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HOUSE BILL NO. 5051

House Amendments in [] — September 3, 2020

A *BILL to amend and reenact § 15.2-1707 of the Code of Virginia, relating to decertification of law-enforcement officer.*

Patron Prior to Engrossment—Delegate Simon

Referred to Committee on Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-1707 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-1707. Decertification of law-enforcement officers.

A. The sheriff, chief of police, or agency administrator shall notify the Criminal Justice Services Board (*the Board*) in writing within 48 hours of becoming aware that any certified law-enforcement or jail officer currently employed by his agency has (i) been convicted of or pled guilty or no contest to a felony or any offense that would be a felony if committed in the Commonwealth; ; (ii) been convicted of or pled guilty or no contest to a Class 1 misdemeanor involving moral turpitude or any offense that would be any misdemeanor involving moral turpitude, including but not limited to petit larceny under § 18.2-96, or any offense involving moral turpitude that would be a misdemeanor if committed in the Commonwealth; ; (iii) been convicted of or pled guilty or no contest to any misdemeanor sex offense in the Commonwealth, another state, or the United States, including but not limited to sexual battery under § 18.2-67.4 or consensual sexual intercourse with a minor 15 *years of age* or older under clause (ii) of § 18.2-371; ; (iv) been convicted of or pled guilty or no contest to domestic assault under § 18.2-57.2 or any offense that would be domestic assault under the laws of another state or the United States; ; (v) failed to comply with or maintain compliance with mandated training requirements; ; or (vi) refused to submit to a drug screening or has produced a positive result on a drug screening reported to the employing agency, where the positive result cannot be explained to the agency administrator's satisfaction. ~~Notification shall also be provided~~

B. ~~The sheriff, chief of police, or agency administrator shall notify the Board in writing within 48 hours of becoming aware that any employee who resigned or was if any certified law-enforcement or jail officer currently employed by his agency (i) is terminated or resigns in advance of being convicted or found guilty of an offense set forth in subsection A that requires decertification or who resigned or was, (ii) is terminated or resigns in advance of a pending drug screening, (iii) is terminated for a violation of state or federal law, (iv) is terminated for a violation of the agency's policies and procedures, or (v) is terminated or resigns while such officer is the subject of a pending internal investigation [for conduct that could result in termination from the agency] .~~

C. The notification, where appropriate, shall be accompanied by a copy of the judgment of conviction.

D. Upon receiving such notice from the sheriff, chief of police, or agency administrator, or from an attorney for the Commonwealth, the Criminal Justice Services Board shall immediately decertify such law-enforcement or jail officer. Such officer shall not have the right to serve as a law-enforcement officer within the Commonwealth until his certification has been reinstated by the Board.

~~B.~~ E. When a conviction has not become final, the Board may decline to decertify the officer until the conviction becomes final, after considering the likelihood of irreparable damage to the officer if such officer is decertified during the pendency of an ultimately successful appeal, the likelihood of injury or damage to the public if the officer is not decertified, and the seriousness of the offense.

~~C.~~ F. The Department of Criminal Justice Services is hereby authorized to waive the requirements for decertification as set out in subsection A for good cause shown.

~~D.~~ G. The Criminal Justice Services Board ~~may~~ shall initiate decertification proceedings against any ~~current or former law-enforcement or jail officer whom if the Board has found to have been convicted of an offense that requires that any basis for the officer's decertification or who has failed to comply with or maintain compliance with mandated training requirements set forth in subsection A or B exists.~~

~~E.~~ H. Any conviction of a misdemeanor that has been appealed to a court of record shall not be considered a conviction for purposes of this section unless a final order of conviction is entered. [*Any finding of misconduct listed in subsection B will not be considered final until all grievances or appeals have been exhausted or waived and the finding of misconduct is made final.*]

I. The sheriff, chief of police, or agency administrator shall also notify the Board and the civilian review panel that has oversight authority over such agency, if such panel has been established, in writing if any certified law-enforcement or jail officer currently employed by his agency has received

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59 *three complaints of excessive use of force in the previous five years. Any recommendations made by the*
60 *civilian review panel concerning such complaints shall be forwarded to the Board.*