

20201293D

HOUSE BILL NO. 5109

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Locke
on October 2, 2020)

(Patron Prior to Substitute—Delegate Hope)

A BILL to amend and reenact §§ 9.1-102 and 15.2-1705 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 9.1-112.1, relating to the Department of Criminal Justice Services; law-enforcement officer training and qualifications.

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-102 and 15.2-1705 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 9.1-112.1 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 and correctional officers employed by the Department of Corrections under the provisions of Title 53.1. For correctional officers employed by the Department of Corrections, such standards shall include training on the general care of pregnant women, the impact of restraints on pregnant inmates and fetuses, the impact of being placed in restrictive housing or solitary confinement on pregnant inmates, and the impact of body cavity searches on pregnant inmates;

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,

60 for school operation for the specific purpose of training law-enforcement officers; but this shall not
61 prevent the holding of any such school whether approved or not;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

121 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 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 *systemic and individual racism*, cultural diversity, and the potential for ~~biased policing~~ *bias-based profiling as defined in § 52-30.1, which shall include recognizing implicit biases in interacting with persons who have a mental illness, substance use disorder, or developmental or cognitive disability*;

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 (i) sensitivity to and awareness of *systemic and individual racism*, cultural diversity, and the potential for ~~biased policing~~ *bias-based profiling as defined in § 52-30.1, which shall include recognizing implicit biases in interacting with persons who have a mental illness, substance use disorder, or developmental or cognitive disability*; (ii) training in de-escalation techniques; and (iii) training in the lawful use of force, including the use of deadly force only when necessary to protect the law-enforcement officer or another person;

39. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards ~~which~~ *that* strengthen and improve such programs, including sensitivity to and awareness of *systemic and individual racism*, cultural diversity, and the potential for ~~biased policing~~ *bias-based profiling as defined in § 52-30.1, which shall include recognizing implicit biases in interacting with persons who have a mental illness, substance use disorder, or developmental or cognitive disability*;

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

183 procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia
184 accreditation status;

185 41. Promote community policing philosophy and practice throughout the Commonwealth by
186 providing community policing training and technical assistance statewide to all law-enforcement
187 agencies, community groups, public and private organizations and citizens; developing and distributing
188 innovative policing curricula and training tools on general community policing philosophy and practice
189 and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia
190 organizations with specific community policing needs; facilitating continued development and
191 implementation of community policing programs statewide through discussion forums for community
192 policing leaders, development of law-enforcement instructors; promoting a statewide community policing
193 initiative; and serving as a statewide information source on the subject of community policing including,
194 but not limited to periodic newsletters, a website and an accessible lending library;

195 42. Establish, in consultation with the Department of Education and the Virginia State Crime
196 Commission, compulsory minimum standards for employment and job-entry and in-service training
197 curricula and certification requirements for school security officers, including school security officers
198 described in clause (b) of § 22.1-280.2:1, which training and certification shall be administered by the
199 Virginia Center for School and Campus Safety (VCSCS) pursuant to § 9.1-184. Such training standards
200 shall be specific to the role and responsibility of school security officers and shall include (i) relevant
201 state and federal laws; (ii) school and personal liability issues; (iii) security awareness in the school
202 environment; (iv) mediation and conflict resolution, including de-escalation techniques such as a physical
203 alternative to restraint; (v) disaster and emergency response; (vi) awareness of *systemic and individual*
204 *racism*, cultural diversity, and implicit bias; (vii) working with students with disabilities, mental health
205 needs, substance ~~abuse~~ use disorders, and past traumatic experiences; and (viii) student behavioral
206 dynamics, including child and adolescent development and brain research. The Department shall
207 establish an advisory committee consisting of local school board representatives, principals,
208 superintendents, and school security personnel to assist in the development of the standards and
209 certification requirements in this subdivision. The Department shall require any school security officer
210 who carries a firearm in the performance of his duties to provide proof that he has completed a training
211 course provided by a federal, state, or local law-enforcement agency that includes training in active
212 shooter emergency response, emergency evacuation procedure, and threat assessment;

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

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

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

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

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

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

237 49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of
238 § 46.2-117;

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

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

244 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;

54. Establish compulsory minimum training standards for certification and recertification of law-enforcement officers serving as school resource officers. Such training shall be specific to the role and responsibility of a law-enforcement officer working with students in a school environment and shall include (i) relevant state and federal laws; (ii) school and personal liability issues; (iii) security awareness in the school environment; (iv) mediation and conflict resolution, including de-escalation techniques; (v) disaster and emergency response; (vi) awareness of *systemic and individual racism*, cultural diversity, and implicit bias; (vii) working with students with disabilities, mental health needs, substance ~~abuse~~ *use* disorders, or past traumatic experiences; and (viii) student behavioral dynamics, including current child and adolescent development and brain research;

55. Establish a model policy for the operation of body-worn camera systems as defined in § 15.2-1723.1 that also addresses the storage and maintenance of body-worn camera system records;

