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**SENATE BILL NO. 826**

Senate Amendments in [ ] - February 6, 2023

Prefiled December 21, 2022

*A BILL to amend and reenact §§ 2.2-2905, 2.2-3706, 2.2-3802, 9.1-161, 9.1-601, 23.1-809, 23.1-812, 23.1-815, 59.1-148.3, 65.2-107, 65.2-402, 65.2-402.1, and 85.2-1721.1 of the Code of Virginia, relating to institutions of higher education; campus safety; authority to employ campus police officers.*

Patrons Prior to Engrossment—Senators Bell and Hashmi; Delegate: Kory

Referred to Committee on Education and Health

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2905, 2.2-3706, 2.2-3802, 9.1-161, 9.1-601, 23.1-809, 23.1-812, 23.1-815, 59.1-148.3, 65.2-107, 65.2-402, 65.2-402.1, and 85.2-1721.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-2905. Certain officers and employees exempt from chapter.**

The provisions of this chapter shall not apply to:

1. Officers and employees for whom the Constitution specifically directs the manner of selection;
2. Officers and employees of the Supreme Court and the Court of Appeals;
3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not;
4. Officers elected by popular vote or by the General Assembly or either house thereof;
5. Members of boards and commissions however selected;
6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries public;
7. Officers and employees of the General Assembly and persons employed to conduct temporary or special inquiries, investigations, or examinations on its behalf;
8. The presidents and teaching and research staffs of state educational institutions;
9. Commissioned officers and enlisted personnel of the National Guard;
10. Student employees at institutions of higher education and patient or inmate help in other state institutions;
11. Upon general or special authorization of the Governor, laborers, temporary employees, and employees compensated on an hourly or daily basis;
12. County, city, town, and district officers, deputies, assistants, and employees;
13. The employees of the Virginia Workers' Compensation Commission;
14. The officers and employees of the Virginia Retirement System;
15. Employees whose positions are identified by the State Council of Higher Education and the boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The Library of Virginia, and approved by the Director of the Department of Human Resource Management as requiring specialized and professional training;
16. Employees of the Virginia Lottery;
17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing and service industries who have a human resources classification of industry worker;
18. Employees of the Virginia Commonwealth University Health System Authority;
19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy or administration. An employee serving in either one of these two positions shall be deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;
21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the

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59 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);

60 22. Officers and employees of the Virginia Port Authority;

61 23. Employees of the Virginia College Savings Plan;

62 24. Directors of state facilities operated by the Department of Behavioral Health and Developmental  
63 Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to  
64 § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure  
65 (§ 2.2-3000 et seq.);

66 25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as  
67 state employees for purposes of participation in the Virginia Retirement System, health insurance, and  
68 all other employee benefits offered by the Commonwealth to its classified employees;

69 26. Employees of the Virginia Indigent Defense Commission;

70 27. Any chief of a campus police department that has been designated by the governing body of a  
71 public institution of higher education *or Board of Visitors of the Virginia School for the Deaf and the*  
72 *Blind* as exempt, pursuant to § 23.1-809;

73 28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage  
74 Control Authority; and

75 29. Officers and employees of the Fort Monroe Authority.

76 **§ 2.2-3706. Disclosure of law-enforcement and criminal records; limitations.**

77 A. Records required to be released. All public bodies engaged in criminal law-enforcement activities  
78 shall provide the following records when requested in accordance with the provisions of this chapter:

79 1. Adult arrestee photographs taken during the initial intake following the arrest and as part of the  
80 routine booking procedure, except when necessary to avoid jeopardizing an investigation in felony cases  
81 until such time as the release of the photograph will no longer jeopardize the investigation;

82 2. Information relative to the identity of any individual, other than a juvenile, who is arrested and  
83 charged, and the status of the charge or arrest; and

84 3. Records of completed unattended death investigations to the parent or spouse of the decedent or, if  
85 there is no living parent or spouse, to the most immediate family member of the decedent, provided the  
86 person is not a person of interest or a suspect. For the purposes of this subdivision, "unattended death"  
87 means a death determined to be a suicide, accidental or natural death where no criminal charges will be  
88 initiated, and "immediate family" means the decedent's personal representative or, if no personal  
89 representative has qualified, the decedent's next of kin in order of intestate succession as set forth in  
90 § 64.2-200.

