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HOUSE BILL NO. 1496

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Communications, Technology and Innovation
on February 5, 2024)

(Patron Prior to Substitute—Delegate Rasoul)

A BILL to amend and reenact § 9.1-102 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 1 of Title 9.1 a section numbered 9.1-116.9, relating to Department of Criminal Justice Services; Surveillance Technology Registry established.

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-102 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 1 of Title 9.1 a section numbered 9.1-116.9 as follows:

§ 9.1-102. Powers and duties of the Board and the Department.

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions and (ii) temporary or probationary status and establish the time required for completion of such training. Such compulsory minimum training standards shall include crisis intervention training in accordance with clause (i) of § 9.1-188;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. [Repealed];

7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies and correctional officers employed by the Department of Corrections under the provisions of Title 53.1. For correctional officers employed by the Department of Corrections, such standards shall include training on the general care of pregnant women, the impact of restraints on pregnant inmates and fetuses, the impact of being placed in restrictive housing or solitary confinement on pregnant inmates, and the impact of body cavity searches on pregnant inmates;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

11. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. Such training shall be graduated and based on the type of duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary police officers exempt pursuant to § 15.2-1731;

12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and institutions of higher education within or outside the Commonwealth, concerning the development of police training schools and programs or courses of

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60 instruction;

61 13. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth,
62 for school operation for the specific purpose of training law-enforcement officers; but this shall not
63 prevent the holding of any such school whether approved or not;

64 14. Establish and maintain police training programs through such agencies and institutions as the
65 Board deems appropriate;

66 15. Establish compulsory minimum qualifications of certification and recertification for instructors in
67 criminal justice training academies approved by the Department;

68 16. Conduct and stimulate research by public and private agencies which shall be designed to
69 improve police administration and law enforcement;

70 17. Make recommendations concerning any matter within its purview pursuant to this chapter;

71 18. Coordinate its activities with those of any interstate system for the exchange of criminal history
72 record information, nominate one or more of its members to serve upon the council or committee of any
73 such system, and participate when and as deemed appropriate in any such system's activities and
74 programs;

75 19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this
76 chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to
77 submit information, reports, and statistical data with respect to its policy and operation of information
78 systems or with respect to its collection, storage, dissemination, and usage of criminal history record
79 information and correctional status information, and such criminal justice agencies shall submit such
80 information, reports, and data as are reasonably required;

81 20. Conduct audits as required by § 9.1-131;

82 21. Conduct a continuing study and review of questions of individual privacy and confidentiality of
83 criminal history record information and correctional status information;

84 22. Advise criminal justice agencies and initiate educational programs for such agencies with respect
85 to matters of privacy, confidentiality, and security as they pertain to criminal history record information
86 and correctional status information;

87 23. Maintain a liaison with any board, commission, committee, or other body which may be
88 established by law, executive order, or resolution to regulate the privacy and security of information
89 collected by the Commonwealth or any political subdivision thereof;

90 24. Adopt regulations establishing guidelines and standards for the collection, storage, and
91 dissemination of criminal history record information and correctional status information, and the privacy,
92 confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and
93 court orders;

94 25. Operate a statewide criminal justice research center, which shall maintain an integrated criminal
95 justice information system, produce reports, provide technical assistance to state and local criminal
96 justice data system users, and provide analysis and interpretation of criminal justice statistical
97 information;

98 26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law
99 enforcement and the administration of criminal justice throughout the Commonwealth, and periodically
100 update that plan;

101 27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the
102 Commonwealth, and units of general local government, or combinations thereof, including planning
103 district commissions, in planning, developing, and administering programs, projects, comprehensive
104 plans, and other activities for improving law enforcement and the administration of criminal justice
105 throughout the Commonwealth, including allocating and subgranting funds for these purposes;

106 28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and
107 activities for the Commonwealth and units of general local government, or combinations thereof, in the
108 Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal
109 justice at every level throughout the Commonwealth;

110 29. Review and evaluate programs, projects, and activities, and recommend, where necessary,
111 revisions or alterations to such programs, projects, and activities for the purpose of improving law
112 enforcement and the administration of criminal justice;

113 30. Coordinate the activities and projects of the state departments, agencies, and boards of the
114 Commonwealth and of the units of general local government, or combination thereof, including planning
115 district commissions, relating to the preparation, adoption, administration, and implementation of
116 comprehensive plans to strengthen and improve law enforcement and the administration of criminal
117 justice;

118 31. Do all things necessary on behalf of the Commonwealth and its units of general local
119 government, to determine and secure benefits available under the Omnibus Crime Control and Safe
120 Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and
121 programs for strengthening and improving law enforcement, the administration of criminal justice, and

delinquency prevention and control;

32. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

33. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

34. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

35. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

37. Establish training standards and publish and periodically update model policies for law-enforcement personnel in the following subjects:

a. The handling of family abuse, domestic violence, sexual assault, and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in subsection A of § 9.1-1301;

b. The identification of, communication with, and facilitation of the safe return of individuals diagnosed with Alzheimer's disease and dementia, which shall include (i) techniques for respectful and effective communication with individuals with Alzheimer's disease and dementia and their caregivers; (ii) techniques for addressing the behavioral symptoms of Alzheimer's disease and dementia, including alternatives to physical restraint; (iii) protocols for identifying and reporting incidents of abuse, neglect, and exploitation of individuals with Alzheimer's disease and dementia to adult protective services; (iv) protocols for contacting caregivers when an individual with Alzheimer's disease or dementia is found wandering or during an emergency or crisis situation; (v) a reference list of local resources available for individuals with Alzheimer's disease and dementia; and (vi) a reference list of local and national organizations that assist law-enforcement personnel with locating missing and wandering individuals with Alzheimer's disease and dementia and returning them to their caregivers;

c. Sensitivity to and awareness of systemic and individual racism, cultural diversity, and the potential for racially biased policing and bias-based profiling as defined in § 52-30.1, which shall include recognizing implicit biases in interacting with persons who have a mental illness, substance use disorder, or developmental or cognitive disability;

d. Protocols for local and regional sexual assault response teams;

e. Communication of death notifications;

f. The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Virginia Alcoholic Beverage Control Authority;

g. Vehicle patrol duties that embody current best practices for pursuits and for responding to emergency calls;

h. Criminal investigations that embody current best practices for conducting photographic and live lineups;

i. Sensitivity to and awareness of human trafficking offenses and the identification of victims of human trafficking offenses for personnel involved in criminal investigations or assigned to vehicle or street patrol duties;

j. The recognition, prevention, and reporting of human trafficking;

k. Missing children, missing adults, and search and rescue protocol; and

l. The handling and use of tear gas or other gases and kinetic impact munitions, as defined in § 19.2-83.3, that embody current best practices for using such items as a crowd control measure or during an arrest or detention of another person;

38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure (i) sensitivity to and awareness of systemic and individual racism,

183 cultural diversity, and the potential for racially biased policing and bias-based profiling as defined in
184 § 52-30.1, which shall include recognizing implicit biases in interacting with persons who have a mental
185 illness, substance use disorder, or developmental or cognitive disability; (ii) training in de-escalation
186 techniques; and (iii) training in the lawful use of force, including the use of deadly force, as defined in
187 § 19.2-83.3, only when necessary to protect the law-enforcement officer or another person;

188 39. Review and evaluate community-policing programs in the Commonwealth, and recommend where
189 necessary statewide operating procedures, guidelines, and standards that strengthen and improve such
190 programs, including sensitivity to and awareness of systemic and individual racism, cultural diversity,
191 and the potential for racially biased policing and bias-based profiling as defined in § 52-30.1, which
192 shall include recognizing implicit biases in interacting with persons who have a mental illness, substance
193 use disorder, or developmental or cognitive disability;

194 40. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation with
195 Virginia law-enforcement agencies, provide technical assistance and administrative support, including
196 staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center
197 may provide accreditation assistance and training, resource material, and research into methods and
198 procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia
199 accreditation status;

200 41. Promote community policing philosophy and practice throughout the Commonwealth by
201 providing community policing training and technical assistance statewide to all law-enforcement
202 agencies, community groups, public and private organizations and citizens; developing and distributing
203 innovative policing curricula and training tools on general community policing philosophy and practice
204 and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia
205 organizations with specific community policing needs; facilitating continued development and
206 implementation of community policing programs statewide through discussion forums for community
207 policing leaders, development of law-enforcement instructors; promoting a statewide community policing
208 initiative; and serving as a statewide information source on the subject of community policing including,
209 but not limited to periodic newsletters, a website and an accessible lending library;

210 42. Establish, in consultation with the Department of Education and the Virginia State Crime
211 Commission, compulsory minimum standards for employment and job-entry and in-service training
212 curricula and certification requirements for school security officers, including school security officers
213 described in clause (b) of § 22.1-280.2:1, which training and certification shall be administered by the
214 Virginia Center for School and Campus Safety (VCSCS) pursuant to § 9.1-184. Such training standards
215 shall be specific to the role and responsibility of school security officers and shall include (i) relevant
216 state and federal laws; (ii) school and personal liability issues; (iii) security awareness in the school
217 environment; (iv) mediation and conflict resolution, including de-escalation techniques such as a physical
218 alternative to restraint; (v) disaster and emergency response; (vi) awareness of systemic and individual
219 racism, cultural diversity, and implicit bias; (vii) working with students with disabilities, mental health
220 needs, substance use disorders, and past traumatic experiences; and (viii) student behavioral dynamics,
221 including child and adolescent development and brain research. The Department shall establish an
222 advisory committee consisting of local school board representatives, principals, superintendents, and
223 school security personnel to assist in the development of the standards and certification requirements in
224 this subdivision. The Department shall require any school security officer who carries a firearm in the
225 performance of his duties to provide proof that he has completed a training course provided by a
226 federal, state, or local law-enforcement agency that includes training in active shooter emergency
227 response, emergency evacuation procedure, and threat assessment;

