CODE OF VIRGINIA

Title 9.1

Commonwealth Public Safety

Title 9.1 - Commonwealth Public Safety

Chapter 1 - DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Article 1 - GENERAL PROVISIONS

§ 9.1-100. Department of Criminal Justice Services.

A. There is created a Department of Criminal Justice Services (the "Department") that shall be headed by a Director appointed by the Governor, subject to confirmation by the General Assembly. The Director shall serve at the pleasure of the Governor.

B. The Director of the Department shall, under the direction and control of the Governor, exercise the powers and perform the duties conferred or imposed upon him by law and perform such other duties required by the Governor or the Criminal Justice Services Board.

1981, c. 632, §§ 9-174, 9-175, 9-176; 1984, c. 720; 2001, c. 844.

§ 9.1-101. Definitions.

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the

purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia Criminal Sentencing Commission.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State

Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi) employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are those compensated officers who are not full-time employees as defined by the employing police department, sheriff's office, or private police department.

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

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

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

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

1981, c. 632, § 9-169; 1982, c. 419; 1983, c. 357; 1984, c. 543; 1989, c. 233; 1991, c. 338; 1992, cc. 422, 569; 1993, cc. 533, 622, 866; 2000, c. 426; 2001, c. 844; 2002, cc. 789, 836, 868; 2003, cc. 744, 934, 937; 2004, c. 30; 2005, c. 914; 2007, c. 87; 2008, c. 460; 2010, c. 621; 2012, c. 776; 2014, cc. 225, 342, 543; 2015, cc. 38, 195, 224, 730; 2016, cc. 498, 618; 2018, c. 548; 2019, cc. 120, 475, 782, 783; 2020, cc. 90, 958.

§ 9.1-101.1. Certified mail; subsequent mail or notices may be sent by regular mail.

Whenever in this chapter the Board or the Department is required to send any mail or notice by certified mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the Board or the Department may be sent by regular mail.

2011, c. 566.

§ 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;

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 instruction;

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

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

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

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

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

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

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

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

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

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

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

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

25. Operate a statewide criminal justice research center, which shall maintain an integrated criminal justice information system, produce reports, provide technical assistance to state and local criminal

justice data system users, and provide analysis and interpretation of criminal justice statistical information;

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

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

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

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

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

31. Do all things necessary on behalf of the Commonwealth and its units of general local government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and 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. Communication with and facilitation of the safe return of individuals diagnosed with Alzheimer's disease;

c. Sensitivity to and awareness of cultural diversity and the potential for biased policing;

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; and

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

38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;

39. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs, including sensitivity to and awareness of cultural diversity and the potential for biased policing;

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

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

42. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, including school security officers described in clause (b) of § 22.1-280.2:1, which training and certification shall be administered by the Virginia Center for School and Campus Safety (VCSCS) pursuant to § 9.1-184. Such training standards shall be specific to the role and responsibility of school security officers 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 such as a physical alternative to restraint; (v) disaster and emergency response; (vi) awareness of cultural diversity and implicit bias; (vii) working with students with disabilities, mental health needs, substance abuse disorders, and past traumatic experiences; and (viii) student behavioral dynamics, including child and adolescent development and brain research. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, and school security personnel to assist in the development of the standards and certification requirements in this subdivision. The Department shall require any school security officer who carries a firearm in the

performance of his duties to provide proof that he has completed a training course provided by a federal, state, or local law-enforcement agency that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment;

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

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

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

46. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula, and (iii) certification requirements for campus security officers. Such training standards shall include, but not be limited to, the role and responsibility of campus security officers, relevant state and federal laws, school and personal liability issues, security awareness in the campus environment, and disaster and emergency response. The Department shall provide technical support and assistance to campus police departments and campus security departments on the establishment and implementation of policies and procedures, including but not limited to: the management of such departments, investigatory procedures, judicial referrals, the establishment and management of databases for campus safety and security information sharing, and development of uniform record keeping for disciplinary records and statistics, such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an 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 cultural diversity and implicit bias; (vii) working with students with disabilities, mental health needs, substance abuse 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; and

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

1981, c. 632, § 9-170; 1982, c. 473; 1984, cc. 515; 779; 1986, c. 128; 1988, cc. 46, 560; 1990, c. 632; 1991, c. 345; 1994, cc. 850, 905; 1996, cc. 154, 866, 952; 1998, cc. 31, 471, 523; 1999, cc. 307, 495; 2000, c. 561; 2001, cc. 162, 210, 434, 458, 844; 2002, cc. 490, 810, 818, 836, 868; 2004, cc. 397, 460, 972, 980, 1016; 2005, cc. 868, 881; 2006, cc. 203, 233, 857, 914; 2008, cc. 328, 600, 771; 2009, c.