91 B. Discretionary releases. The following records are excluded from the mandatory disclosure  
92 provisions of this chapter, but may be disclosed by the custodian, in his discretion, except where such  
93 disclosure is prohibited by law:

94 1. Criminal investigative files, defined as any documents and information, including complaints, court  
95 orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and  
96 evidence, relating to a criminal investigation or prosecution not required to be disclosed in accordance  
97 with § 2.2-3706.1;

98 2. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators  
99 authorized pursuant to Chapter 3.2 (§ 2.2-307 et seq.), and (iii) campus police departments of public  
100 institutions of higher education *or the Virginia School for the Deaf and the Blind* established pursuant to  
101 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1;

102 3. Records of local law-enforcement agencies relating to neighborhood watch programs that include  
103 the names, addresses, and operating schedules of individual participants in the program that are provided  
104 to such agencies under a promise of anonymity;

105 4. All records of persons imprisoned in penal institutions in the Commonwealth provided such  
106 records relate to the imprisonment;

107 5. Records of law-enforcement agencies, to the extent that such records contain specific tactical  
108 plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or  
109 the general public;

110 6. All records of adult persons under (i) investigation or supervision by a local pretrial services  
111 agency in accordance with Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2; (ii) investigation,  
112 probation supervision, or monitoring by a local community-based probation services agency in  
113 accordance with Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1; or (iii) investigation or  
114 supervision by state probation and parole services in accordance with Article 2 (§ 53.1-141 et seq.) of  
115 Chapter 4 of Title 53.1;

116 7. Records of a law-enforcement agency to the extent that they disclose the telephone numbers for  
117 cellular telephones, pagers, or comparable portable communication devices provided to its personnel for  
118 use in the performance of their official duties;

119 8. Those portions of any records containing information related to undercover operations or  
120 protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations

or protective details. Nothing in this subdivision shall operate to allow the withholding of information concerning the overall costs or expenses associated with undercover operations or protective details;

9. Records of (i) background investigations of applicants for law-enforcement agency employment, (ii) administrative investigations relating to allegations of wrongdoing by employees of a law-enforcement agency, and (iii) other administrative investigations conducted by law-enforcement agencies that are made confidential by law;

10. The identity of any victim, witness, or undercover officer, or investigative techniques or procedures. However, the identity of any victim or witness shall be withheld if disclosure is prohibited or restricted under § 19.2-11.2; and

11. Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including information obtained from state, local, and regional officials, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913.

C. Prohibited releases. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity shall not be disclosed.

D. Noncriminal records. Public bodies (i) engaged in emergency medical services, (ii) engaged in fire protection services, (iii) engaged in criminal law-enforcement activities, or (iv) engaged in processing calls for service or other communications to an emergency 911 system or any other equivalent reporting system may withhold those portions of noncriminal incident or other noncriminal investigative reports or materials that contain identifying information of a personal, medical, or financial nature where the release of such information would jeopardize the safety or privacy of any person. Access to personnel records of persons employed by a law-enforcement agency shall be governed by the provisions of subdivision B 9 of this section and subdivision 1 of § 2.2-3705.1, as applicable.

E. Records of any call for service or other communication to an emergency 911 system or communicated with any other equivalent reporting system shall be subject to the provisions of this chapter.

F. Conflict resolution. In the event of conflict between this section as it relates to requests made under this section and other provisions of law, this section shall control.

**§ 2.2-3802. Systems to which chapter inapplicable.**

The provisions of this chapter shall not apply to personal information systems:

1. Maintained by any court of the Commonwealth;
2. Which may exist in publications of general circulation;
3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913;
4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-225;

5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to engage in the practice of any profession, in which case the names and addresses of persons applying for or possessing the license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing the licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided the disseminating agency is reasonably assured that the use of the information will be so limited;

6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, the Virginia Racing Commission, the Virginia Criminal Sentencing Commission, and the Virginia Alcoholic Beverage Control Authority;

7. Maintained by any of the following and that deal with investigations and intelligence gathering related to criminal activity:

- a. The Department of State Police;
- b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;
- c. Police departments of cities, counties, and towns;
- d. Sheriff's departments of counties and cities;
- e. Campus police departments of public institutions of higher education *or the Virginia School for the Deaf and the Blind* as established by Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
- f. The Division of Capitol Police.

8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect while such cases are also subject to an ongoing criminal prosecution;

9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;

10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion

of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting information on those subjects may be disseminated upon written request to a person engaged in the business of providing travel services or distributing travel information, provided the Virginia Tourism Authority is reasonably assured that the use of the information will be so limited;

11. Maintained by the Division of Consolidated Laboratory Services of the Department of General Services and the Department of Forensic Science, which deal with scientific investigations relating to criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;

12. Maintained by the Department of Corrections or the Office of the State Inspector General that deal with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2 (§ 2.2-307 et seq.);

13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state agencies or institutions that deal with communications and investigations relating to the Fraud, Waste and Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town or a school board that deals with local investigations required by § 15.2-2511.2;

14. Maintained by the Department of Social Services or any local department of social services relating to public assistance fraud investigations;

15. Maintained by the Department of Social Services related to child welfare or public assistance programs when requests for personal information are made to the Department of Social Services. Requests for information from these systems shall be made to the appropriate local department of social services that is the custodian of that record. Notwithstanding the language in this section, an individual shall not be prohibited from obtaining information from the central registry in accordance with the provisions of § 63.2-1515; and

16. Maintained by the Department for Aging and Rehabilitative Services related to adult services, adult protective services, or auxiliary grants when requests for personal information are made to the Department for Aging and Rehabilitative Services. Requests for information from these systems shall be made to the appropriate local department of social services that is the custodian of that record.

