

17104923D

SENATE BILL NO. 940

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on January 31, 2017)

(Patrons Prior to Substitute—Senators Cosgrove and Favola [SB 933])

A BILL to amend and reenact § 9.1-102 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 53.1-126.1, relating to mental health screening of prisoners at local correctional facilities.

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 a section numbered 53.1-126.1 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. [Repealed];

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 auxiliary police officers exempt pursuant to § 15.2-1731;

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

13. 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;

- 60 14. Establish and maintain police training programs through such agencies and institutions as the
61 Board deems appropriate;
- 62 15. Establish compulsory minimum qualifications of certification and recertification for instructors in
63 criminal justice training schools approved by the Department;
- 64 16. Conduct and stimulate research by public and private agencies which shall be designed to
65 improve police administration and law enforcement;
- 66 17. Make recommendations concerning any matter within its purview pursuant to this chapter;
- 67 18. Coordinate its activities with those of any interstate system for the exchange of criminal history
68 record information, nominate one or more of its members to serve upon the council or committee of any
69 such system, and participate when and as deemed appropriate in any such system's activities and
70 programs;
- 71 19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this
72 chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to
73 submit information, reports, and statistical data with respect to its policy and operation of information
74 systems or with respect to its collection, storage, dissemination, and usage of criminal history record
75 information and correctional status information, and such criminal justice agencies shall submit such
76 information, reports, and data as are reasonably required;
- 77 20. Conduct audits as required by § 9.1-131;
- 78 21. Conduct a continuing study and review of questions of individual privacy and confidentiality of
79 criminal history record information and correctional status information;
- 80 22. Advise criminal justice agencies and initiate educational programs for such agencies with respect
81 to matters of privacy, confidentiality, and security as they pertain to criminal history record information
82 and correctional status information;
- 83 23. Maintain a liaison with any board, commission, committee, or other body which may be
84 established by law, executive order, or resolution to regulate the privacy and security of information
85 collected by the Commonwealth or any political subdivision thereof;
- 86 24. Adopt regulations establishing guidelines and standards for the collection, storage, and
87 dissemination of criminal history record information and correctional status information, and the privacy,
88 confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and
89 court orders;
- 90 25. Operate a statewide criminal justice research center, which shall maintain an integrated criminal
91 justice information system, produce reports, provide technical assistance to state and local criminal
92 justice data system users, and provide analysis and interpretation of criminal justice statistical
93 information;
- 94 26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law
95 enforcement and the administration of criminal justice throughout the Commonwealth, and periodically
96 update that plan;
- 97 27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the
98 Commonwealth, and units of general local government, or combinations thereof, including planning
99 district commissions, in planning, developing, and administering programs, projects, comprehensive
100 plans, and other activities for improving law enforcement and the administration of criminal justice
101 throughout the Commonwealth, including allocating and subgranting funds for these purposes;
- 102 28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and
103 activities for the Commonwealth and units of general local government, or combinations thereof, in the
104 Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal
105 justice at every level throughout the Commonwealth;
- 106 29. Review and evaluate programs, projects, and activities, and recommend, where necessary,
107 revisions or alterations to such programs, projects, and activities for the purpose of improving law
108 enforcement and the administration of criminal justice;
- 109 30. Coordinate the activities and projects of the state departments, agencies, and boards of the
110 Commonwealth and of the units of general local government, or combination thereof, including planning
111 district commissions, relating to the preparation, adoption, administration, and implementation of
112 comprehensive plans to strengthen and improve law enforcement and the administration of criminal
113 justice;
- 114 31. Do all things necessary on behalf of the Commonwealth and its units of general local
115 government, to determine and secure benefits available under the Omnibus Crime Control and Safe
116 Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and
117 programs for strengthening and improving law enforcement, the administration of criminal justice, and
118 delinquency prevention and control;
- 119 32. Receive, administer, and expend all funds and other assistance available to the Board and the
120 Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe
121 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 and periodically update model policies for law-enforcement personnel in the following subjects:

