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## HOUSE BILL NO. 1390

Offered January 22, 1996

A BILL to amend and reenact §§ 15.1-144, 15.1-145, 15.1-151, 15.1-152, 15.1-153, and 19.2-13 and to repeal § 19.2-17 of the Code of Virginia, relating to special police officers and special conservators of the peace.

Patrons—Guest, Almand, Cunningham and Woodrum; Senator: Howell

Referred to Committee on Militia and Police

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.1-144, 15.1-145, 15.1-151, 15.1-152, 15.1-153, and 19.2-13 of the Code of Virginia are amended and reenacted as follows:**

§ 15.1-144. Circuit courts may appoint special police officers.

A. The circuit court of any county, ~~or the judge thereof in vacation,~~ or city may, upon the application of, and a showing of a necessity for the security of property or the peace by, the sheriff or chief of police, appoint special ~~policemen~~ police officers for so much of such county or city as is not embraced within an incorporated town located in the county, who shall be suitable and discreet persons and who shall serve as such for such length of time as the court ~~or judge~~ may designate, but not exceeding four years under any one appointment. Such person or persons so appointed shall be conservators of the peace in their respective counties under the supervision of the person or agency making application for the appointment, who shall likewise be civilly liable for any wrongful action or conduct committed by the appointee while within the scope of his employment.

B. The court may shall, prior to appointment, review the record order the applicant to conduct a background investigation, in accordance with § 15.1-131.8 (ii), of such appointee as furnished by the Federal Bureau of Investigation each prospective appointee who is not a police officer as defined in § 9-169.

§ 15.1-145. Application for appointment as special police officer; qualifications.

Before any person shall be appointed as a ~~policeman~~ police officer under § 15.1-144, ~~he~~ the sheriff or chief of police shall make written application for such appointment to the circuit court ~~or the judge thereof in vacation~~. Such application shall state applicant's the necessity for the appointment and the prospective appointee's full name, age, place of residence, occupation and by whom regularly employed regular employer. A part-time deputy of the sheriff may be appointed as such policeman. Any person appointed as a ~~policeman~~ officer under § 15.1-144 shall reside in the Commonwealth during his tenure of office.

§ 15.1-151. Bond of special police officers.

Before entering upon the duties of ~~their~~ his office ~~the persons so~~ any person initially appointed on or after July 1, 1996, shall give bond in the penalty of \$1,000 such sum as may be fixed by the court, with approved security before the county circuit court clerk, with condition faithfully to discharge ~~their~~ his official duties. No bond shall be required, however, if the person so appointed is also a police officer of a town and has met the applicable minimum entry training requirements established by the Department of Criminal Justice Services under § 9-170 for a law-enforcement officer.

§ 15.1-152. Jurisdiction and authority of special police officers; evidence of their office.

The jurisdiction and authority of such police shall extend no further than the limits of the county or city in which they are appointed, and a copy of the order of appointment made by the court, attested by the clerk of such court, shall in all cases be received as evidence of their official character. But the authority of such police shall extend throughout the Commonwealth when actually in pursuit of persons accused of crime and when acting under authority of a duly executed warrant for the arrest of persons accused of committing crime.

The jurisdiction and authority of such police upon order entered of record by the circuit court of the county, ~~or the judge thereof in vacation,~~ may be limited to a specific place or places in such county; may limit or prohibit the carrying of weapons by such police; and shall prescribe the type of uniform, badge, insignia or identification to be worn or carried by such police to the extent that such uniform, badge, insignia or identification shall not resemble or be in facsimile of the uniform, badge, insignia or identification of the State Police or that of any sheriff, or member of a police department in such county or city or an adjoining county or city. Any special police officer initially appointed on or after July 1, 1996, whose order of appointment does not prohibit the carrying of weapons while within the scope of his employment as such may be required by the court to meet the minimum entry training requirements established by the Department of Criminal Justice Services under § 9-170 for law-enforcement officers

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60 *within twelve months of his appointment.* Such order may provide that such ~~county~~ *special* police shall,  
61 within the limits of their jurisdiction, have the same authority and responsibility as deputy sheriffs with  
62 regard to the service of civil and criminal process.

63 However, the jurisdiction and authority of such police, upon an order entered of record by the circuit  
64 court of an adjoining county *or city*, ~~or by the judge thereof in vacation~~, may be extended into such  
65 adjoining county *or city* or into such part thereof as said order may designate, provided *that the special*  
66 *circumstances necessitating such extension of jurisdiction and authority are set forth in the order and*  
67 *provided that* such authority shall not extend into an incorporated town.

68 Such police shall be under the supervision of the chief of police in those counties having a local  
69 police department.

