

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 495

An Act to amend and reenact §§ 9-168, 9-170, 9-179 and 15.2-1704 of the Code of Virginia, relating to the Department of Criminal Justice Services; compulsory minimum standards for field training officers.

[S 1106]

Approved March 27, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 9-168, 9-170, 9-179 and 15.2-1704 of the Code of Virginia are amended and reenacted as follows:

§ 9-168. Criminal Justice Services Board, Committee on Training, and Advisory Committee on Juvenile Justice established; appointment; terms; vacancies; members not disqualified from holding other offices; designation of chairmen; expenses; meetings.

A. There is hereby created the Criminal Justice Services Board. The Board shall be composed of twenty-seven members as set out below. Eight members of the Board shall be as follows: the Chief Justice of the Supreme Court of Virginia, or his designee; the Attorney General of Virginia, or his designee; the Superintendent of the Department of State Police; the Director of the Department of Corrections; the Director of the Department of Juvenile Justice; the Superintendent of the Department of Correctional Education; the Chairman of the Parole Board; and the Executive Secretary of the Supreme Court of Virginia. In those instances in which the Executive Secretary of the Supreme Court of Virginia, the Superintendent of the Department of State Police, the Director of the Department of Corrections, the Director of the Department of Juvenile Justice, the Superintendent of the Department of Correctional Education, or the Chairman of the Parole Board will be unavoidably absent from a board meeting, he may appoint a member of his staff to represent him at the meeting.

Fifteen members shall be appointed by the Governor from among residents of this Commonwealth. At least one shall be a representative of a crime victims' organization or a victim of crime as defined in subsection B of § 19.2-11.01. The remainder shall be representative of the broad categories of state and local governments, criminal justice systems, and law-enforcement agencies, including but not limited to, police officials, sheriffs, attorneys for the Commonwealth, defense counsel, the judiciary, correctional and rehabilitative activities, and other locally elected and appointed administrative and legislative officials. Among these members there shall be two sheriffs representing the Virginia State Sheriffs Association selected from among names submitted by the Association; two representatives of the Chiefs of Police Association selected from among names submitted by the Association; one attorney for the Commonwealth selected from among names submitted by the Association for Commonwealth's Attorneys; one person who is a mayor, city or town manager, or member of a city or town council representing the Virginia Municipal League selected from among names submitted by the League; one person who is a county executive, manager, or member of a county board of supervisors representing the Virginia Association of Counties selected from among names submitted by the Association; one member representing the Virginia Crime Prevention Association selected from among names submitted by the Association; one member of the Private Security Services Advisory Board; and one representative of the Virginia Association of Regional Jail Superintendents selected from among names submitted by the Association.

Four members of the Board shall be members of the General Assembly appointed by the chairmen of legislative committees as follows: one member of the Appropriations Committee of the House of Delegates; one member of the Committee on Finance of the Senate; one member of the Committee for Courts of Justice of the House of Delegates; and one member of the Committee for Courts of Justice of the Senate. The legislative members shall serve for the terms for which they were elected and shall serve as ex officio members without a vote.

B. There is further created a permanent Committee on Training under the Board which shall be the policy-making body responsible to the Board for effecting the provisions of subdivisions 2 through 14 of § 9-170. The Committee on Training shall be composed of thirteen members of the Board as follows: the Superintendent of the Department of State Police; the Director of the Department of Corrections; the member of the Private Security Services Advisory Board; the Executive Secretary of the Supreme Court of Virginia; the two sheriffs representing the Virginia State Sheriffs Association; the two representatives of the Chiefs of Police Association; the attorney for the Commonwealth representing the Association for Attorneys for the Commonwealth; the representative of the Virginia Municipal League; the representative of the Virginia Association of Counties; the regional jail superintendent representing the Virginia Association of Regional Jails; and one member designated by the Chairman of the Board from among the other appointments made by the Governor. The Committee on Training shall annually

elect its chairman from among its members.

C. There is further created a permanent Advisory Committee on Juvenile Justice which shall have the responsibility for advising and assisting the Board, the Department, all agencies, departments, boards and institutions of the Commonwealth, and units of general local government, or combinations thereof, on matters related to the prevention and treatment of juvenile delinquency and the administration of juvenile justice in the Commonwealth. The Advisory Committee shall consist of no less than fifteen and no more than twenty-five members. The membership of the Advisory Committee shall include persons who have training, experience or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice as set out below. Four ex officio members with voting powers of the Advisory Committee shall be as follows: the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services; the Commissioner of the Department of Social Services; the Director of the Department of Juvenile Justice; and the Superintendent of Public Instruction. Two members shall be members from the General Assembly, appointed by the chairmen of the following legislative committees: one member of the Senate Committee for Courts of Justice and one member of the House Committee on Health, Welfare and Institutions. The legislative members shall serve as ex officio members for the terms for which they were elected. All other members shall be residents of the Commonwealth and be appointed by the Governor for a term of four years, except that appointments to terms commencing on July 1, 1991, shall be as outlined below. Five members, appointed for four-year terms, shall include: two members from the Criminal Justice Services Board; one member with expertise in juvenile services; one member representing community-based delinquency prevention or treatment programs; and one member who is under the age of twenty-four at the time of appointment. Six members shall be appointed for three-year terms and shall include one juvenile and domestic relations district court judge; one member who is a representative of local law enforcement; one member who is a local city or county administrator; one member who is a member of the Virginia State Bar; and two members who are under the age of twenty-four at the time of appointment. Six members, appointed for two-year terms, shall include one member who is employed in a private organization with a special focus on maintaining and strengthening the family unit; one member who works as a volunteer with delinquents or potential delinquents; one member who is now or formerly has been under the jurisdiction of the Virginia juvenile justice system; one member who is an employee of a local juvenile and domestic relations district court service unit; one member who is a representative of business groups or businesses employing youth; and one member who represents organizations concerned with the quality of juvenile justice, education or social services for children. The majority of the Advisory Committee shall be private citizens and at least three members of the Advisory Committee, including two private citizens shall also be members of the Board. The Advisory Committee shall elect its chairman from among its members. The Advisory Committee shall have the following specific duties and responsibilities:

