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SENATE BILL NO. 1184

Offered January 14, 2015

Prefiled January 13, 2015

A BILL to amend and reenact §§ 9.1-102 and 44-146.18 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-1718.2, relating to missing persons; search and rescue.

Patrons—McDougle, Howell, Norment and Reeves; Delegates: Gilbert, Herring and Peace

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-102 and 44-146.18 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-1718.2 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 duties to be performed by the auxiliary police officers. Such training standards shall not apply to

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59 auxiliary police officers exempt pursuant to § 15.2-1731;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

232 56. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of
233 § 46.2-117; and

234 57. Establish training standards and publish a model policy for missing children, missing adults, and
235 search and rescue protocol; and

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

238 **§ 15.2-1718.2. Receipt of critically missing adult reports.**

239 A. No police or sheriff's department shall establish or maintain any policy that requires the
240 observance of any waiting period before accepting a critically missing adult report. Upon receipt of a
241 critically missing adult report by any police or sheriff's department, the department shall immediately,
242 but in all cases within two hours of receiving the report, enter identifying and descriptive data about the
243 critically missing adult into the Virginia Criminal Information Network and the National Crime

Information Center Systems, forward the report to the Department of State Police, notify all other law-enforcement agencies in the area, and initiate an investigation of the case.

B. For purposes of this section:

"Critically missing adult" means any missing adult 21 years of age or older whose disappearance indicates a credible threat to the health and safety of the adult as determined by a law-enforcement agency and under such other circumstances as deemed appropriate after consideration of all known circumstances.

"Critically missing adult report" means a report prepared in a format prescribed by the Superintendent of State Police for use by law-enforcement agencies to report critically missing adult information, including a photograph, to the Department of State Police.

§ 44-146.18. Department of Emergency Services continued as Department of Emergency Management; administration and operational control; coordinator and other personnel; powers and duties.

A. The State Office of Emergency Services is continued and shall hereafter be known as the Department of Emergency Management. Wherever the words "State Department of Emergency Services" are used in any law of the Commonwealth, they shall mean the Department of Emergency Management. During a declared emergency this Department shall revert to the operational control of the Governor. The Department shall have a coordinator who shall be appointed by and serve at the pleasure of the Governor and also serve as State Emergency Planning Director. The Department shall employ the professional, technical, secretarial, and clerical employees necessary for the performance of its functions.

B. The State Department of Emergency Management shall in the administration of emergency services and disaster preparedness programs:

1. In coordination with political subdivisions and state agencies, ensure that the Commonwealth has up-to-date assessments and preparedness plans to prevent, respond to and recover from all disasters including acts of terrorism;

2. Conduct a statewide emergency management assessment in cooperation with political subdivisions, private industry and other public and private entities deemed vital to preparedness, public safety and security. The assessment shall include a review of emergency response plans, which include the variety of hazards, natural and man-made. The assessment shall be updated annually;

3. Submit to the Governor and to the General Assembly, no later than the first day of each regular session of the General Assembly, an annual executive summary and report on the status of emergency management response plans throughout the Commonwealth and other measures taken or recommended to prevent, respond to and recover from disasters, including acts of terrorism. This report shall be made available to the Division of Legislative Automated Systems for the processing of legislative documents and reports. Information submitted in accordance with the procedures set forth in subdivision 4 of § 2.2-3705.2 shall not be disclosed unless:

a. It is requested by law-enforcement authorities in furtherance of an official investigation or the prosecution of a criminal act;

b. The agency holding the record is served with a proper judicial order; or

c. The agency holding the record has obtained written consent to release the information from the State Department of Emergency Management;

4. Promulgate plans and programs that are conducive to adequate disaster mitigation preparedness, response and recovery programs;

5. Prepare and maintain a State Emergency Operations Plan for disaster response and recovery operations that assigns primary and support responsibilities for basic emergency services functions to state agencies, organizations and personnel as appropriate;

6. Coordinate and administer disaster mitigation, preparedness, response and recovery plans and programs with the proponent federal, state and local government agencies and related groups;

7. Provide guidance and assistance to state agencies and units of local government in developing and maintaining emergency management and continuity of operations (COOP) programs, plans and systems;

8. Make necessary recommendations to agencies of the federal, state, or local governments on preventive and preparedness measures designed to eliminate or reduce disasters and their impact;

9. Determine requirements of the Commonwealth and its political subdivisions for those necessities needed in the event of a declared emergency which are not otherwise readily available;

10. Assist state agencies and political subdivisions in establishing and operating training programs and programs of public information and education regarding emergency services and disaster preparedness activities;

11. Consult with the Board of Education regarding the development and revision of a model school crisis and emergency management plan for the purpose of assisting public schools in establishing, operating, and maintaining emergency services and disaster preparedness activities;