228 43. License and regulate property bail bondsmen and surety bail bondsmen in accordance with
229 Article 11 (§ 9.1-185 et seq.);

230 44. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);

231 45. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal
232 justice agencies regarding the investigation, registration, and dissemination of information requirements
233 as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);

234 46. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula,
235 and (iii) certification requirements for campus security officers. Such training standards shall include, but
236 not be limited to, the role and responsibility of campus security officers, relevant state and federal laws,
237 school and personal liability issues, security awareness in the campus environment, and disaster and
238 emergency response. The Department shall provide technical support and assistance to campus police
239 departments and campus security departments on the establishment and implementation of policies and
240 procedures, including but not limited to: the management of such departments, investigatory procedures,
241 judicial referrals, the establishment and management of databases for campus safety and security
242 information sharing, and development of uniform record keeping for disciplinary records and statistics,
243 such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an
244 advisory committee consisting of college administrators, college police chiefs, college security

department chiefs, and local law-enforcement officials to assist in the development of the standards and certification requirements and training pursuant to this subdivision;

47. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established pursuant to § 9.1-187;

48. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;

49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of § 46.2-117;

50. Administer the activities of the Virginia Sexual and Domestic Violence Program Professional Standards Committee by providing technical assistance and administrative support, including staffing, for the Committee;

51. In accordance with § 9.1-102.1, design and approve the issuance of photo-identification cards to private security services registrants registered pursuant to Article 4 (§ 9.1-138 et seq.);

52. In consultation with the State Council of Higher Education for Virginia and the Virginia Association of Campus Law Enforcement Administrators, develop multidisciplinary curricula on trauma-informed sexual assault investigation;

53. In consultation with the Department of Behavioral Health and Developmental Services, develop a model addiction recovery program that may be administered by sheriffs, deputy sheriffs, jail officers, administrators, or superintendents in any local or regional jail. Such program shall be based on any existing addiction recovery programs that are being administered by any local or regional jails in the Commonwealth. Participation in the model addiction recovery program shall be voluntary, and such program may address aspects of the recovery process, including medical and clinical recovery, peer-to-peer support, availability of mental health resources, family dynamics, and aftercare aspects of the recovery process;

54. Establish compulsory minimum training standards for certification and recertification of law-enforcement officers serving as school resource officers. Such training shall be specific to the role and responsibility of a law-enforcement officer working with students in a school environment and shall include (i) relevant state and federal laws; (ii) school and personal liability issues; (iii) security awareness in the school environment; (iv) mediation and conflict resolution, including de-escalation techniques; (v) disaster and emergency response; (vi) awareness of systemic and individual racism, cultural diversity, and implicit bias; (vii) working with students with disabilities, mental health needs, substance use disorders, or past traumatic experiences; and (viii) student behavioral dynamics, including current child and adolescent development and brain research;

55. Establish a model policy for the operation of body-worn camera systems as defined in § 15.2-1723.1 that also addresses the storage and maintenance of body-worn camera system records;

56. Establish compulsory minimum training standards for detector canine handlers employed by the Department of Corrections, standards for the training and retention of detector canines used by the Department of Corrections, and a central database on the performance and effectiveness of such detector canines that requires the Department of Corrections to submit comprehensive information on each canine handler and detector canine, including the number and types of calls and searches, substances searched for and whether or not detected, and the number of false positives, false negatives, true positives, and true negatives;

57. Establish compulsory training standards for basic training of law-enforcement officers for recognizing and managing stress, self-care techniques, and resiliency;

58. Establish guidelines and standards for psychological examinations conducted pursuant to subsection C of § 15.2-1705;

59. Establish compulsory in-service training standards, to include frequency of retraining, for law-enforcement officers in the following subjects: (i) relevant state and federal laws; (ii) awareness of cultural diversity and the potential for bias-based profiling as defined in § 52-30.1; (iii) de-escalation techniques; (iv) working with individuals with disabilities, mental health needs, or substance use disorders; and (v) the lawful use of force, including the use of deadly force, as defined in § 19.2-83.3, only when necessary to protect the law-enforcement officer or another person;

60. Develop a uniform curriculum and lesson plans for the compulsory minimum entry-level, in-service, and advanced training standards to be employed by criminal justice training academies approved by the Department when conducting training;

