

# 2015 SESSION

LEGISLATION NOT PREPARED BY DLS  
INTRODUCED

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## HOUSE BILL NO. 2393

Offered January 23, 2015

A *BILL to amend and reenact § 9.1-102 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 15.2-1609.10 and 15.2-1722.1 and by adding in Title 52 a chapter numbered 6.1, consisting of sections numbered 52-30.1 through 52-30.6, relating to the Virginia Community Policing Act; report.*

Patrons—Futrell and Torian

Referred to Committee on Militia, Police and Public Safety

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

1. That § 9.1-102 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-1609.10 and 15.2-1722.1 and by adding in Title 52 a chapter numbered 6.1, consisting of sections numbered 52-30.1 through 52-30.6, as follows:

#### § 9.1-102. 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 and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the 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 in (i) permanent positions, and (ii) 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;

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;

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;

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, prior to assignment of any such officers to undercover investigation work. Failure to complete the 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;

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;

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;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies, correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and juvenile correctional officers employed at a juvenile correctional facility as the term is defined in § 66-25.3;

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;

11. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. Such training shall be graduated and based on the type of

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59 duties to be performed by the auxiliary police officers. Such training standards shall not apply to  
60 auxiliary police officers exempt pursuant to § 15.2-1731;

61 12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state  
62 and federal governmental agencies, and with universities, colleges, community colleges, and other  
63 institutions, whether located in or outside the Commonwealth, concerning the development of police  
64 training schools and programs or courses of instruction;

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

68 14. Establish and maintain police training programs through such agencies and institutions as the  
69 Board deems appropriate;

70 15. Establish compulsory minimum qualifications of certification and recertification for instructors in  
71 criminal justice training schools approved by the Department;

72 16. Conduct and stimulate research by public and private agencies which shall be designed to  
73 improve police administration and law enforcement;

74 17. Make recommendations concerning any matter within its purview pursuant to this chapter;

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

79 19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this  
80 chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to  
81 submit information, reports, and statistical data with respect to its policy and operation of information  
82 systems or with respect to its collection, storage, dissemination, and usage of criminal history record  
83 information and correctional status information, and such criminal justice agencies shall submit such  
84 information, reports, and data as are reasonably required;

85 20. Conduct audits as required by § 9.1-131;

86 21. Conduct a continuing study and review of questions of individual privacy and confidentiality of  
87 criminal history record information and correctional status information;

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

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

94 24. Adopt regulations establishing guidelines and standards for the collection, storage, and  
95 dissemination of criminal history record information and correctional status information, and the privacy,  
96 confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and  
97 court orders;

98 25. Operate a statewide criminal justice research center, which shall maintain an integrated criminal  
99 justice information system, produce reports, provide technical assistance to state and local criminal  
100 justice data system users, and provide analysis and interpretation of criminal justice statistical  
101 information;

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

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

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

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

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

justice;

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;

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;

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;

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;

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;

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

37. Establish training standards and publish a model policy for law-enforcement personnel in the handling of family abuse, domestic violence, sexual assault and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in § 9.1-1301 and shall by December 1, 2009, submit a report on the status of implementation of these requirements to the chairmen of the House and Senate Courts of Justice Committees;

38. 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;

39. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;

40. 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, including sensitivity to and awareness of cultural diversity and the potential for biased policing;

41. Publish and disseminate a model policy or guideline that may be used by state and local agencies to ensure that law-enforcement personnel are sensitive to and aware of cultural diversity and the potential for biased policing;

42. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;

43. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;

44. Establish, in consultation with the Department of Education and the Virginia State Crime

Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, which training and certification shall be administered by the Virginia Center for School and Campus Safety pursuant to § 9.1-184. Such training standards shall include, but shall not be limited to, the role and responsibility of school security officers, relevant state and federal laws, school and personal liability issues, security awareness in the school environment, mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, and school security personnel to assist in the development of these standards and certification requirements;

45. Establish training standards and publish a model policy and protocols for local and regional sexual assault response teams;

46. License and regulate property bail bondsmen and surety bail bondsmen in accordance with Article 11 (§ 9.1-185 et seq.);

47. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);

48. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal justice agencies regarding the investigation, registration, and dissemination of information requirements as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);

49. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula, and (iii) certification requirements for campus security officers. Such training standards shall include, but not be limited to, the role and responsibility of campus security officers, relevant state and federal laws, school and personal liability issues, security awareness in the campus environment, and disaster and emergency response. The Department shall provide technical support and assistance to campus police departments and campus security departments on the establishment and implementation of policies and procedures, including but not limited to: the management of such departments, investigatory procedures, judicial referrals, the establishment and management of databases for campus safety and security information sharing, and development of uniform record keeping for disciplinary records and statistics, such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an advisory committee consisting of college administrators, college police chiefs, college security department chiefs, and local law-enforcement officials to assist in the development of the standards and certification requirements and training pursuant to this subdivision;

50. Establish compulsory training standards and publish a model policy for law-enforcement personnel regarding death notification;

51. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established pursuant to § 9.1-187;

52. Establish, publish, and disseminate a model policy or guideline for law-enforcement personnel for questioning individuals suspected of driving while intoxicated concerning the physical location of that individual's last consumption of an alcoholic beverage and for communicating that information to the Alcoholic Beverage Control Board;

53. Establish training standards and publish a model policy for law-enforcement personnel assigned to vehicle patrol duties that embody current best practices for pursuits and for responding to emergency calls;

54. Establish training standards and publish a model policy for law-enforcement personnel involved in criminal investigations that embody current best practices for conducting photographic and live lineups;

55. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human trafficking offenses using the common law and existing criminal statutes in the Code of Virginia. The Department shall publish and disseminate a model policy or guideline for law-enforcement personnel involved in criminal investigations or assigned to vehicle or street patrol duties to ensure that law-enforcement personnel are sensitive to and aware of human trafficking offenses and the identification of victims of human trafficking offenses;

56. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of § 46.2-117; and

57. Establish, publish, and disseminate, in consultation with the Office of the Attorney General, the Department of State Police, and representatives of civil rights organizations, a model policy that embodies current best practices for the implementation and operation of a body-worn camera system as defined in § 52-30.1; and

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

**§ 15.2-1609.10. Prohibited practices; reporting.**

A. No sheriff or deputy shall engage in biased-based profiling as defined in § 52-30.1 or the use of excessive force in the performance of his official duties.

*B. The sheriff of every locality shall collect data pertaining to motor vehicle or investigatory stops and complaints alleging the use of excessive force pursuant to Chapter 6.1 (§ 52-30.1 et seq.) of Title 52 and report such data to the Department of State Police for inclusion in the Community Policing Reporting Database. The sheriff shall be responsible for forwarding the data to the Superintendent of State Police.*

*C. A sheriff shall implement and operate a body-worn camera system as defined in § 52-30.1 if the Attorney General determines pursuant to § 52-30.6 that the sheriff has a high rate of occurrence of its deputies engaging in biased-based profiling or using excessive force in violation of this section. Such system shall be implemented and operated in accordance with the model policy for such system established by the Department of Criminal Justice Services pursuant to subdivision 57 of § 9.1-102.*

**§ 15.2-1722.1. Prohibited practices; reporting.**

*A. No police officer shall engage in biased-based profiling as defined in § 52-30.1 or the use of excessive force in the performance of his official duties.*

*B. The police force of every locality shall collect data pertaining to motor vehicle or investigatory stops and complaints alleging the use of excessive force pursuant to Chapter 6.1 (§ 52-30.1 et seq.) of Title 52 and report such data to the Department of State Police for inclusion in the Community Policing Reporting Database. The chief of police of the locality shall be responsible for forwarding the data to the Superintendent of State Police.*

*C. A police force shall implement and operate a body-worn camera system as defined in § 52-30.1 if the Attorney General determines pursuant to § 52-30.6 that the police force has a high rate of occurrence of its officers engaging in biased-based profiling or using excessive force in violation of this section. Such system shall be implemented and operated in accordance with the model policy for such system established by the Department of Criminal Justice Services pursuant to subdivision 57 of § 9.1-102.*

**CHAPTER 6.1.**

**VIRGINIA COMMUNITY POLICING ACT.**

**§ 52-30.1. Definition.**

*For purposes of this chapter:*

*"Biased-based profiling" means the practice of targeting persons for suspected illegal activities using race, ethnicity, color, age, gender, or any combination thereof or other noncriminal characteristics as the sole criteria for the determination of probable cause and using traffic enforcement and investigatory stops as a pretext in the prevention and detection of crime, including the apprehension, detention, or arrest of persons, stops of motor vehicles for alleged traffic violations or investigatory purposes, search and seizure of property, or enforcement of state laws and regulations, or to conduct further investigation.*

*"Body-worn camera system" means an electronic system for creating, generating, sending, receiving, storing, displaying, and processing audiovisual recordings, including cameras or other devices capable of creating such recordings, that may be worn about the person of a law-enforcement officer.*

**§ 52-30.2. Collection of data.**

*A. No police officer of the Department shall engage in biased-based profiling or the use of excessive force in the performance of his official duties.*

*B. Police officers of the Department shall collect data pertaining to motor vehicle or investigatory stops and complaints alleging the use of excessive force pursuant to this chapter to be reported into the Community Policing Reporting Database. Police officers of the Department shall submit the data to their commanding officers, who shall forward it to the Superintendent.*

**§ 52-30.3. Community Policing Reporting Database established.**

*A. The Department of State Police shall develop and implement a uniform statewide database to collect and analyze traffic and investigatory stop records, records of complaints alleging the use of excessive force, and data and information submitted by sheriffs and police forces pursuant to §§ 15.2-1609.10, 15.2-1722.1, and 52-30.2. The data shall be analyzed to determine the existence and prevalence of the practice of biased-based profiling and the prevalence of complaints alleging the use of excessive force. The Department shall maintain all records relating to the analysis, validation, and interpretation of such data. The Superintendent may seek assistance in designing the statewide database from any accredited public or private institution of higher education in the Commonwealth or from an independent body having the experience, staff expertise, and technical support capability to conduct such research.*