70 § 15.1-153. Duties and powers of special police officers.

71 Such police shall apprehend and carry before a judge or justice of the peace *magistrate* to be dealt  
72 with according to law, all persons whom they may be directed by the warrant of a judge or justice of  
73 the peace *magistrate* to apprehend; ~~or whom they have cause to suspect have violated, or intend to~~  
74 ~~violate any law of the Commonwealth;~~ *shall have the authority to make arrests and issue summonses in*  
75 *accordance with Chapter 7 (§ 19.2-71 et seq.) of Title 19.2; and they may execute any search warrant*  
76 *issued under §§ 19.2-52 and 19.2-53. If such property as is mentioned in such sections be is found, the*  
77 *police shall proceed as an officer officers acting under Chapter 5 (§ 19.2-52 et seq.) of Title 19.2; and*  
78 *they shall have the authority to require any person present to aid in making an arrest.*

79 § 19.2-13. Special conservators of the peace; authority; jurisdiction; bond; liability of employers.

80 A. Upon the application of any corporation authorized to do business in the Commonwealth or the  
81 owner, proprietor or authorized custodian of any place within the Commonwealth and the showing of a  
82 necessity for the security of property or the peace, the circuit court of any county or city, in its  
83 discretion, may appoint one or more special conservators of the peace who ~~within the area and for the~~  
84 ~~time specified in the order of appointment, shall have all of the powers, functions, duties, responsibilities~~  
85 ~~and authority of any other conservator of the peace shall serve as such for such length of time as the~~  
86 ~~court may designate, but not exceeding four years under any one appointment.~~ The order of appointment  
87 may provide that a special conservator of the peace shall have all the powers, functions, duties,  
88 responsibilities and authority of any other conservator of the peace ~~throughout the Commonwealth, or~~  
89 ~~within such geographical limitations as the court may deem appropriate, whenever such special~~  
90 ~~conservator of the peace is engaged in the performance of his duties as such. Prior to granting an~~  
91 ~~application for appointment, the circuit court shall order the local law-enforcement agency to investigate~~  
92 ~~the conduct a background and investigation, in accordance with § 15.1-131.8 (ii), character of the~~  
93 ~~prospective appointee and file a report of such investigation with the court unless the prospective~~  
94 ~~appointee is a police officer as defined in § 9-169. The local law-enforcement agency may charge the~~  
95 ~~prospective appointee a reasonable fee not to exceed the lesser of the actual cost to the local~~  
96 ~~law-enforcement agency or \$300 for the time and costs expended in preparing the investigative report.~~

97 When the application is made by a corporation, the circuit court shall specify in the order of  
98 appointment the geographic jurisdiction of the special conservator of the peace, and this jurisdiction may  
99 include any or all counties and cities of the Commonwealth wherein the corporation does business. The  
100 clerk of the appointing circuit court shall certify a copy of the order of appointment to the circuit court  
101 of every jurisdiction specified in said order, and each special conservator of the peace so appointed on  
102 application of a corporation shall present his credentials to the chief of police or sheriff of all such  
103 jurisdictions.

104 Every person *initially appointed on or after July 1, 1996*, as a special conservator of the peace  
105 pursuant to the provisions of this section, before entering upon the duties of such office, ~~may shall~~ be  
106 required by the court to enter into a bond with approved ~~surety~~ *security* before the clerk of the circuit  
107 court of the county or city wherein such duties are to be performed, in the penalty of such sum as may  
108 be fixed by the court, conditioned upon the faithful performance of such duties. Such bond shall be  
109 conditioned upon the faithful performance of such duties in any locality in which he is authorized to act  
110 pursuant to the order of the court. *No such bond shall be required, however, if such person has met the*  
111 *minimum entry training requirements established by the Department of Criminal Justice Services under*  
112 *§ 9-170 for law-enforcement officers.*

113 If any such special conservator of the peace is the employee, agent or servant of another, his  
114 appointment as special conservator of the peace shall not relieve his employer, principal or master, from  
115 civil liability to another arising out of any wrongful action or conduct committed by such special  
116 conservator of the peace while within the scope of his employment.

117 B. *The court may limit or prohibit the carrying of weapons by any special conservator of the peace*  
118 *initially appointed on or after July 1, 1996, while the appointee is within the scope of his employment*  
119 *as such. If the order of appointment does not prohibit the carrying of weapons, the court may require*  
120 *that the appointee meet the minimum entry training requirements established by the Department of*  
121 *Criminal Justice Service under § 9-170 for law-enforcement officers within twelve months of his*

122 *appointment.*  
123 2. That § 19.2-17 of the Code of Virginia is repealed.

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