#### **§ 9.1-161. Crime prevention specialists; duties.**

The Board shall adopt regulations establishing minimum standards for certification of crime prevention specialists. Such regulations shall require that the chief law-enforcement officer of the locality or the campus police departments of institutions of higher education *or the Virginia School for the Deaf and the Blind* established by Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 wherein the person serves shall approve the certification before a candidate for certification may serve as a crime prevention specialist. A crime prevention specialist shall have the duty to:

1. Provide citizens living within his jurisdiction information concerning personal safety and the security of property, and other matters relating to the reduction of criminal opportunity;

2. Provide business establishments within his jurisdiction information concerning business and employee security, and other matters relating to reduction of criminal activity;

3. Provide citizens and businesses within his jurisdiction assistance in forming and maintaining neighborhood and business watch groups and other community-based crime prevention programs;

4. Provide assistance to other units of government within his jurisdiction in developing plans and procedures related to the reduction of criminal activity within government and the community; and

5. Promote the reduction and prevention of crime within his jurisdiction and the Commonwealth.

#### **§ 9.1-601. Law-enforcement civilian oversight bodies.**

A. 1. As used in this section, unless the context requires a different meaning:

"Law-enforcement agency" means a police department established pursuant to § 15.2-1701 or a campus police department of any public institution of higher education of the Commonwealth *or the Virginia School for the Deaf and the Blind* employing a law-enforcement officer established pursuant to § 23.1-809.

"Law-enforcement officer" means any person, other than a chief of police, who in his official capacity (i) is authorized by law to make arrests and (ii) is a nonprobationary officer of a police department, bureau, or force of any political subdivision, or a campus police department of any public institution of higher education of the Commonwealth *or the Virginia School for the Deaf and the Blind*, where such department, bureau, or force has three or more law-enforcement officers. "Law-enforcement officer" does not include a sheriff or deputy sheriff or any law-enforcement officer who has rights afforded to him pursuant to the provisions of Chapter 5 (§ 9.1-500 et seq.).

"Locality" shall be construed to mean a county or city as the context may require.

2. For the purposes of this section, a "law-enforcement agency serving under the authority of the locality" shall be construed to mean any law-enforcement agency established within the boundaries of a locality, including any town police departments or any campus police departments of any public institution of higher education of the Commonwealth *or the Virginia School for the Deaf and the Blind* established within such boundaries.

B. The governing body of a locality may establish a law-enforcement civilian oversight body. Any

law-enforcement civilian oversight body established by the governing body of a locality shall reflect the demographic diversity of the locality.

C. A law-enforcement civilian oversight body established pursuant to this section may have the following duties regarding any law-enforcement agency established within the boundaries of such locality:

1. To receive, investigate, and issue findings on complaints from civilians regarding the conduct of law-enforcement officers and civilian employees of a law-enforcement agency serving under the authority of the locality;

2. To investigate and issue findings on incidents, including the use of force by a law-enforcement officer, death or serious injury to any person held in custody, serious abuse of authority or misconduct, allegedly discriminatory stops, and other incidents regarding the conduct of law-enforcement officers or civilian employees of a law-enforcement agency serving under the authority of the locality;

3. Concordant with any investigation conducted pursuant to subdivisions 1 and 2 and after consultation with such officer's or employee's direct supervisor or commander, to make binding disciplinary determinations in cases that involve serious breaches of departmental and professional standards, as defined by the locality. Such disciplinary determinations may include letters of reprimand, suspension without pay, suspension with pay, demotion within the department, reassignment within the department, termination, involuntary restitution, or mediation, any of which is to be implemented by the local government employee with ultimate supervisory authority over officers or employees of law-enforcement agencies serving under the authority of the locality;

4. To investigate policies, practices, and procedures of law-enforcement agencies serving under the authority of the locality and to make recommendations regarding changes to such policies, practices, and procedures. If the law-enforcement agency declines to implement any changes recommended by the law-enforcement civilian oversight body, such law-enforcement civilian oversight body may require the law-enforcement agency to create a written record, which shall be made available to the public, of its rationale for declining to implement a recommendation of the law-enforcement civilian oversight body;

5. To review all investigations conducted internally by law-enforcement agencies serving under the authority of the locality, including internal investigations of civilians employed by such law-enforcement agencies, and to issue findings regarding the accuracy, completeness, and impartiality of such investigations and the sufficiency of any discipline resulting from such investigations;

6. To request reports of the annual expenditures of the law-enforcement agencies serving under the authority of the locality and to make budgetary recommendations to the governing body of the locality concerning future appropriations;

7. To make public reports on the activities of the law-enforcement civilian oversight body, including investigations, hearings, findings, recommendations, determinations, and oversight activities; and

8. To undertake any other duties as reasonably necessary for the law-enforcement civilian oversight body to effectuate its lawful purpose as provided for in this section to effectively oversee the law-enforcement agencies serving under the authority of the locality.