56. Establish compulsory minimum training standards for detector canine handlers employed by the Department of Corrections, standards for the training and retention of detector canines used by the Department of Corrections, and a central database on the performance and effectiveness of such detector canines that requires the Department of Corrections to submit comprehensive information on each canine handler and detector canine, including the number and types of calls and searches, substances searched for and whether or not detected, and the number of false positives, false negatives, true positives, and true negatives;

57. Establish compulsory training standards for basic training of law-enforcement officers for recognizing and managing stress, self-care techniques, and resiliency; ~~and~~

58. *Establish requirements for compulsory mental health examinations for law-enforcement officers, deputy sheriffs and jail officers, and correctional officers that include guidelines for the implementation of such mental health examinations;*

59. *Establish compulsory in-service training standards for law-enforcement officers in the following subjects: (i) relevant state and federal laws; (ii) awareness of cultural diversity and the potential for bias-based profiling as defined in § 52-30.1; (iii) de-escalation techniques; (iv) working with individuals with disabilities, mental health needs, or substance use disorders; and (v) the lawful use of force, including the use of deadly force only when necessary to protect the law-enforcement officer or another person;*

60. *Develop a uniform curriculum and lesson plans for the compulsory minimum entry-level, in-service, and advanced training standards to be employed by criminal justice training academies approved by the Department when conducting training; and*

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

§ 9.1-112.1. Criminal justice training academies; curriculum.

A. Any criminal justice training academy approved by the Department shall employ the uniform curriculum and lesson plans developed by the Department pursuant to § 9.1-102 for all training offered at the academy intended to meet the compulsory minimum entry-level, in-service, and advanced training standards established by the Board pursuant to § 9.1-102. No credit shall be given toward the completion of the compulsory minimum training standards for any training that does not employ the uniform curriculum and lesson plans.

B. In addition to any audits or inspections conducted by the Department, the Department shall conduct an annual evaluation of each criminal justice training academy's compliance with the uniform curriculum and lesson plans. If the Department determines that a criminal justice training academy is deficient in employing the uniform curriculum and lesson plans, the Department shall provide assistance to the academy to ensure the academy's compliance and may take whatever enforcement action the Department deems appropriate, including revocation of the Department's approval of the academy.

C. Any approved criminal justice training academy may petition the Department for a waiver exempting compliance with any uniform curriculum and lesson plans requirement pursuant to § 9.1-102. Upon showing that an alternative curriculum and lesson plans developed by the petitioning criminal justice training academy meet and exceed the compulsory minimum training standards required by

§ 9.1-102, and substantially complies with the content of the uniform curriculum and lesson plans, then the Department shall issue a waiver for the use of the alternative curriculum and lesson plans. The Department shall conduct an evaluation of each criminal justice training academy's use of an alternative curriculum and lesson plans every third year during the criminal justice training academy's recertification to ensure compliance with the uniform curriculum and lesson plans content. If the Department determines that the criminal justice training academy is in substantial compliance with the uniform curriculum and lesson plans, the waiver shall be extended for three years. Any waiver issued to a criminal justice training academy may be revoked by the Department at any time if the Department determines that the criminal justice training academy is not in substantial compliance with the uniform curriculum and lesson plans.

§ 15.2-1705. Minimum qualifications; waiver.

A. The chief of police and all police officers of any locality, all deputy sheriffs and jail officers in this the Commonwealth, and all law-enforcement officers as defined in § 9.1-101 who enter upon the duties of such office after July 1, 1994, are required to meet the following minimum qualifications for office. Such person shall (i) be a citizen of the United States; (ii) be required to undergo a background investigation including fingerprint-based criminal history records inquiries to both the Central Criminal Records Exchange and the Federal Bureau of Investigation; (iii) have a high school education or have passed a high school equivalency examination approved by the Board of Education; (iv) possess a valid driver's license if required by the duties of office to operate a motor vehicle; (v) undergo a physical examination, subsequent to a conditional offer of employment, conducted under the supervision of a licensed physician; (vi) be at least ~~eighteen~~ 18 years of age; (vii) not have 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; ~~and~~; (viii) not have produced a positive result on a pre-employment drug screening, if such screening is required by the hiring law-enforcement agency or jail, where the positive result cannot be explained to the law-enforcement agency or jail administrator's satisfaction; *and (ix) undergo a psychological examination, subsequent to a conditional offer of employment, conducted under the supervision of a licensed psychologist or other licensed mental health professional.* In addition, all such officers who enter upon the duties of such office on or after July 1, 2013, shall not have been convicted of or pled guilty or no contest to (a) 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, (b) 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 or older under clause (ii) of § 18.2-371, or (c) 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.

B. Upon request of a sheriff or chief of police, or the director or chief executive of any agency or department employing law-enforcement officers as defined in § 9.1-101, or jail officers as defined in § 53.1-1, the Department of Criminal Justice Services is hereby authorized to waive the requirements for qualification as set out in subsection A ~~of this section~~ for good cause shown.