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HOUSE BILL NO. 1452

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on February 3, 2023)

(Patron Prior to Substitute—Delegate Orrock)

A BILL to amend and reenact § 9.1-101, as it is currently effective and as it may become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-320.1, relating to appointment of sworn unit investigators to Medicaid Fraud Control Unit.

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-101, as it is currently effective and as it may become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-320.1 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 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

60 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
61 thereof, or any full-time or part-time employee of a private police department, and who is responsible
62 for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of
63 the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
64 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia
65 Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement
66 division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the
67 security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and
68 Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement
69 division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection
70 police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under
71 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit
72 designated by the State Inspector General pursuant to § 2.2-311 to investigate allegations of criminal
73 behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations
74 authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the
75 Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; ~~or~~ (xii) private police officer
76 employed by a private police department; *or (xiii) person designated as a sworn unit investigator by the*
77 *Attorney General pursuant to subsection A of § 32.1-320.1.* Part-time employees are those compensated
78 officers who are not full-time employees as defined by the employing police department, sheriff's office,
79 or private police 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
120 school.

121 "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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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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187 Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; ~~or~~ (xii) private police officer
188 employed by a private police department; *or (xiii) person designated as a sworn unit investigator by the*
189 *Attorney General pursuant to subsection A of § 32.1-320.1.* Part-time employees are those compensated
190 officers who are not full-time employees as defined by the employing police department, sheriff's office,
191 or private police department.

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193 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
194 authorized by statute or an act of assembly to establish a private police department or such entity's
195 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
196 to operate a private police department or represent that it is a private police department unless such
197 entity has been authorized by statute or an act of assembly or such entity is the successor in interest of
198 an entity that has been authorized pursuant to this section, provided it complies with the requirements
199 set forth herein. The authority of a private police department shall be limited to real property owned,
200 leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous
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202 local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The
203 chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum
204 of understanding with the private police department that addresses the duties and responsibilities of the
205 private police department and the chief law-enforcement officer in the conduct of criminal investigations.
206 Private police departments and private police officers shall be subject to and comply with the
207 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police
208 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 under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a
214 "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of
215 the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an
216 employee of the Commonwealth or any locality. An authorized private police department may use the
217 word "police" to describe its sworn officers and may join a regional criminal justice academy created
218 pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in
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224 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary
225 and secondary schools.

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227 or religious school for the singular purpose of maintaining order and discipline, preventing crime,
228 investigating violations of the policies of the school board or the private or religious school, and
229 detaining students violating the law or the policies of the school board or the private or religious school
230 on school property, school buses, or at school-sponsored events and who is responsible solely for
231 ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned
232 school.

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

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

244 **§ 32.1-320.1. Powers and duties of sworn unit investigators.**

245 A. The Attorney General may designate up to 30 persons in the unit established under § 32.1-320 as
246 sworn unit investigators. Any individual designated as a sworn unit investigator shall be sworn only to
247 enforce the provisions of this article. Sworn unit investigators shall be designated as law-enforcement
248 officers as defined in § 9.1-101.
249 B. All sworn unit investigators shall remain subject to the federal requirements authorizing State
250 Medicaid Fraud Control Units pursuant to 42 C.F.R. Part 1007.