
149 "qualified law-enforcement officer" or "qualified retired law-enforcement officer" within the meaning of
150 the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an
151 employee of the Commonwealth. The airport police department may use the word "police" to describe
152 its sworn officers and may join a regional criminal justice academy created pursuant to Article 5
153 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2.

154 **§ 15.2-1721.1. Acquisition of military property.**

155 *All localities, sheriffs, chiefs of police, or directors or chief executives of any agency or department*
156 *employing deputy sheriffs or law-enforcement officers as defined in § 9.1-101 are prohibited from*
157 *acquiring, purchasing, or otherwise accepting on any terms (i) tracked armored vehicles; (ii)*
158 *weaponized aircraft, vessels, and vehicles of any kind; (iii) firearms of .50-caliber or higher; (iv)*
159 *ammunition of .50-caliber or higher; (v) grenade launchers; and (vi) bayonets from the U.S. Department*
160 *of Defense for use in the law-enforcement activities of any law-enforcement agency of the*
161 *Commonwealth or its political subdivisions.*

162 **§ 52-11.3. Acquisition of military property.**

163 A. The Superintendent of State Police is authorized to apply for and accept grants or loans of
164 personal property from the ~~United States~~ U.S. Department of Defense for use in the law-enforcement
165 activities of the Department of State Police or any other law-enforcement agency of the Commonwealth
166 or its political subdivisions. In connection with the receipt of such property, the Department of State
167 Police and any other law-enforcement agency to which the property is transferred, may agree to hold the
168 United States government harmless against claims for damages arising out of the use of the property
169 received. Such other law-enforcement agencies may also agree to hold the Commonwealth harmless
170 against such claims.

171 *B. Notwithstanding the provisions of subsection A, the Superintendent is prohibited from acquiring,*
172 *purchasing, or otherwise accepting on any terms (i) tracked armored vehicles; (ii) weaponized aircraft,*
173 *vessels, and vehicles of any kind; (iii) firearms of .50-caliber or higher; (iv) ammunition of .50-caliber*
174 *or higher; (v) grenade launchers; and (vi) bayonets from the U.S. Department of Defense for use in the*
175 *law-enforcement activities of the Department of State Police or any other law-enforcement agency of the*
176 *Commonwealth or its political subdivisions.*