

20101768D

HOUSE BILL NO. 845

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact § 9.1-101 of the Code of Virginia, relating to definition of law-enforcement officer; certain employees of the Washington Metropolitan Area Transit Authority.

Patrons—Krizek and Lopez

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:**1. That § 9.1-101 of the Code of Virginia is 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

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 Virginia Alcoholic Beverage Control
61 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia
62 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement
63 division of the Department of Game and Inland Fisheries; (v) investigator who is a sworn member of
64 the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation
65 and 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 or 15.2-836.1; (ix) campus police officer appointed under
68 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit
69 designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal
70 behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations
71 authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the
72 Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; ~~or~~ (xii) private police officer
73 employed by a private police department; *or (xiii) special agent employed by the Washington*
74 *Metropolitan Area Transit Authority Office of the Inspector General.* Part-time employees are those
75 compensated officers who are not full-time employees as defined by the employing police department,
76 sheriff's office, or private police department.

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

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 or a private
112 or religious school for the singular purpose of maintaining order and discipline, preventing crime,
113 investigating violations of the policies of the school board or the private or religious school, and
114 detaining students violating the law or the policies of the school board or the private or religious school
115 on school property, school buses, or at school-sponsored events and who is responsible solely for
116 ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned
117 school.

118 "Unapplied criminal history record information" means information pertaining to criminal offenses
119 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history
120 record of an arrested or convicted person (i) because such information is not supported by fingerprints

121 or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission
122 within the content of the submitted information.