1. To review the operation of the juvenile justice system in the Commonwealth, including facilities and programs, and prepare appropriate reports;
2. To review statewide plans, conduct studies, and make recommendations on needs and priorities for the development and improvement of the juvenile justice system in the Commonwealth; and
3. To advise on all matters related to the federal Juvenile Justice and Delinquency Prevention Act of 1974 (P.L. 93-415, as amended), and recommend such actions on behalf of the Commonwealth as may seem desirable to secure benefits of that or other federal programs for delinquency prevention or the administration of juvenile justice.

Each administrative entity or collegial body within the executive branch of the state government as may be requested to do so shall cooperate with the Advisory Committee as it carries out its responsibilities.

D. The members of the Board and Advisory Committee appointed by the Governor shall serve for terms of four years, provided that no member shall serve beyond the time when he holds the office or employment by reason of which he was initially eligible for appointment. Appointed members of the Board and Advisory Committee shall not be eligible to serve as such for more than two consecutive full terms. Three or more years within a four-year period shall be deemed a full term. Any vacancy on the Board and Advisory Committee shall be filled in the same manner as the original appointment, but for the unexpired term.

E. The Governor shall appoint a Chairman of the Board, and the Board shall designate one or more vice-chairmen from among its members, who shall serve at the pleasure of the Board.

F. Notwithstanding any provision of any statute, ordinance, local law, or charter provision to the contrary, membership on the Board shall not disqualify any member from holding any other public office or employment, or cause the forfeiture thereof.

G. Members of the Board and Advisory Committee shall be entitled to receive reimbursement for any actual expenses incurred as a necessary incident to such service and to receive such compensation as is provided in § 2.1-20.3.

H. The Board and Advisory Committee shall each hold no less than four regular meetings a year. Subject to the requirements of this subsection, the respective Chairman shall fix the times and places of

meetings, either on his own motion or upon written request of any five members of the Board or Advisory Committee.

I. The Board and Advisory Committee may adopt bylaws for their operation.

§ 9-170. Powers and duties of the Board and the Department.

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power to:

1. Promulgate regulations, pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within this Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer (i) in permanent positions, and (ii) in temporary or probationary status, and establish the time required for completion of such training;

3. *Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;*

~~3~~. 4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

~~3a~~. 5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

4. 6. Establish compulsory training courses for law-enforcement officers in laws and procedures relating to entrapment, search and seizure, evidence, and techniques of report writing, which training shall be completed by law-enforcement officers who have not completed the compulsory training standards set out in subdivision 2 above, prior to assignment of any such officers to undercover investigation work. Failure to complete such training shall not, for that reason, constitute grounds to exclude otherwise properly admissible testimony or other evidence from such officer resulting from any undercover investigation;

~~5~~. 7. Establish compulsory minimum entry level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

6. 8. Establish compulsory minimum entry level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

7. 9. Establish compulsory minimum entry-level, in-service, and advanced training standards for persons employed as jailers or custodial officers by local criminal justice agencies and for correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and establish the time required for completion of such training;

8. 10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

9. 11. Consult and cooperate with counties, municipalities, agencies of this Commonwealth, other state and federal governmental agencies, and with universities, colleges, junior colleges, and other institutions, whether located in or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction;

~~10~~. 12. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not;

~~11~~. 13. Establish and maintain police training programs through such agencies and institutions as the Board may deem appropriate;

~~12~~. 14. Establish compulsory minimum qualifications of certification and recertification for instructors in criminal justice training schools approved by the Department;

~~13~~. 15. Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement;

~~14~~. 16. Make recommendations concerning any matter within its purview pursuant to this chapter;

~~15~~. 17. Coordinate its activities with those of any interstate system for the exchange of criminal history record information, nominate one or more of its members to serve upon the council or committee of any such system, and participate when and as deemed appropriate in any such system's activities and programs;

~~16~~. 18. Conduct inquiries and investigations it deems appropriate to carry out its functions under this

chapter and, in conducting such inquiries and investigations, shall have the authority to require any criminal justice agency to submit information, reports, and statistical data with respect to its policy and operation of information systems or with respect to its collection, storage, dissemination, and usage of criminal history record information and correctional status information, and such criminal justice agencies shall submit such information, reports, and data as are reasonably required;

