

20201187D

HOUSE BILL NO. 5104

AMENDMENT IN THE NATURE OF A SUBSTITUTE

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

(Patron Prior to Substitute—Delegate Price)

A BILL to amend and reenact §§ 15.2-1705 and 15.2-1709 of the Code of Virginia, relating to minimum qualifications for law-enforcement officer, etc.; disclosure of information.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1705 and 15.2-1709 of the Code of Virginia are amended and reenacted as follows:
§ 15.2-1705. Minimum qualifications; waiver.

A. The chief of police and all police officers of any locality, all deputy sheriffs and jail officers in this Commonwealth, and all law-enforcement officers as defined in § 9.1-101 who enter upon the duties of such office after July 1, 1994, are required to meet the following minimum qualifications for office. Such person shall (i) be a citizen of the United States, (ii) be required to undergo a background investigation including fingerprint-based criminal history records inquiries to both the Central Criminal Records Exchange and the Federal Bureau of Investigation, (iii) have a high school education or have passed a high school equivalency examination approved by the Board of Education, (iv) possess a valid driver's license if required by the duties of office to operate a motor vehicle, (v) undergo a physical examination, subsequent to a conditional offer of employment, conducted under the supervision of a licensed physician, (vi) be at least eighteen years of age, (vii) not have been convicted of or pled guilty or no contest to a felony or any offense that would be a felony if committed in the Commonwealth, and (viii) not have produced a positive result on a pre-employment drug screening, if such screening is required by the hiring law-enforcement agency or jail, where the positive result cannot be explained to the law-enforcement agency or jail administrator's satisfaction. In addition, all such officers who enter upon the duties of such office on or after July 1, 2013, shall not have been convicted of or pled guilty or no contest to (a) any misdemeanor involving moral turpitude, including but not limited to petit larceny under § 18.2-96, or any offense involving moral turpitude that would be a misdemeanor if committed in the Commonwealth, (b) any misdemeanor sex offense in the Commonwealth, another state, or the United States, including but not limited to sexual battery under § 18.2-67.4 or consensual sexual intercourse with a minor 15 or older under clause (ii) of § 18.2-371, or (c) domestic assault under § 18.2-57.2 or any offense that would be domestic assault under the laws of another state or the United States.

B. In addition, if the police officer, deputy sheriff, or jail officer had been employed at any time by another law-enforcement agency or jail, the hiring law-enforcement agency or jail shall request from all prior employing law-enforcement agencies or jails any information (i) related to an arrest or prosecution of a former police officer, deputy sheriff, or jail officer, including any expunged arrest or criminal charge known to the agency or disclosed during the hiring process that would otherwise be prohibited from disclosure in accordance with § 19.2-392.4; (ii) related to a civil suit regarding a former police officer's, deputy sheriff's, or jail officer's employment or performance of his duties; and (iii) obtained during the course of any internal investigation related to a former police officer's, deputy sheriff's, or jail officer's alleged criminal conduct, use of excessive force, or other official misconduct in violation of the state professional standards of conduct adopted by the Criminal Justice Services Board. The hiring agency or jail may request this information subsequent to a conditional offer of employment; however, no police officer, deputy sheriff, or jail officer may be employed in such position until the requested information is received from all prior employing law-enforcement agencies in the Commonwealth. If a prior employing law-enforcement agency is located outside the Commonwealth, the hiring agency or jail may request the police officer, deputy sheriff, or jail officer to complete a waiver or release liability authorizing the hiring agency or jail to request such information as listed in this subsection. Any sheriff or chief of police in the Commonwealth, any director or chief executive of any law-enforcement agency or jail in the Commonwealth, and the Director of the Department of Criminal Justice Services or his designee shall disclose any information requested in accordance with the provisions of this subsection to any hiring agency or jail that requests such information.

C. In addition, the hiring law-enforcement agency or jail may require a candidate for employment to undergo a psychological examination, subsequent to a conditional offer of employment, conducted under the supervision of a licensed clinician.

D. Upon request of a sheriff or chief of police, or the director or chief executive of any agency or department employing law-enforcement officers as defined in § 9.1-101, or jail officers as defined in § 53.1-1, the Department of Criminal Justice Services is hereby authorized to waive the requirements for qualification as set out in subsection A of this section for good cause shown.

SENATE SUBSTITUTE

HB5104S1

§ 15.2-1709. Employer immunity from liability; disclosure of information regarding former deputy sheriffs and law-enforcement officers.

Any sheriff or chief of police, ~~the~~ any director or chief executive of any agency or department employing deputy sheriffs or law-enforcement officers as defined in § 9.1-101, or jail officers as defined in § 53.1-1, and the Director of the Department of Criminal Justice Services or his designee who discloses information about a former deputy sheriff's or law-enforcement officer's or jail officer's job performance *or information requested pursuant to subsection B of § 15.2-1705* to a prospective law-enforcement or jail employer of the former appointee or employee is ~~presumed to be acting in good faith and, unless lack of good faith is shown by clear and convincing evidence,~~ is immune from civil liability for such disclosure or its consequences. ~~For purposes of this section, the presumption of good faith is rebutted upon a showing that unless~~ the information disclosed by the former employer was knowingly false or deliberately misleading, was rendered with malicious purpose, or violated any civil right of the former employee or appointee.