715; 2010, c. 224; 2011, cc. 579, 635, 719, 821, 854; 2012, cc. 140, 159, 803, 827, 835; 2014, cc. 7, 158, 265; 2015, cc. 38, 205, 222, 223, 278, 402, 730; 2016, cc. 197, 235, 256, 481, 560; 2017, cc. 311, 758; 2019, cc. 366, 487, 488, 493; 2020, cc. 123, 184, 526, 535, 638, 1206, 1262.

§ 9.1-102.1. Photo-identification cards.

A. The Department shall issue a photo-identification card to a private security registrant at the time of the approval of such individual's initial registration and upon renewal. Upon submission of a written statement by an individual to the Department that the individual's photo-identification card is lost, stolen, or destroyed, the Department shall reissue a photo-identification card to the individual.

B. A photo-identification card shall contain the name of the individual, the individual's registration number, the individual's registration category, and a photograph of the individual; the date of issuance; the date of expiration; the name of the issuer, "Department of Criminal Justice Services, Commonwealth of Virginia"; and any other information approved by the Department pursuant to subdivision 51 of § 9.1-102.

C. For each photo-identification card issued or reissued to an individual pursuant to this section, the Department shall charge the individual a fee in an amount equal to the fee charged by the Department of Motor Vehicles for the issuance of a special identification card set forth in §§ 46.2-333.1 and 46.2-345. In addition to such fee, the Department shall charge the individual a $4 processing fee for any photo-identification card issued or reissued on or after July 1, 2017, but before July 1, 2018.

D. The Department may enter into an agreement with the Department of Motor Vehicles to create, design, and produce photo-identification cards issued by the Department pursuant to this section and shall submit the information necessary to create and produce photo-identification cards in electronic form to the Department of Motor Vehicles in a format prescribed by the Commissioner of the Department of Motor Vehicles. For each photo-identification card produced by the Department of Motor Vehicles, the Department of Motor Vehicles shall charge the Department an amount equal to the fee charged by the Department of Motor Vehicles for the issuance of a special identification card set forth in §§ 46.2-333.1 and 46.2-345. In addition to such fee, the Department of Motor Vehicles shall charge the Department a $4 processing fee for any photo-identification card issued or reissued on or after July 1, 2017, but before July 1, 2018. All fees paid to the Department of Motor Vehicles by the Department for each photo-identification card issued pursuant to this subsection shall be paid into the state treasury and set aside as a special fund to meet the expenses of the Department of Motor Vehicles in issuing such cards.

2016, cc. 197, 256.

§ 9.1-103. Direct operational responsibilities in law enforcement not authorized.

Nothing in this chapter shall be construed as authorizing the Department to undertake direct operational responsibilities in law enforcement or the administration of criminal justice.

1981, c. 632, § 9-183; 2001, c. 844.

§ 9.1-104. Establishment of victim and witness assistance programs; purpose; guidelines.

A. The Department shall adopt guidelines, the purpose of which shall be to make funds available to local governments for establishing, operating and maintaining victim and witness assistance programs which provide services to the victims of crime and witnesses in the criminal justice system.

B. The Department shall establish a grant procedure to govern funds awarded for this purpose.

1984, c. 561, § 9-173.3; 2001, c. 844.

§ 9.1-105. Intensified Drug Enforcement Jurisdictions Fund.

There is created a special nonreverting fund to be administered by the Department, known as the Intensified Drug Enforcement Jurisdictions Fund. This Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund.

1990, c. 971, § 14.1-133.3; 1998, c. 872, § 9-178.1; 2001, c. 844.

§ 9.1-106. Regional Criminal Justice Academy Training Fund; local fee.

