

16104219D

HOUSE BILL NO. 1330

Offered January 21, 2016

A *BILL to amend and reenact § 9.1-101, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to private police departments; successors in interest.*

Patron—Garrett

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-101, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 9.1-101. (Effective until July 1, 2018) Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible

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59 for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of
60 the Commonwealth, and shall include any (i) special agent of the Department of Alcoholic Beverage
61 Control; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine
62 Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of
63 the Department of Game and Inland Fisheries; (v) investigator who is a full-time sworn member of the
64 security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and
65 Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement
66 division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection
67 police officer employed under § 15.2-632; (ix) campus police officer appointed under Chapter 17
68 (§ 23-232 et seq.) of Title 23; or (x) private police officer employed by a private police department.
69 Part-time employees are those compensated officers who are not full-time employees as defined by the
70 employing police department, sheriff's office, or private police department.

71 "Private police department" means any police department, other than a department that employs
72 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
73 authorized by statute or an act of assembly to establish a private police department *or operated by such*
74 *entity's successor in interest, provided it complies with the requirements set forth herein.* No entity is
75 authorized to operate a private police department or represent that it is a private police department
76 unless such entity has been authorized by statute or an act of assembly *or such entity is the successor in*
77 *interest of an entity that has been authorized pursuant to this section, provided it complies with the*
78 *requirements set forth herein.* The authority of a private police department shall be limited to real
79 property owned, leased, or controlled by the entity and, if approved by the local chief of police or
80 sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction
81 vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609
82 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter
83 into a memorandum of understanding with the private police department that addresses the duties and
84 responsibilities of the private police department and the chief law-enforcement officer in the conduct of
85 criminal investigations. Private police departments and private police officers shall be subject to and
86 comply with the Constitution of the United States; the Constitution of Virginia; the laws governing
87 municipal police departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708,
88 15.2-1719, 15.2-1721, and 15.2-1722; and any regulations adopted by the Board that the Department
89 designates as applicable to private police departments. Any person employed as a private police officer
90 pursuant to this section shall meet all requirements, including the minimum compulsory training
91 requirements, for law-enforcement officers pursuant to this chapter. A private police officer is not
92 entitled to benefits under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement
93 System, is not a "qualified law enforcement officer" or "qualified retired law enforcement officer" within
94 the meaning of the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall
95 not be deemed an employee of the Commonwealth or any locality. An authorized private police
96 department may use the word "police" to describe its sworn officers and may join a regional criminal
97 justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any
98 private police department in existence on January 1, 2013, that was not otherwise established by statute
99 or an act of assembly and whose status as a private police department was recognized by the
100 Department at that time is hereby validated and may continue to operate as a private police department
101 *as may such entity's successor in interest, provided it complies with the requirements set forth herein.*

102 "School resource officer" means a certified law-enforcement officer hired by the local
103 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary
104 and secondary schools.

105 "School security officer" means an individual who is employed by the local school board for the
106 singular purpose of maintaining order and discipline, preventing crime, investigating violations of school
107 board policies, and detaining students violating the law or school board policies on school property or at
108 school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of
109 all students, faculty, staff, and visitors in the assigned school.

110 **§ 9.1-101. (Effective July 1, 2018) Definitions.**

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"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries; (v) investigator who is a full-time sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632; (ix) campus police officer appointed under Chapter 17 (§ 23-232 et seq.) of Title 23; or (x) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

"Private police department" means any police department, other than a department that employs police agents under the provisions of § 56-353, that employs private police officers operated by an entity authorized by statute or an act of assembly to establish a private police department *or such entity's successor in interest, provided it complies with the requirements set forth herein*. No entity is authorized to operate a private police department or represent that it is a private police department unless such entity has been authorized by statute or an act of assembly *or such entity is the successor in interest of an entity that has been authorized pursuant to this section, provided it complies with the requirements set forth herein*. The authority of a private police department shall be limited to real property owned, leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding with the private police department that addresses the duties and responsibilities of the

182 private police department and the chief law-enforcement officer in the conduct of criminal investigations.
183 Private police departments and private police officers shall be subject to and comply with the
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