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HOUSE BILL NO. 2144

Offered January 11, 2023

Prefiled January 10, 2023

A *BILL to amend and reenact § 15.2-1705 of the Code of Virginia, relating to minimum qualifications for law-enforcement officers; citizenship; waiver.*

Patrons—Guzman, Clark, Helmer, Hope, Shin, Simon and Torian

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-1705 of the Code of Virginia is amended and reenacted as follows:

§ 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 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) (a) be a citizen of the United States, (b) be a person lawfully admitted for permanent residence as defined by 8 U.S.C. § 1101(a)(20) who is eligible for United States citizenship, or (c) be a person granted Deferred Action for Childhood Arrivals by U.S. Citizenship and Immigration Services; (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 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. 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 years of age 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. In addition, if the police officer, deputy sheriff, or jail officer had been employed at any time by another law-enforcement agency or jail, the hiring law-enforcement agency or jail shall request from all prior employing law-enforcement agencies or jails any information (i) related to an arrest or prosecution of a former police officer, deputy sheriff, or jail officer, including any expunged arrest or criminal charge known to the agency or disclosed during the hiring process that would otherwise be prohibited from disclosure in accordance with § 19.2-392.4; (ii) related to a civil suit regarding a former police officer's, deputy sheriff's, or jail officer's employment or performance of his duties; (iii) obtained during the course of any internal investigation related to a former police officer's, deputy sheriff's, or jail officer's alleged criminal conduct, use of excessive force, or other official misconduct in violation of the state professional standards of conduct adopted by the Criminal Justice Services Board; and (iv) related to a former police officer, deputy sheriff, or jail officer's job performance that led to such officer's or deputy sheriff's resignation, dismissal, demotion, suspension, or transfer. The hiring agency or jail may request this information subsequent to a conditional offer of employment; however, no police officer, deputy sheriff, or jail officer may be employed in such position until the requested information is received from all prior employing law-enforcement agencies in the Commonwealth. The hiring agency or jail shall request that the police officer, deputy sheriff, or jail officer complete a waiver or release liability authorizing the hiring agency or jail to request such information as listed in this subsection from all prior employing law-enforcement agencies or jails, including law-enforcement agencies or jails located outside the Commonwealth. Any sheriff or chief of police in the Commonwealth, any director or chief executive of any law-enforcement agency or jail in the Commonwealth, and the Director of the Department of Criminal Justice Services or his designee who receives such request for information shall disclose such requested information within 14 days of receiving such request to the requesting hiring

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59 law-enforcement agency or jail.

60 C. In addition, the hiring law-enforcement agency or jail may require a candidate for employment to
61 undergo a psychological examination, subsequent to a conditional offer of employment, conducted under
62 the supervision of a licensed psychiatrist or a licensed clinical psychologist.

63 D. ~~Upon request of a sheriff or chief of police, or the director or chief executive of~~ Pursuant to 8
64 ~~U.S.C. § 1324b~~, any agency or department employing law-enforcement officers as defined in § 9.1-101
65 or jail officers as defined in § 53.1-1, the Department of Criminal Justice Services is hereby authorized
66 to waive the requirements for qualification as set out in is authorized to hire, recruit, or refer an
67 individual who is a citizen of the United States over another individual who meets the qualifications of
68 clause (i) (b) of subsection A for good cause shown if such individuals are equally qualified.