D. The governing body of the locality shall establish the policies and procedures for the performance of duties by the law-enforcement civilian oversight body as set forth in this section. The law-enforcement civilian oversight body may hold hearings and, if after making a good faith effort to obtain, voluntarily, the attendance of witnesses and the production of books, papers, and other evidence necessary to perform its duties the law-enforcement civilian oversight body is unable to obtain such attendance or production, it may apply to the circuit court for the locality for a subpoena compelling the attendance of such witness or the production of such books, papers, and other evidence, and the court may, upon good cause shown, cause the subpoena to be issued. Any person so subpoenaed may apply to the court that issued such subpoena to quash it.

E. Any person currently employed as a law-enforcement officer as defined in § 9.1-101 is ineligible to serve on a law-enforcement civilian oversight body established pursuant to this section; however, a retired law-enforcement officer may serve on such law-enforcement civilian oversight body as an advisory, nonvoting ex officio member. Such retired law-enforcement officer shall not have been previously employed as a law-enforcement officer by a law-enforcement agency established within the boundaries of such locality but shall have been employed as a law-enforcement officer as defined in § 9.1-101 in a locality that is similar to the locality that established such law-enforcement civilian oversight body.

F. A law-enforcement officer who is subject to a binding disciplinary determination may file a grievance requesting a final hearing in accordance with § 15.2-1507, provided that such matter is a qualifying grievance under the locality's grievance procedures.

G. A law-enforcement civilian oversight body may retain legal counsel to represent such oversight body in all cases, hearings, controversies, or matters involving the interests of the oversight body. Such counsel shall be paid from funds appropriated by the locality.

**§ 23.1-809. Public institutions of higher education; Virginia School for the Deaf and the Blind; establishment of campus police departments authorized; employment of officers.**

A. As used in this article:

*"Campus police department" includes any police department established by any public institution of higher education or the Virginia School for the Deaf and the Blind, pursuant to this section.*

*"Campus police officer" means any law enforcement or police officer employed by any public institution of higher education or the Virginia School for the Deaf and the Blind, pursuant to this section.*

*"Institution" includes any public institution of higher education, any private institution of higher education, and the Virginia School for the Deaf and the Blind.*

B. The governing board of each public institution of higher education and the Virginia School for the Deaf and the Blind may establish a campus police department and employ campus police officers and auxiliary police forces upon appointment as provided in §§ 23.1-811 and 23.1-812. Such employment is governed by the Virginia Personnel Act (§ 2.2-2900 et seq.), except that the governing board of a public institution of higher education may direct that the employment of the chief of the campus police department is not governed by the Virginia Personnel Act.

C. The Virginia Commonwealth University Health System Authority and Eastern Virginia Medical School may employ police officers and auxiliary police forces as provided in this article and, in the case of the Authority, in § 23.1-2406, except that the employment of such officers and forces is not governed by the Virginia Personnel Act (§ 2.2-2900 et seq.).

**§ 23.1-812. Appointment of campus police officers and members of an auxiliary police force.**

A. Prior to appointment as a campus police officer or member of an auxiliary police force, each individual shall be investigated by the campus police department of the institution applying for the order of appointment or, if none has been established, by the police department of the locality in which such institution is located. Such investigation shall determine whether the individual is responsible, honest, and in all ways capable of performing the duties of a campus police officer.

B. Upon application of the governing board of a public institution of higher education or private institution of higher education or the Board of Visitors of the Virginia School for the Deaf and the Blind, the circuit court of the locality in which the institution is located may, by order, appoint the individuals named in the application to be campus police officers or members of an auxiliary police force at such institution.

C. Each campus police officer and member of an auxiliary police force appointed and employed pursuant to this article is a state employee of the institution named in the order of appointment. Insofar as it is not inconsistent with the Virginia Personnel Act (§ 2.2-2900 et seq.), the governing board of such institution and the Board of Visitors of the Virginia School for the Deaf and the Blind shall provide for the conditions and terms of employment and compensation and a distinctive uniform and badge of office for such officers and members of an auxiliary police force.