12. Consult with the State Council of Higher Education in the development and revision of a model

305 institutional crisis and emergency management plan for the purpose of assisting public and private
306 two-year and four-year institutions of higher education in establishing, operating, and maintaining
307 emergency services and disaster preparedness activities and, as needed, in developing an institutional
308 crisis and emergency management plan pursuant to § 23-9.2:9;

309 13. Develop standards, provide guidance and encourage the maintenance of local and state agency
310 emergency operations plans, which shall include the requirement for a provision that the Department of
311 Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund be contacted
312 immediately to deploy assistance in the event of an emergency as defined in the emergency response
313 plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and
314 the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those
315 individuals determined to be victims, and the plan shall also contain current contact information for both
316 agencies;

317 14. Prepare, maintain, coordinate or implement emergency resource management plans and programs
318 with federal, state and local government agencies and related groups, and make such surveys of
319 industries, resources, and facilities within the Commonwealth, both public and private, as are necessary
320 to carry out the purposes of this chapter;

321 15. Coordinate with the federal government and any public or private agency or entity in achieving
322 any purpose of this chapter and in implementing programs for disaster prevention, mitigation,
323 preparation, response, and recovery;

324 16. Establish guidelines pursuant to § 44-146.28, and administer payments to eligible applicants as
325 authorized by the Governor;

326 17. Coordinate and be responsible for the receipt, evaluation, and dissemination of emergency
327 services intelligence pertaining to all probable hazards affecting the Commonwealth;

328 18. Coordinate intelligence activities relating to terrorism with the Department of State Police; and

329 19. Develop an emergency response plan to address the needs of individuals with household pets and
330 service animals in the event of a disaster and assist and coordinate with local agencies in developing an
331 emergency response plan for household pets and service animals.

332 C. The State Department of Emergency Management shall during a period of impending emergency
333 or declared emergency be responsible for:

334 1. The receipt, evaluation, and dissemination of intelligence pertaining to an impending or actual
335 disaster;

336 2. Providing facilities from which state agencies and supporting organizations may conduct
337 emergency operations;

338 3. Providing an adequate communications and warning system capable of notifying all political
339 subdivisions in the Commonwealth of an impending disaster within a reasonable time;

340 4. Establishing and maintaining liaison with affected political subdivisions;

341 5. Determining requirements for disaster relief and recovery assistance;

342 6. Coordinating disaster response actions of federal, state and volunteer relief agencies;

343 7. Coordinating and providing guidance and assistance to affected political subdivisions to ensure
344 orderly and timely response to and recovery from disaster effects.

345 D. The State Department of Emergency Management shall be provided the necessary facilities and
346 equipment needed to perform its normal day-to-day activities and coordinate disaster-related activities of
347 the various federal, state, and other agencies during a state of emergency declaration by the Governor or
348 following a major disaster declaration by the President.

349 E. The State Department of Emergency Management is authorized to enter into all contracts and
350 agreements necessary or incidental to performance of any of its duties stated in this section or otherwise
351 assigned to it by law, including contracts with the United States, other states, agencies and government
352 subdivisions of the Commonwealth, and other appropriate public and private entities.

353 F. The State Department of Emergency Management shall encourage private industries whose goods
354 and services are deemed vital to the public good to provide annually updated preparedness assessments
355 to the local coordinator of emergency management on or before April 1 of each year, to facilitate
356 overall Commonwealth preparedness. For the purposes of this section, "private industry" means
357 companies, private hospitals, and other businesses or organizations deemed by the State Coordinator of
358 Emergency Management to be essential to the public safety and well-being of the citizens of the
359 Commonwealth.

360 G. *The State Department of Emergency Management shall establish a Coordinator of Search and*
361 *Rescue. Powers and duties of the Coordinator shall include:*

362 1. *Coordinating the search and rescue function of the State Department of Emergency Management;*

363 2. *Coordinating the activities of local, state, and federal agencies involved in search and rescue;*

364 3. *Coordinating the activities of search and rescue organizations involved in search and rescue;*

365 4. *Maintaining a register of search and rescue certifications, training, and responses;*

366 5. *Establishing a memorandum of understanding with the Virginia Search and Rescue Council and*

367 its respective member agencies regarding search and rescue efforts;
368 6. Providing on-scene search and rescue coordination when requested by an authorized person;
369 7. Providing specialized search and rescue training to police, fire-rescue, EMS, emergency managers,
370 volunteer search and rescue responders, and others who might have a duty to respond to a search and
371 rescue emergency;
372 8. Gathering and maintaining statistics on search and rescue in the Commonwealth;
373 9. Compiling, maintaining, and making available an inventory of search and rescue resources
374 available in the Commonwealth;
375 10. Periodically reviewing search and rescue cases and developing best professional practices; and
376 11. Providing an annual report to the Secretary of Public Safety and Homeland Security on the
377 current readiness of Virginia's search and rescue efforts.
378 Nothing in this chapter shall be construed as authorizing the State Department of Emergency
379 Management to take direct operational responsibilities from local, state, or federal law enforcement in
380 the course of search and rescue or missing person cases.