*B. Data collected shall include, by locality, (i) the number of persons stopped for traffic violations or investigatory purposes; (ii) the race, ethnicity, color, age, and gender of the person stopped; (iii) the specific alleged traffic violation that resulted in the stop; (iv) whether a warning, written citation, or summons was issued or whether any person was arrested; (v) whether the vehicle or any persons were searched; and (vi) the number of complaints alleging the use of excessive force.*

C. In designing the uniform statewide database, the Superintendent shall ensure that the system shall manage and process the data for analysis to (i) determine the extent to which biased-based profiling is used by state and local police officers in the Commonwealth to identify persons for alleged traffic violations or investigatory purposes; (ii) develop a demographic profile of persons who are stopped for alleged traffic violations or investigatory purposes; (iii) ascertain whether traffic and investigatory stops in the Commonwealth involve primarily racial and ethnic minorities and compare the rate at which such persons were stopped, searched, detained, or arrested or had property seized with the rate at which Caucasian persons were subjected to such actions; (iv) identify the reasons given by police officers for such stops and whether such persons were charged with an offense, detained, arrested, or issued a warning or written citation; (v) determine whether racial and ethnic minorities were advised of their constitutional rights under the Fourth and Fourteenth Amendments to be free from unreasonable search and seizure by state and local police officers conducting traffic and investigatory stops; (vi) assess the extent to which state and local police officers are knowledgeable of the constitutional rights of citizens; (vii) solicit the public's perspectives regarding issues associated with biased-based profiling and pretextual traffic and investigatory stops; (viii) determine whether racial and ethnic minorities are aware of their constitutional rights regarding search and seizure and equal protection under the law; and (ix) reach accurate interpretations and conclusions based on the reported data.

**§ 52-30.4. Duties of the Superintendent; reporting of local police forces and sheriffs required.**

The police force and sheriff's office in each locality and the Department shall collect and analyze the data specified in subsection B of § 52-30.3, and any other data as may be specified by the Department, on forms developed by the Department.

If the Superintendent determines that a local police force or sheriff's office has failed or refused to report the required data to the Department, the Superintendent shall notify the attorney for the Commonwealth of the county or city in which the police force or sheriff's office is located. If the Superintendent determines that police officers of the Department have failed to comply with the provisions of this chapter, the Superintendent shall utilize such disciplinary procedures as may be authorized by state law or the regulations of the Department to enforce compliance with this chapter.

**§ 52-30.5. Annual report.**

The Superintendent shall annually report the findings and recommendations resulting from the collection, analysis, and interpretation of the data from the Community Policing Reporting Database to the Governor, the General Assembly, and the Attorney General beginning July 1, 2016. A copy of the Superintendent's report shall also be provided to each attorney for the Commonwealth of the county or city in which a reporting police force is located.

**§ 52-30.6. Use of body-worn camera system.**

A. Beginning July 1, 2018, any police force or sheriff serving a locality in which the sheriff is the chief law-enforcement officer that is determined to have a high rate of occurrence of its officers or deputies engaging in biased-based profiling or to have a high rate of occurrence of complaints alleging the use of excessive force in violation of § 15.2-1609.10, 15.2-1722.1, or 52-30.2 on the basis of the findings and recommendations resulting from the collection, analysis, and interpretation of the data from the Community Policing Reporting Database shall be required to implement and operate a body-worn camera system in accordance with the model policy for such system established by the Department of Criminal Justice Services pursuant to subdivision 57 of § 9.1-102.

B. The determination of whether a police force or sheriff is required to implement and operate a body-worn camera system under subsection A shall be made by the Attorney General pursuant to objective criteria developed by the Attorney General. The Attorney General shall review the data from the Community Policing Reporting Database and make determinations as to which police forces and sheriffs are required to implement and operate such system on an annual basis.

C. To the extent possible, a sheriff or police force required to implement and operate a body-worn camera system pursuant to subsection A shall use funds or other property seized and forfeited to the sheriff or police force pursuant to Chapters 22.1 (§ 19.2-386.1 et seq.) and 22.2 (§ 19.2-386.15 et seq.) of Title 19.2 to purchase and maintain such system; however, nothing in this subsection shall prevent a sheriff or police force from accepting gifts, donations, bequests, or grants from any source which may be used to purchase and maintain such system.

D. Nothing in this section shall prohibit a sheriff or police force that is not required to implement and operate a body-worn camera system pursuant to subsection A from implementing and operating such a system, provided that such system is implemented and operated in accordance with the model policy for such system established by the Department of Criminal Justice Services pursuant to subdivision 57 of § 9.1-102.

**2. That the provisions of this act shall not become effective unless an appropriation effectuating the purposes of this act is included in a general appropriation act passed in 2015 by the General Assembly that becomes law.**