**§ 23.1-815. Campus police forces and auxiliary police forces; powers and duties; jurisdiction.**

A. As used in this section:

*"Campus" means (i) any building or property owned or controlled by an institution of higher education or the Virginia School for the Deaf and the Blind located within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner relating to, the institution's educational purposes, including residence halls, and (ii) any building or property that is within or reasonably contiguous to the area described in clause (i) that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes, such as a food or other retail vendor.*

*"Noncampus building or property" means (i) any building or property owned or controlled by a student organization that is officially recognized by an institution of higher education or (ii) any building or property owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.*

*"Public property" means all public property, including thoroughfares, streets, sidewalks, and parking facilities, that is within the campus, or immediately adjacent to and accessible from the campus.*

B. A campus police officer appointed as provided in § 23.1-812 or a member of an auxiliary police force appointed and activated pursuant to §§ 23.1-811 and 23.1-812 shall be deemed police officers of localities who may exercise the powers and duties conferred by law upon such police officers, including the provisions of Chapters 5 (§ 19.2-52 et seq.), 7 (§ 19.2-71 et seq.), and 23 (§ 19.2-387 et seq.) of Title 19.2, (i) upon any property owned or controlled by the public institution of higher education or private institution of higher education or the Virginia School for the Deaf and the Blind, or, upon request, any property owned or controlled by another public institution of higher education or private institution of higher education, and upon the streets, sidewalks, and highways immediately adjacent to any such property; (ii) pursuant to a mutual aid agreement (a) as provided for in § 15.2-1727 or (b)

between the governing board of a public institution of higher education or private institution of higher education and another public institution of higher education or private institution of higher education in the Commonwealth or an adjacent political subdivision; (iii) in close pursuit of a person as provided in § 19.2-77; and (iv) upon approval by the appropriate circuit court of a petition by the local governing body for concurrent jurisdiction in designated areas with the police officers of the locality in which the institution, its satellite campuses, or other properties are located. The local governing body may only petition the circuit court for such concurrent jurisdiction pursuant to a request by the local law-enforcement agency.

C. Each ~~public institution of higher education and private institution of higher education~~ that establishes a campus police force pursuant to this article shall enter into and become a party to a mutual aid agreement with an adjacent local law-enforcement agency or the Department of State Police for the use of their regular and auxiliary joint forces, equipment, and materials when needed in the investigation of any felony criminal sexual assault or medically unattended death occurring on property owned or controlled by such institution or any death resulting from an incident occurring on such property. Such mutual aid agreements shall include provisions requiring either the campus police force or the agency with which it has established a mutual aid agreement pursuant to this subsection, in the event that such police force or agency conducts an investigation that involves a felony criminal sexual assault as set forth in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 occurring on campus, in or on a noncampus building or property, or on public property, to notify the local attorney for the Commonwealth of such investigation within 48 hours of beginning such investigation. No such notification provision shall require a campus police force or the agency with which it has established a mutual aid agreement to disclose identifying information about the victim. Nothing in this section prohibits a campus police force or auxiliary police force from requesting assistance from any appropriate law-enforcement agency of the Commonwealth with which the institution has not entered into a mutual aid agreement.

D. Each public institution of higher education and nonprofit private institution of higher education that (i) has not established a campus police force or auxiliary police force pursuant to this article and (ii) has a security department, relies on local or state police forces, or contracts for security services from private parties pursuant to § 23.1-818 shall enter into and become a party to a memorandum of understanding with an adjacent local law-enforcement agency or the Department of State Police (the Department) to require either such local law-enforcement agency or the Department, in the event that such agency or the Department conducts an investigation that involves a felony criminal sexual assault as set forth in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 occurring on campus, in or on a noncampus building or property, or on public property, to notify the local attorney for the Commonwealth of such investigation within 48 hours of beginning such investigation. No such notification provision shall require the law-enforcement agency or the Department to disclose identifying information about the victim.

E. All mutual aid agreements and memoranda of understanding entered into pursuant to this section shall specify the procedure for sharing information.

**§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.**

A. The Department of State Police, the Department of Wildlife Resources, the Virginia Alcoholic Beverage Control Authority, the Virginia Lottery, the Marine Resources Commission, the Capitol Police, the Department of Conservation and Recreation, the Department of Forestry, any sheriff, any regional jail board or authority, and any local police department may allow any sworn law-enforcement officer, deputy, or regional jail officer, a local fire department may allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow any law-enforcement officer, any institution of higher education named in § 23.1-1100 *or the Virginia School for the Deaf and the Blind* may allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, retiring on or after July 1, 1991, and the Department of Corrections may allow any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 who retires (i) after at least 10 years of service, (ii) at 70 years of age or older, or (iii) as a result of a service-incurred disability or who is receiving long-term disability payments for a service-incurred disability with no expectation of returning to the employment where he incurred the disability to purchase the service handgun issued or previously issued to him by the agency or institution at a price of \$1. If the previously issued weapon is no longer available, a weapon of like kind may be substituted for that weapon. This privilege shall also extend to any former Superintendent of the Department of State Police who leaves service after a minimum of five years. This privilege shall also extend to any person listed in this subsection who is eligible for retirement with at least 10 years of service who resigns on or after July 1, 1991, in good standing from one of the agencies listed in this section to accept a position covered by the Virginia Retirement System. Other weapons issued by the agencies listed in this subsection for personal duty use of an officer may, with approval of the agency

head, be sold to the officer subject to the qualifications of this section at a fair market price determined as in subsection B, so long as the weapon is a type and configuration that can be purchased at a regular hardware or sporting goods store by a private citizen without restrictions other than the instant background check.