~~17.~~ 19. Conduct audits as required by § 9-186;

~~18.~~ 20. Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history record information and correctional status information;

~~19.~~ 21. Advise criminal justice agencies and initiate educational programs for such agencies with respect to matters of privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information;

~~20.~~ 22. Maintain a liaison with any board, commission, committee, or other body which may be established by law, executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any political subdivision thereof;

~~21.~~ 23. Issue regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and court orders;

~~22.~~ 24. The Department of State Police shall be the control terminal agency for the Commonwealth and perform all functions required of a control terminal agency by the regulations of the National Crime Information Center. Notwithstanding any other provision to the contrary in this chapter, the Central Criminal Records Exchange and the Department of State Police shall remain the central repository for criminal history record information in the Commonwealth, and the Department shall continue to be responsible for the management and operation of such exchange;

~~23.~~ 25. Operate a statewide criminal justice statistical analysis center, which shall maintain a unified criminal justice data system, produce reports, provide technical assistance to state and local criminal justice data system users, and provide analysis and interpretation of criminal justice statistical information;

~~24.~~ 26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law enforcement and the administration of criminal justice throughout the Commonwealth, and periodically update that plan;

~~25.~~ 27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the Commonwealth, and units of general local government, or combinations thereof, including planning district commissions, in planning, developing, and administering programs, projects, comprehensive plans, and other activities for improving law enforcement and the administration of criminal justice throughout the Commonwealth, including allocating and subgranting funds for these purposes;

~~26.~~ 28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and activities for the Commonwealth and units of general local government, or combinations thereof, in the Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal justice at every level throughout the Commonwealth;

~~27.~~ 29. Review and evaluate programs, projects, and activities, and recommend, where necessary, revisions or alterations to such programs, projects, and activities for the purpose of improving law enforcement and the administration of criminal justice;

~~28.~~ 30. Coordinate the activities and projects of the state departments, agencies, and boards of the Commonwealth and of the units of general local government, or combination thereof, including planning district commissions, relating to the preparation, adoption, administration, and implementation of comprehensive plans to strengthen and improve law enforcement and the administration of criminal justice;

~~29.~~ 31. Do all things necessary on behalf of the Commonwealth and its units of general local government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control;

~~30.~~ 32. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

~~31.~~ 33. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

~~32.~~ 34. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

~~33.~~ 35. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

~~34.~~ 36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

~~35.~~ 37. Provide forensic laboratory services as detailed in Article 4 (§ 9-196.1 et seq.) of this chapter;

~~36.~~ 38. Establish training standards and publish a model policy for law-enforcement personnel in the handling of family abuse cases;

~~37.~~ 39. Establish training standards and publish a model policy for law-enforcement personnel in communicating with and facilitating the safe return of individuals diagnosed with Alzheimer's disease;

~~38.~~ 40. Establish compulsory training standards for law-enforcement officers to ensure sensitivity to and awareness of cultural diversity;

~~39.~~ 41. Review and evaluate community policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs; and

~~40.~~ 42. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

§ 9-179. Law-enforcement officers serving on July 1, 1971; officers appointed under § 56-353 prior to July 1, 1982.

The provisions of this chapter shall not be construed to require law-enforcement officers serving under permanent appointment on July 1, 1971, nor require officers serving under permanent appointment under the provisions of § 56-353 appointed prior to July 1, 1982, to meet the compulsory minimum training standards provided for in subdivision 2 of § 9-170. Nor shall failure of any such officer to meet such standards make him ineligible for any promotional examination for which he is otherwise eligible, except that any law-enforcement officer designated under the provisions of § 53.1-120 to provide courthouse and courtroom security shall be required to meet the standards provided under subdivision 5 7 of § 9-170. Any full-time deputy sheriff who is a law-enforcement officer and who is exempted from the compulsory minimum training standards under this section shall be eligible for the minimum salary established pursuant to Article 3 (§ ~~15.2-1609.1~~ 15.2-1609 et seq.) of Chapter 16 of Title 15.2.

§ 15.2-1704. Powers and duties of police force.

A. The police force of a locality is hereby invested with all the power and authority which formerly belonged to the office of constable at common law and is responsible for the prevention and detection of crime, the apprehension of criminals, the safeguard of life and property, the preservation of peace and the enforcement of state and local laws, regulations, and ordinances.

B. A police officer has no authority in civil matters, except (i) to execute and serve temporary detention and emergency custody orders and any other powers granted to law-enforcement officers in § 37.1-67.01 or § 37.1-67.1, (ii) to serve an order of protection pursuant to §§ 16.1-253.1, 16.1-253.4 and 16.1-279.1, or (iii) to execute all warrants or summons as may be placed in his hands by any magistrate for the locality and to make due return thereof. A town police officer, after receiving training under subdivision 6 8 of § 9-170, may, with the concurrence of the local sheriff, also serve civil papers, and make return thereof, only when the town is the plaintiff and the defendant can be found within the corporate limits of the town.