a. 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 subsection A of § 9.1-1301;

b. Communication with and facilitation of the safe return of individuals diagnosed with Alzheimer's disease;

c. Sensitivity to and awareness of cultural diversity and the potential for biased policing;

d. Protocols for local and regional sexual assault response teams;

e. Communication of death notifications;

f. (Effective until July 1, 2018) The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Alcoholic Beverage Control Board;

f. (Effective July 1, 2018) The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Virginia Alcoholic Beverage Control Authority;

g. Vehicle patrol duties that embody current best practices for pursuits and for responding to emergency calls;

h. Criminal investigations that embody current best practices for conducting photographic and live lineups;

i. Sensitivity to and awareness of human trafficking offenses and the identification of victims of human trafficking offenses for personnel involved in criminal investigations or assigned to vehicle or street patrol duties; and

j. Missing children, missing adults, and search and rescue protocol;

38. 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;

39. 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;

40. 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;

41. 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

183 implementation of community policing programs statewide through discussion forums for community
184 policing leaders, development of law-enforcement instructors; promoting a statewide community policing
185 initiative; and serving as a statewide information source on the subject of community policing including,
186 but not limited to periodic newsletters, a website and an accessible lending library;

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

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

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

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

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

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

218 48. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and
219 attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human
220 trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;

221 49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of
222 § 46.2-117;

223 50. Administer the activities of the Virginia Sexual and Domestic Violence Program Professional
224 Standards Committee by providing technical assistance and administrative support, including staffing, for
225 the Committee;

226 51. (Effective July 1, 2017) In accordance with § 9.1-102.1, design and approve the issuance of
227 photo-identification cards to private security services registrants registered pursuant to Article 4
228 (§ 9.1-138 et seq.);

229 52. In consultation with the State Council of Higher Education for Virginia and the Virginia
230 Association of Campus Law Enforcement Administrators, develop multidisciplinary curricula on
231 trauma-informed sexual assault investigation; ~~and~~

232 53. *In consultation with the State Board of Corrections and the Department of Behavioral Health*
233 *and Developmental Services, (i) ensure that local and regional correctional facilities are aware of the*
234 *requirements of § 53.1-126.1 with regard to the standardized mental health screening instrument and (ii)*
235 *develop and deliver a training program for employees of such facilities in the administration of such*
236 *instrument; and*

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

239 **§ 53.1-126.1. Mental health screening of prisoners upon admission.**

240 A. As used in this section, "qualified mental health professional" means (i) a licensed physician,
241 osteopath, psychiatrist, or psychologist; (ii) a social worker who has at least one year of experience
242 providing direct services to individuals with mental illness; (iii) a registered nurse who has at least one
243 year of experience providing direct services to individuals with mental illness; (iv) a certified psychiatric
244 rehabilitation practitioner certified by the Psychiatric Rehabilitation Association; (v) a person with at

245 least a bachelor's degree from an accredited institution of higher education that includes the equivalent
246 of 15 semester hours of coursework in a human services field and who has at least three years of
247 experience providing direct services to individuals with mental illness; or (vi) any other licensed mental
248 health professional.

249 B. Whenever a person is admitted to a local correctional facility, the staff of the facility shall screen
250 such person for mental illness using a scientifically validated instrument. If the screening indicates that
251 the person may have a mental illness, an assessment of his need for mental health services shall be
252 conducted within 72 hours of the time of the screening by a qualified mental health professional. A
253 person who is transferred to a local correctional facility from another local correctional facility or a
254 state correctional facility is not required to be screened for mental illness if such person was screened
255 for mental illness at the transferring facility.

256 C. The Commissioner of Behavioral Health and Developmental Services shall designate the
257 instrument to be used for the screenings conducted pursuant to subsection B, and such instrument shall
258 be capable of being administered by an employee of the local correctional facility, other than a health
259 care provider, provided that such employee is trained in the administration of such instrument.