B. The agencies listed in subsection A may allow any sworn law-enforcement officer who retires with five or more years of service, but less than 10, to purchase the service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Any sworn law-enforcement officer employed by any of the agencies listed in subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be made by reference to a recognized pricing guide.

C. The agencies listed in subsection A may allow the immediate survivor of any sworn law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least 10 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

D. The governing board of any institution of higher learning named in § 23.1-1100 *or the Board of Visitors of the Virginia School for the Deaf and the Blind* may allow any campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price equivalent to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market value may be made by reference to a recognized pricing guide.

E. Any officer who at the time of his retirement is a sworn law-enforcement officer with a state agency listed in subsection A, when the agency allows purchases of service handguns, and who retires after 10 years of state service, even if a portion of his service was with another state agency, may purchase the service handgun issued to him by the agency from which he retires at a price of \$1.

F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a minimum of 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to him.

G. Any sheriff or local police department may allow any auxiliary law-enforcement officer with more than 10 years of service to purchase the service handgun issued to him by the agency at a price that is equivalent to or less than the weapon's fair market value on the date of purchase by the officer.

H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer currently employed by the agency to purchase his service handgun, with the approval of the chief law-enforcement officer of the agency, at a fair market price. This subsection shall only apply when the agency has purchased new service handguns for its officers, and the handgun subject to the sale is no longer used by the agency or officer in the course of duty.

**§ 65.2-107. Post-traumatic stress disorder incurred by law-enforcement officers and firefighters.**

A. As used in this section:

"Firefighter" means any (i) salaried firefighter, including special forest wardens designated pursuant to § 10.1-1135, emergency medical services personnel, and local or state fire scene investigator and (ii) volunteer firefighter and volunteer emergency medical services personnel.

"In the line of duty" means any action that a law-enforcement officer or firefighter was obligated or authorized to perform by rule, regulation, written condition of employment service, or law.

"Law-enforcement officer" means any (i) member of the State Police Officers' Retirement System; (ii) member of a county, city, or town police department; (iii) sheriff or deputy sheriff; (iv) Department of Emergency Management hazardous materials officer; (v) city sergeant or deputy city sergeant of the City of Richmond; (vi) Virginia Marine Police officer; (vii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (viii) Capitol Police officer; (ix) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1; (x) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority; (xi) officer of the police force established and maintained by the Norfolk Airport Authority; (xii) sworn officer of the police force established and maintained by the Virginia Port Authority; or (xiii) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education *or by the Virginia School for the Deaf and the Blind*.

"Mental health professional" means a board-certified psychiatrist or a psychologist licensed pursuant to Title 54.1 who has experience diagnosing and treating post-traumatic stress disorder.

"Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder as specified in the most recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.



"Qualifying event" means an incident or exposure occurring in the line of duty on or after July 1, 2020:

1. Resulting in serious bodily injury or death to any person or persons;
2. Involving a minor who has been injured, killed, abused, or exploited;
3. Involving an immediate threat to life of the claimant or another individual;
4. Involving mass casualties; or
5. Responding to crime scenes for investigation.

B. Post-traumatic stress disorder incurred by a law-enforcement officer or firefighter is compensable under this title if:

1. A mental health professional examines a law-enforcement officer or firefighter and diagnoses the law-enforcement officer or firefighter as suffering from post-traumatic stress disorder as a result of the individual's undergoing a qualifying event;

2. The post-traumatic stress disorder resulted from the law-enforcement officer's or firefighter's acting in the line of duty and, in the case of a firefighter, such firefighter complied with federal Occupational Safety and Health Act standards adopted pursuant to 29 C.F.R. 1910.134 and 29 C.F.R. 1910.156;

3. The law-enforcement officer's or firefighter's undergoing a qualifying event was a substantial factor in causing his post-traumatic stress disorder;

4. Such qualifying event, and not another event or source of stress, was the primary cause of the post-traumatic stress disorder; and

5. The post-traumatic stress disorder did not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action of the law-enforcement officer or firefighter.

Any such mental health professional shall comply with any workers' compensation guidelines for approved medical providers, including guidelines on release of past or contemporaneous medical records.