61. Adopt statewide professional standards of conduct applicable to all certified law-enforcement officers and certified jail officers and appropriate due process procedures for decertification based on serious misconduct in violation of those standards;

62. Establish and administer a waiver process, in accordance with §§ 2.2-5515 and 15.2-1721.1, for law-enforcement agencies to use certain military property. Any waivers granted by the Criminal Justice

306 Services Board shall be published by the Department on the Department's website;

307 63. Establish compulsory training standards for basic training and the recertification of
308 law-enforcement officers to include crisis intervention training in accordance with clause (ii) of
309 § 9.1-188;

310 64. Advise and assist the Department of Behavioral Health and Developmental Services, and support
311 local law-enforcement cooperation, with the development and implementation of the Marcus alert
312 system, as defined in § 37.2-311.1, including the establishment of local protocols for law-enforcement
313 participation in the Marcus alert system pursuant to § 9.1-193 and for reporting requirements pursuant to
314 §§ 9.1-193 and 37.2-311.1;

315 65. Develop an online course to train hotel proprietors and their employees to recognize and report
316 instances of suspected human trafficking; ~~and~~

317 66. *Create and maintain a Surveillance Technology Registry consistent with the provisions of*
318 *§ 9.1-116.9; and*

319 67. Perform such other acts as may be necessary or convenient for the effective performance of its
320 duties.

321 **§ 9.1-116.9. Surveillance Technology Registry established.**

322 A. For purposes of this section, "surveillance technology" means any electronic surveillance device,
323 hardware, or software that is capable of collecting, capturing, recording, retaining, processing,
324 intercepting, analyzing, monitoring, or sharing audio, visual, digital, location, thermal, biometric,
325 behavioral, or similar information or communications specifically associated with, or capable of being
326 associated with, any specific individual, group, or place or any system, device, or vehicle that is
327 equipped with an electronic surveillance device, hardware, or software. "Surveillance technology"
328 includes (i) international mobile subscriber identity (IMSI) catchers and other cell site simulators; (ii)
329 automatic license plate readers; (iii) electronic toll readers; (iv) closed-circuit television cameras; (v)
330 biometric surveillance technology, including facial, voice, iris, and gait-recognition software and
331 databases; (vi) mobile DNA capture technology; (vii) gunshot detection and location hardware and
332 services; (viii) x-ray vans; (ix) video and audio monitoring or recording technology, such as surveillance
333 cameras, wide-angle cameras, and wearable body cameras; (x) surveillance enabled or capable
334 lightbulbs or light fixtures; (xi) tools, including software and hardware, used to gain unauthorized
335 access to a computer, computer service, or computer network; (xii) social media monitoring software;
336 (xiii) through-the-wall radar or similar imaging technology; (xiv) passive scanners of radio networks;
337 (xv) long-range Bluetooth and other wireless-scanning devices; (xvi) radio-frequency I.D. (RFID)
338 scanners; and (xvii) software designed to integrate or analyze data from surveillance technology,
339 including surveillance target tracking and predictive policing software. The enumeration of surveillance
340 technology examples in this subsection shall not be interpreted as an endorsement or approval of their
341 use by any law-enforcement entity.

342 B. The Department shall (i) create and maintain a Surveillance Technology Registry (the Registry)
343 with which localities shall register any surveillance technology used by a law-enforcement entity,
344 including surveillance technology procured, contracted for, obtained, or shared with a law-enforcement
345 entity, in its jurisdiction and (ii) store and use such information provided by localities for the purposes
346 of this section.

347 C. Any locality prior to the use of a surveillance technology by a law-enforcement entity within its
348 jurisdiction, regardless of whether government funding or appropriations are used for the purchase of
349 or for contracting with a vendor for the use of such surveillance technology, shall register such
350 technology with the Registry and provide information, including (i) the type of surveillance technology
351 used, (ii) the cost and vendor of the surveillance technology, (iii) the approximate location of the
352 surveillance technology, and (iv) any storage and use requirements for the surveillance technology.

353 If a locality registers a surveillance technology that has not previously been registered in the
354 Commonwealth, the Department shall initiate a request to the Joint Commission on Technology and
355 Science to study such surveillance technology, in consultation with a representative from the Virginia
356 State Crime Commission and providing opportunity for public input, and to issue a report on the use of
357 such surveillance technology and implications of its use, susceptibility to misuse or cyberattack, and
358 cost.

359 If a locality fails to register the surveillance technology prior to implementation, the Department
360 shall issue a notice of such failure. Upon receipt of such notice, the locality shall cease to use the
361 surveillance technology until the locality registers it and, if such study is required pursuant to this
362 section, the Joint Commission on Technology and Science has studied and issued a report on such
363 surveillance technology.