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HOUSE BILL NO. 2142

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Militia, Police and Public Safety
on January 25, 2019)

(Patron Prior to Substitute—Delegate Thomas)

A BILL to amend and reenact §§ 9.1-101 and 9.1-102 of the Code of Virginia, relating to school protection officers; minimum training standards; exemption.

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-101 and 9.1-102 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-101. 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 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

60 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement
61 division of the Department of Game and Inland Fisheries; (v) investigator who is a full-time sworn
62 member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of
63 Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the
64 enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii)
65 animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer
66 appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the
67 investigations unit designated by the State Inspector General pursuant to § 2.2-311 to investigate
68 allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee
69 with internal investigations authority designated by the Department of Corrections pursuant to
70 subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of
71 § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are
72 those compensated officers who are not full-time employees as defined by the employing police
73 department, sheriff's office, or private police department.

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

105 "School protection officer" means a retired law-enforcement officer hired on a part-time basis by the
106 local law-enforcement agency to provide limited law-enforcement and security services to Virginia
107 public elementary and secondary schools.

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

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

116 § 9.1-102. Powers and duties of the Board and the Department.

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

119 1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the
120 administration of this chapter including the authority to require the submission of reports and
121 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 institutions of higher education within 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;

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

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

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

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

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

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

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

21. Conduct a continuing study and review of questions of individual privacy and confidentiality of

183 criminal history record information and correctional status information;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

243 37. Establish training standards and publish and periodically update model policies for
244 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. 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 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;

42. 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 (VCSCS) 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 the standards and certification requirements in this subdivision. The Department shall require any school security officer who carries a firearm in the performance of his duties to provide proof that he has completed a training course provided by a federal, state, or local law-enforcement agency that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment;

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

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

45. 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.);

46. 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;

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

48. 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;

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

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

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

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

53. In consultation with the Department of Behavioral Health and Developmental Services, develop a model addiction recovery program that may be administered by sheriffs, deputy sheriffs, jail officers, administrators, or superintendents in any local or regional jail. Such program shall be based on any existing addiction recovery programs that are being administered by any local or regional jails in the Commonwealth. Participation in the model addiction recovery program shall be voluntary, and such program may address aspects of the recovery process, including medical and clinical recovery, peer-to-peer support, availability of mental health resources, family dynamics, and aftercare aspects of the recovery process; ~~and~~

54. *Establish compulsory minimum training standards for all persons employed as school protection officers. Such training may be provided by the employing law-enforcement agency and shall be graduated and based on the type of duties to be performed; and*

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