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HOUSE BILL NO. 1222

Offered January 25, 1994

A *BILL to amend and reenact §§ 2.1-116.1 and 15.1-48 of the Code of Virginia, relating to law enforcement officers' procedural guarantees.*

Patrons—Keating, Darner, Mims, Puller, Robinson and Stump; Senators: Howell, Lambert, Marsh and Waddell

Referred to Committee on Militia and Police

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-116.1 and 15.1-48 of the Code of Virginia are amended and reenacted as follows:

§ 2.1-116.1. Definitions.

As used in this chapter, the following terms have the following meanings:

1. "Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent of the Department of State Police, who, in his official capacity, is authorized by law to make arrests and who is a nonprobationary member of one of the following law-enforcement agencies:

(a) The Department of State Police;

(b) The police department, bureau or force *or sheriff's department* of any political subdivision of the Commonwealth of Virginia where such department, bureau or force has ten or more law-enforcement officers; ~~however, this shall not include the sheriff's department of any city or county.~~

This term also means any game warden as defined in § 9-169 (9).

2. "Agency" means:

(a) The Department of State Police;

(b) The political subdivision of the Commonwealth of Virginia employing the law-enforcement officer.

§ 15.1-48. Appointment of deputies; their powers; how removed.

The treasurer of any county or city, the sheriff of any county or city, any commissioner of the revenue, any county clerk and the clerk of any circuit or city court may at the time he qualifies as provided in § 15.1-38 or thereafter appoint one or more deputies, who may discharge any of the official duties of their principal during his continuance in office, unless it be some duty the performance of which by a deputy is expressly forbidden by law. The sheriff of any county or city making an appointment of a deputy under the provisions of this section may review the record of such deputy as furnished by the Federal Bureau of Investigation prior to certification to the appropriate court as provided hereunder.

The sheriff may appoint as deputies such treatment and rehabilitation employees as are authorized and approved by the State Board of Corrections pursuant to § 53-184 without approval by the State Compensation Board. Deputies appointed pursuant to this paragraph shall not be considered by the State Compensation Board in fixing the number of full-time or part-time deputies which may be appointed by the sheriff pursuant to § 14.1-70.

The officer making any such appointment shall certify the same to the court in the clerk's office of which the oath of the principal of such deputy is filed and a record thereof shall be entered in the order book of such court. Any such deputy at the time his principal qualifies as provided in § 15.1-38 or thereafter, and before entering upon the duties of his office, shall take and prescribe the oath now provided for county officers. The oath shall be filed with the clerk of the court in whose office the oath of his principal is filed and such clerk shall properly label and file all such oaths in his office for preservation. Any such deputy may be removed from office by his principal *in accordance with procedures set forth in Chapter 10.1 of Title 2.1 (§ 2.1-116.1 et seq.)*. Such deputy may also be removed by the court as provided by § 24.1-79.1.

INTRODUCED

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