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HOUSE BILL NO. 8

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Education
on January 19, 2022)

(Patron Prior to Substitute—Delegate Anderson)

A BILL to amend and reenact §§ 9.1-101, as it is currently effective and as it shall become effective, and 22.1-280.2:1 of the Code of Virginia, relating to school security officers; scope of employment; certain veterans permitted to carry firearm in the performance of duties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-101, as it is currently effective and as it shall become effective, and 22.1-280.2:1 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-101. (For contingent expiration date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) 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.

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

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

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

112 "School security officer" means an individual who is employed by the local school board or a private
113 or religious school for the ~~singular~~ purpose of maintaining order and discipline, preventing crime,
114 investigating violations of the policies of the school board or the private or religious school, and
115 detaining students violating the law or the policies of the school board or the private or religious school
116 on school property, school buses, or at school-sponsored events and who is responsible ~~solely~~ for
117 ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned
118 school *and carrying out any other duty assigned to him by the local school board, excluding*
119 *enforcement of discipline reserved solely and exclusively to school administrators.*

120 "Unapplied criminal history record information" means information pertaining to criminal offenses
121 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history

record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

§ 9.1-101. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) Definitions.

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"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.

"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 Wildlife Resources; (v) investigator who is a 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) member 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 nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) 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 chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the private police department and the chief law-enforcement officer in the conduct of criminal investigations. Private police departments and private police officers shall be subject to and comply with the Constitution of the United States; the Constitution of Virginia; the laws governing municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable to private police departments. Any person employed as a private police officer pursuant to this section shall meet all requirements, including the minimum compulsory training requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any locality. An authorized private police department may use the word "police" to describe its sworn officers and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and whose status as a private police department was recognized by the Department at that time is hereby validated and may continue to operate as a private police department as may such entity's successor in interest, provided it complies with the requirements set forth herein.

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

"School security officer" means an individual who is employed by the local school board or a private or religious school for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of the policies of the school board or the private or religious school, and detaining students violating the law or the policies of the school board or the private or religious school on school property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school *and carrying out any other duty assigned to him by the local school board, excluding enforcement of discipline reserved solely and exclusively to school administrators.*

"Sealing" means (i) restricting dissemination of criminal history record information contained in the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.

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

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

Local school boards and private or religious schools may employ school security officers, as defined

245 in § 9.1-101, for the purposes set forth therein. Such school security officer may carry a firearm in the
246 performance of his duties if (i) within 10 years immediately prior to being hired by the local school
247 board or private or religious school he (a) was an active law-enforcement officer as defined in § 9.1-101
248 in the Commonwealth ~~or~~ *and retired or resigned from his position as a law-enforcement officer in good*
249 *standing; (b) was employed by a law-enforcement agency of the United States or any state or political*
250 *subdivision thereof and his, had duties that were substantially similar to those of a law-enforcement*
251 *officer as defined in § 9.1-101, and retired or resigned from his position as a law-enforcement officer in*
252 *good standing; or (c) was an active duty member in the Armed Forces of the United States who served*
253 *on active duty for at least 10 years and received an honorable discharge from such service; (ii) he*
254 *retired or resigned from his position as a law-enforcement officer in good standing; (iii) in the case of a*
255 *retired law-enforcement officer, he meets the training and qualifications described in subsection C of*
256 *§ 18.2-308.016; (iv) (iii) he has provided proof of completion of a training course that includes training*
257 *in active shooter emergency response, emergency evacuation procedure, and threat assessment to the*
258 *Department of Criminal Justice Services pursuant to subdivision 42 of § 9.1-102, provided that if he*
259 *received such training from a local law-enforcement agency he received the training in the locality in*
260 *which he is employed; (v) (iv) the local school board or private or religious school solicits input from*
261 *the chief law-enforcement officer of the locality regarding the qualifications of the school security*
262 *officer and receives verification from such chief law-enforcement officer that the school security officer*
263 *is not prohibited by state or federal law from possessing, purchasing, or transporting a firearm; and (vi)*
264 *(v) the local school board or private or religious school grants him the authority to carry a firearm in the*
265 *performance of his duties.*