C. Notwithstanding any provision of this title, workers' compensation benefits for any law-enforcement officer or firefighter pursuant to this section shall (i) include any combination of medical treatment prescribed by a board-certified psychiatrist or a licensed psychologist, temporary total incapacity benefits under § 65.2-500, and temporary partial incapacity benefits under § 65.2-502 and (ii) be provided for a maximum of 52 weeks from the date of diagnosis. No medical treatment, temporary total incapacity benefits under § 65.2-500, or temporary partial incapacity benefits under § 65.2-502 shall be awarded beyond four years from the date of the qualifying event that formed the basis for the claim for benefits under this section. The weekly benefits received by a law-enforcement officer or a firefighter pursuant to § 65.2-500 or 65.2-502, when combined with other benefits, including contributory and noncontributory retirement benefits, Social Security benefits, and benefits under a long-term or short-term disability plan, but not including payments for medical care, shall not exceed the average weekly wage paid to such law-enforcement officer or firefighter.

D. No later than January 1, 2021, each employer of law-enforcement officers or firefighters shall (i) make peer support available to such law-enforcement officers and firefighters and (ii) refer a law-enforcement officer or firefighter seeking mental health care services to a mental health professional.

E. Each fire basic training program conducted or administered by the Department of Fire Programs or a municipal fire department in the Commonwealth shall provide, in consultation with the Department of Behavioral Health and Developmental Services, resilience and self-care technique training for any individual who begins basic training as a firefighter on or after July 1, 2021.

**§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.**

A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of Emergency Management hazardous materials officers or (ii) any health condition or impairment of such firefighters or Department of Emergency Management hazardous materials officers resulting in total or partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of any of the following persons who have completed five years of service in their position as (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn members of the enforcement division of the Department of Wildlife Resources, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the

provisions of this chapter as provided in § 65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, (xiv) campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education or the Virginia School for the Deaf and the Blind, and (xv) salaried or volunteer emergency medical services personnel, as defined in § 32.1-111.1, when such emergency medical services personnel is operating in a locality that has legally adopted a resolution declaring that it will provide one or more of the presumptions under this subsection, shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

C. Leukemia or pancreatic, prostate, rectal, throat, ovarian, breast, colon, brain, or testicular cancer causing the death of, or any health condition or impairment resulting in total or partial disability of, any volunteer or salaried firefighter, Department of Emergency Management hazardous materials officer, commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of State Police, or full-time sworn member of the enforcement division of the Department of Motor Vehicles having completed five years of service shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of competent evidence to the contrary. For colon, brain, or testicular cancer, the presumption shall not apply for any individual who was diagnosed with such a condition before July 1, 2020.

D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to invoke them have, if requested by the private employer, appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as prescribed by the private employer, appointing authority or governing body employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the private employer, appointing authorities or governing bodies may have prescribed, and (iv) found such persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such examinations.

E. Persons making claims under this title who rely on such presumptions shall, upon the request of private employers, appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

F. Whenever a claim for death benefits is made under this title and the presumptions of this section are invoked, any person entitled to make such claim shall, upon the request of the appropriate private employer, appointing authority or governing body that had employed the deceased, submit the body of the deceased to a postmortem examination as may be directed by the Commission. A qualified physician, selected and compensated by the person entitled to make the claim, may, at the election of such claimant, be present at such postmortem examination.

G. Volunteer law-enforcement chaplains, auxiliary and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this section.

H. For purposes of this section, "firefighter" includes special forest wardens designated pursuant to § 10.1-1135 and any persons who are employed by or contract with private employers primarily to perform firefighting services.

**§ 65.2-402.1. Presumption as to death or disability from infectious disease.**

A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter, or salaried or volunteer emergency medical services personnel; (ii) member of the State Police Officers' Retirement System; (iii) member of county, city, or town police departments; (iv) sheriff or deputy sheriff; (v) Department of Emergency Management hazardous materials officer; (vi) city sergeant or deputy city sergeant of the City of Richmond; (vii) Virginia Marine Police officer; (viii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (ix) Capitol Police officer; (x) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1; (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority; (xii) officer of the police force established and maintained by the Norfolk Airport Authority; (xiii) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (xiv) sworn officer of

the police force established and maintained by the Virginia Port Authority; (xv) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education *or the Virginia School for the Deaf and the Blind*; (xvi) correctional officer as defined in § 53.1-1; or (xvii) full-time sworn member of the enforcement division of the Department of Motor Vehicles who has a documented occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For purposes of this subsection, an occupational exposure occurring on or after July 1, 2002, shall be deemed "documented" if the person covered under this subsection gave notice, written or otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed "documented" without regard to whether the person gave notice, written or otherwise, of the occupational exposure to his employer. For any correctional officer as defined in § 53.1-1 or full-time sworn member of the enforcement division of the Department of Motor Vehicles, the presumption shall not apply if such individual was diagnosed with hepatitis, meningococcal meningitis, or HIV before July 1, 2020.

B. 1. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, any health care provider, as defined in § 8.01-581.1, who as part of the provider's employment is directly involved in diagnosing or treating persons known or suspected to have COVID-19, shall be presumed to be an occupational disease that is covered by this title unless such presumptions are overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19 and signs and symptoms of COVID-19 that require medical treatment, as described in subdivision F 2.

