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HOUSE BILL NO. 1452

Offered January 11, 2023

Prefiled December 21, 2022

A BILL to amend and reenact §§ 9.1-101, as it is currently effective and as it may become effective, and 51.1-212 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-320.1, relating to appointment of sworn unit investigators to the Medicaid Fraud Control Unit.

Patron—Orrock

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-101, as it is currently effective and as it may become effective, and 51.1-212 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-320.1 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

INTRODUCED

HB1452

59 means. The term shall not include access to the information by officers or employees of a criminal
60 justice agency maintaining the information who have both a need and right to know the information.

61 "Law-enforcement officer" means any full-time or part-time employee of a police department or
62 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
63 thereof, or any full-time or part-time employee of a private police department, and who is responsible
64 for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of
65 the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
66 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia
67 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement
68 division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the
69 security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and
70 Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement
71 division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection
72 police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under
73 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit
74 designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal
75 behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations
76 authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the
77 Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; ~~or~~ (xii) private police officer
78 employed by a private police department; *or (xiii) person designated as a sworn unit investigator by the*
79 *Attorney General pursuant to subsection A of § 32.1-320.1.* Part-time employees are those compensated
80 officers who are not full-time employees as defined by the employing police department, sheriff's office,
81 or private police department.

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

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

116 "School security officer" means an individual who is employed by the local school board or a private
117 or religious school for the singular purpose of maintaining order and discipline, preventing crime,
118 investigating violations of the policies of the school board or the private or religious school, and
119 detaining students violating the law or the policies of the school board or the private or religious school
120 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.

"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.

§ 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.

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"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

182 Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement
183 division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection
184 police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under
185 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit
186 designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal
187 behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations
188 authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the
189 Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; ~~or~~ (xii) private police officer
190 employed by a private police department; *or (xii) person designated as a sworn unit investigator by the*
191 *Attorney General pursuant to subsection A of § 32.1-320.1.* Part-time employees are those compensated
192 officers who are not full-time employees as defined by the employing police department, sheriff's office,
193 or private police department.

194 "Private police department" means any police department, other than a department that employs
195 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
196 authorized by statute or an act of assembly to establish a private police department or such entity's
197 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
198 to operate a private police department or represent that it is a private police department unless such
199 entity has been authorized by statute or an act of assembly or such entity is the successor in interest of
200 an entity that has been authorized pursuant to this section, provided it complies with the requirements
201 set forth herein. The authority of a private police department shall be limited to real property owned,
202 leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous
203 property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the
204 local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The
205 chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum
206 of understanding with the private police department that addresses the duties and responsibilities of the
207 private police department and the chief law-enforcement officer in the conduct of criminal investigations.
208 Private police departments and private police officers shall be subject to and comply with the
209 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police
210 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721,
211 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as
212 applicable to private police departments. Any person employed as a private police officer pursuant to
213 this section shall meet all requirements, including the minimum compulsory training requirements, for
214 law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits
215 under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a
216 "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of
217 the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an
218 employee of the Commonwealth or any locality. An authorized private police department may use the
219 word "police" to describe its sworn officers and may join a regional criminal justice academy created
220 pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in
221 existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and
222 whose status as a private police department was recognized by the Department at that time is hereby
223 validated and may continue to operate as a private police department as may such entity's successor in
224 interest, provided it complies with the requirements set forth herein.

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226 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary
227 and secondary schools.

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

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

241 "Unapplied criminal history record information" means information pertaining to criminal offenses
242 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history
243 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.

§ 32.1-320.1. Powers and duties of sworn unit investigators.

A. The Attorney General may designate up to 30 persons in the unit established under § 32.1-320 as sworn unit investigators. Any individual designated as a sworn unit investigator shall be sworn to enforce the provisions of this article and the criminal laws of the Commonwealth. Sworn unit investigators shall be designated as law-enforcement officers as defined in § 9.1-101.

B. Sworn unit investigators' powers and duties shall include, but not be limited to, authority to investigate allegations of the following:

1. Fraud in the (i) administration of the State Medical Assistance Plan administered by the Department of Medical Assistance Services, (ii) provision of medical assistance, or (iii) activities of providers of medical assistance under the State Medical Assistance Plan;

2. Abuse or neglect of adults;

3. Misappropriation of a patient's private funds while the patient is in the care and custody of others; and

4. Any violation of the criminal laws of the Commonwealth that is ancillary to any allegation described in subdivision 1, 2, or 3.

C. The Attorney General or his designee may request that the Director of the Department of Criminal Justice Services exempt a sworn unit investigator from the compulsory minimum training standards in subdivision 2 of § 9.1-102 on the basis of the sworn unit investigator's prior experience.

D. The Attorney General shall have the authority to issue identification and uniforms utilizing phrases identifying the sworn unit investigators as law-enforcement and shall be authorized to incorporate the seal of the Commonwealth in the design.

E. All sworn unit investigators shall remain subject to the federal requirements authorizing State Medicaid Fraud Control Units pursuant to 42 C.F.R. Part 1007.

§ 51.1-212. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii) campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, (iii) conservation police officer in the Department of Wildlife Resources appointed under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (v) law-enforcement officer employed by the Virginia Marine Resources Commission as described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including correctional officers employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii) any parole officer appointed pursuant to § 53.1-143, ~~and~~ (viii) any commercial vehicle enforcement officer employed by the Department of State Police, and (ix) any person designated as a sworn unit investigator by the Attorney General pursuant to subsection A of § 32.1-320.1.

"Member" means any person included in the membership of the Retirement System as provided in this chapter.

"Normal retirement date" means a member's sixtieth birthday.

"Retirement System" means the Virginia Law Officers' Retirement System.