

22103404D

HOUSE BILL NO. 8

Offered January 12, 2022

Prefiled December 17, 2021

A BILL to amend and reenact §§ 9.1-101, as it is currently effective and as it shall become effective, and 22.1-280.2:1 of the Code of Virginia, relating to school security officers; scope of employment; certain veterans.

Patrons—Anderson, Avoli, Ballard, Campbell, R.R., Cherry, Cordoza, Freitas, Runion, Scott, P.A., Tata, Webert and Williams

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-101, as it is currently effective and as it shall become effective, and 22.1-280.2:1 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-101. (For contingent expiration date, see Acts 2021, Sp. Sess. I, cc. 524 and 542) 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 Criminal Sentencing Commission.

"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

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58 means. The term shall not include access to the information by officers or employees of a criminal
59 justice agency maintaining the information who have both a need and right to know the information.

60 "Law-enforcement officer" means any full-time or part-time employee of a police department or
61 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
62 thereof, or any full-time or part-time employee of a private police department, and who is responsible
63 for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of
64 the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
65 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia
66 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement
67 division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the
68 security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and
69 Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement
70 division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection
71 police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under
72 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit
73 designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal
74 behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations
75 authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by
76 the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer
77 employed by a private police department. Part-time employees are those compensated officers who are
78 not full-time employees as defined by the employing police department, sheriff's office, or private police
79 department.

80 "Private police department" means any police department, other than a department that employs
81 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
82 authorized by statute or an act of assembly to establish a private police department or such entity's
83 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
84 to operate a private police department or represent that it is a private police department unless such
85 entity has been authorized by statute or an act of assembly or such entity is the successor in interest of
86 an entity that has been authorized pursuant to this section, provided it complies with the requirements
87 set forth herein. The authority of a private police department shall be limited to real property owned,
88 leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous
89 property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the
90 local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The
91 chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum
92 of understanding with the private police department that addresses the duties and responsibilities of the
93 private police department and the chief law-enforcement officer in the conduct of criminal investigations.
94 Private police departments and private police officers shall be subject to and comply with the
95 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police
96 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721,
97 15.2-1721.1, and 15.2-1722; and any regulations adopted by the Board that the Department designates as
98 applicable to private police departments. Any person employed as a private police officer pursuant to
99 this section shall meet all requirements, including the minimum compulsory training requirements, for
100 law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits
101 under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a
102 "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of
103 the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an
104 employee of the Commonwealth or any locality. An authorized private police department may use the
105 word "police" to describe its sworn officers and may join a regional criminal justice academy created
106 pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in
107 existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and
108 whose status as a private police department was recognized by the Department at that time is hereby
109 validated and may continue to operate as a private police department as may such entity's successor in
110 interest, provided it complies with the requirements set forth herein.

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

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

school and carrying out any other duty assigned to him by the local school board.

"Unapplied criminal history record information" means information pertaining to criminal offenses submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history record of an arrested or convicted person (i) because such information is not supported by fingerprints or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission within the content of the submitted information.

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"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 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement

181 division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection
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183 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit
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185 behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations
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187 Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer
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189 not full-time employees as defined by the employing police department, sheriff's office, or private police
190 department.

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192 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
193 authorized by statute or an act of assembly to establish a private police department or such entity's
194 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
195 to operate a private police department or represent that it is a private police department unless such
196 entity has been authorized by statute or an act of assembly or such entity is the successor in interest of
197 an entity that has been authorized pursuant to this section, provided it complies with the requirements
198 set forth herein. The authority of a private police department shall be limited to real property owned,
199 leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous
200 property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the
201 local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The
202 chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum
203 of understanding with the private police department that addresses the duties and responsibilities of the
204 private police department and the chief law-enforcement officer in the conduct of criminal investigations.
205 Private police departments and private police officers shall be subject to and comply with the
206 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police
207 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721,
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213 "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of
214 the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an
215 employee of the Commonwealth or any locality. An authorized private police department may use the
216 word "police" to describe its sworn officers and may join a regional criminal justice academy created
217 pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department
218 in existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and
219 whose status as a private police department was recognized by the Department at that time is hereby
220 validated and may continue to operate as a private police department as may such entity's successor in
221 interest, provided it complies with the requirements set forth herein.

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223 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary
224 and secondary schools.

225 "School security officer" means an individual who is employed by the local school board or a private
226 or religious school for the ~~singular~~ purpose of maintaining order and discipline, preventing crime,
227 investigating violations of the policies of the school board or the private or religious school, and
228 detaining students violating the law or the policies of the school board or the private or religious school
229 on school property, school buses, or at school-sponsored events and who is responsible ~~solely~~ for
230 ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned
231 school *and carrying out any other duty assigned to him by the local school board.*

232 "Sealing" means (i) restricting dissemination of criminal history record information contained in the
233 Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction, in
234 accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations
235 adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting
236 dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is
237 authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.

238 "Unapplied criminal history record information" means information pertaining to criminal offenses
239 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history
240 record of an arrested or convicted person (i) because such information is not supported by fingerprints
241 or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission
242 within the content of the submitted information.

§ 22.1-280.2:1. Employment of school security officers.

Local school boards and private or religious schools may employ school security officers, as defined in § 9.1-101, for the purposes set forth therein. ~~Such~~ *Any local school board or private or religious school may employ as a school security officer, as defined in § 9.1-101, any veteran who has served a minimum of 10 years as an active duty member in the Armed Forces of the United States, received an honorable discharge or general discharge under honorable conditions from such service, and meets the minimum certification and training requirements established by the Department of Criminal Justice Services pursuant to subdivision 42 of § 9.1-102. Any school security officer, as defined in § 9.1-101,* may carry a firearm in the performance of his duties if (i) within 10 years immediately prior to being hired by the local school board or private or religious school he (a) was an active law-enforcement officer as defined in § 9.1-101 in the Commonwealth or (b) was employed by a law-enforcement agency of the United States or any state or political subdivision thereof and his duties were substantially similar to those of a law-enforcement officer as defined in § 9.1-101; (ii) he retired or resigned from his position as a law-enforcement officer in good standing; (iii) he meets the training and qualifications described in subsection C of § 18.2-308.016; (iv) he has provided proof of completion of a training course that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment to the Department of Criminal Justice Services pursuant to subdivision 42 of § 9.1-102, provided that if he received such training from a local law-enforcement agency he received the training in the locality in which he is employed; (v) the local school board or private or religious school solicits input from the chief law-enforcement officer of the locality regarding the qualifications of the school security officer and receives verification from such chief law-enforcement officer that the school security officer is not prohibited by state or federal law from possessing, purchasing, or transporting a firearm; and (vi) the local school board or private or religious school grants him the authority to carry a firearm in the performance of his duties.