2. COVID-19 causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) firefighter, as defined in § 65.2-102; (ii) law-enforcement officer, as defined in § 9.1-101; (iii) correctional officer, as defined in § 53.1-1; or (iv) regional jail officer shall be presumed to be an occupational disease, suffered in the line of duty, as applicable, that is covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, the COVID-19 virus shall be established by a positive diagnostic test for COVID-19, an incubation period consistent with COVID-19, and signs and symptoms of COVID-19 that require medical treatment.

C. As used in this section:

"Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis, meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which infectious airborne or blood-borne organisms can be transmitted between persons.

"Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized by the medical community.

"HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or type II, causing immunodeficiency syndrome.

"Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV, means an exposure that occurs during the performance of job duties that places a covered employee at risk of infection.

D. Persons covered under this section who test positive for exposure to the enumerated occupational diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical examination to measure the progress of the condition, if any, and any other medical treatment, prophylactic or otherwise.

E. 1. Whenever any standard, medically-recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is established under this section, if medically indicated by the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, a person subject to the provisions of this section may be required by such person's employer to undergo the immunization or prophylaxis unless the person's physician determines in writing that the immunization or prophylaxis would pose a significant risk to the person's health. Absent such written declaration, failure or refusal by a person subject to the provisions of this section to undergo such immunization or prophylaxis shall disqualify the person from any presumption established by this section.

2. The presumptions described in subdivision B 1 shall not apply to any person offered by such person's employer a vaccine for the prevention of COVID-19 with an Emergency Use Authorization

674 issued by the U.S. Food and Drug Administration, unless the person is immunized or the person's  
675 physician determines in writing that the immunization would pose a significant risk to the person's  
676 health. Absent such written declaration, failure or refusal by a person subject to the provisions of this  
677 section to undergo such immunization shall disqualify the person from the presumptions described in  
678 subdivision B 1.

679 F. 1. The presumptions described in subsection A shall only apply if persons entitled to invoke them  
680 have, if requested by the appointing authority or governing body employing them, undergone  
681 preemployment physical examinations that (i) were conducted prior to the making of any claims under  
682 this title that rely on such presumptions; (ii) were performed by physicians whose qualifications are as  
683 prescribed by the appointing authority or governing body employing such persons; (iii) included such  
684 appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may  
685 have prescribed; and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or  
686 HIV at the time of such examinations. The presumptions described in subsection A shall not be effective  
687 until six months following such examinations, unless such persons entitled to invoke such presumption  
688 can demonstrate a documented exposure during the six-month period.

689 2. The presumptions described in subdivision B 1 shall apply to any person entitled to invoke them  
690 for any death or disability occurring on or after March 12, 2020, caused by infection from the  
691 COVID-19 virus, provided that for any such death or disability that occurred on or after March 12,  
692 2020, and prior to December 31, 2022, and;

693 a. Prior to July 1, 2020, the claimant received a positive diagnosis of COVID-19 from a licensed  
694 physician, nurse practitioner, or physician assistant after either (i) a presumptive positive test or a  
695 laboratory-confirmed test for COVID-19 and presenting with signs and symptoms of COVID-19 that  
696 required medical treatment, or (ii) presenting with signs and symptoms of COVID-19 that required  
697 medical treatment absent a presumptive positive test or a laboratory-confirmed test for COVID-19; or

698 b. On or after July 1, 2020, and prior to December 31, 2022, the claimant received a positive  
699 diagnosis of COVID-19 from a licensed physician, nurse practitioner, or physician assistant after a  
700 presumptive positive test or a laboratory-confirmed test for COVID-19 and presented with signs and  
701 symptoms of COVID-19 that required medical treatment.

702 3. The presumptions described in subdivision B 2 shall apply to any person entitled to invoke them  
703 for any death or disability occurring on or after July 1, 2020, caused by infection from the COVID-19  
704 virus, provided that for any such death or disability that occurred on or after July 1, 2020, and prior to  
705 December 31, 2021, the claimant received a diagnosis of COVID-19 from a licensed physician, after  
706 either a presumptive positive test or a laboratory confirmed test for COVID-19, and presented with signs  
707 and symptoms of COVID-19 that required medical treatment.

708 G. Persons making claims under this title who rely on such presumption shall, upon the request of  
709 appointing authorities or governing bodies employing such persons, submit to physical examinations (i)  
710 conducted by physicians selected by such appointing authorities or governing bodies or their  
711 representatives and (ii) consisting of such tests and studies as may reasonably be required by such  
712 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the  
713 election of such claimant, be present at such examination.

714 [ 2. That the provisions of this act shall not become effective unless an appropriation effectuating  
715 the purposes of this act is included in a general appropriation act passed in 2023 by the General  
716 Assembly that becomes law. ]