There is created a special nonreverting fund to be administered by the Department, known as the Regional Criminal Justice Academy Training Fund. This Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund, but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund. The Fund shall consist of moneys forwarded to the State Treasurer for deposit in the Fund as provided in §§ 16.1-69.48:1, 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, and 17.1-275.9, which sums shall be deposited in the state treasury to the credit of the Fund. Money in the Fund shall be used to provide financial support for regional criminal justice training academies, and shall be distributed as directed by the Department. Notwithstanding any other provision of law, nothing in this section shall prohibit a locality from charging a similar fee if the locality does not participate in a regional criminal justice training academy and if the locality was operating a certified independent criminal justice academy as of July 1, 2012.

Any and all funds from such local fee shall support the local academy.

Existing funds for the regional criminal justice training academies shall not be reduced by either state or local entities as a result of the enactment of Chapter 215 of the Acts of Assembly of 1997.

1997, c. 215, § 14.1-133.4; 1998, c. 872, § 9-178.2; 1999, c. 546; 2001, c. 844; 2003, cc. 993, 1028; 2010, c. 746; 2014, cc. 375, 431.

§ 9.1-107. Powers and duties of Director.

A. The Director shall be charged with executive and administrative responsibility to (i) carry out the specific duties imposed on the Department under § 9.1-102 and (ii) maintain appropriate liaison with federal, state and local agencies and units of government, or combinations thereof, in order that all programs, projects and activities for strengthening and improving law enforcement and the administration of criminal justice may function effectively at all levels of government.

B. In addition, the Director shall have the power and duty to:

1. Accept grants from the United States government and agencies and instrumentalities thereof, and any other source. To these ends, the Department shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable.

2. In accordance with the standards of classification of the Personnel Act (§ 2.2-2900 et seq.), employ and fix the salaries of Department personnel and enter into contracts for services necessary in the performance of the Department's functions.

3. Do all acts necessary or convenient to carry out the purpose of this chapter and to assist the Board in carrying out its responsibilities under § 9.1-102.

C. The Director shall be the Executive Director of the Board, but shall not be a member of the Board.

1981, c. 632, §§ 9-176, 9-177; 1984, c. 720; 2001, c. 844.

§ 9.1-108. Criminal Justice Services Board membership; terms; vacancies; members not disqualified from holding other offices; designation of chairmen; meetings; compensation.

A. The Criminal Justice Services Board is established as a policy board within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall consist of 29 members as follows: the Chief Justice of the Supreme Court of Virginia, or his designee; the Attorney General or his designee; the Superintendent of the Department of State Police; the Director of the Department of Corrections; the Director of the Department of Juvenile Justice; the Chairman of the Parole Board; the Executive Director of the Virginia Indigent Defense Commission or his designee; and the Executive Secretary of the Supreme Court of Virginia. In those instances in which the Executive Secretary of the Supreme Court of Virginia, the Superintendent of the Department of State Police, the Director of the Department of Corrections, the Director of the Department of Juvenile Justice, or the Chairman of the Parole Board will be absent from a Board meeting, he may appoint a member of his staff to represent him at the meeting.

Seventeen members shall be appointed by the Governor from among citizens of the Commonwealth. At least one shall be a representative of a crime victims' organization or a victim of crime as defined in subsection B of § 19.2-11.01, and one shall represent community interests. The remainder shall be representative of the broad categories of state and local governments, criminal justice systems, and law-enforcement agencies, including but not limited to, police officials, sheriffs, attorneys for the Commonwealth, defense counsel, the judiciary, correctional and rehabilitative activities, and other locally elected and appointed administrative and legislative officials. Among these members there shall be two sheriffs representing the Virginia Sheriffs' Association selected from among names submitted by the Association; one member who is an active duty law-enforcement officer appointed after consideration of the names, if any, submitted by police or fraternal associations that have memberships of at least 1,000; two representatives of the Virginia Association of Chiefs of Police appointed after consideration of the names submitted by the Association, if any; one attorney for the Commonwealth appointed after consideration of the names submitted by the Virginia Association of Commonwealth's Attorneys, if any; one person who is a mayor, city or town manager, or member of a city or town

council representing the Virginia Municipal League appointed after consideration of the names submitted by the League, if any; one person who is a county executive, manager, or member of a county board of supervisors representing the Virginia Association of Counties appointed after consideration of the names submitted by the Association, if any; one member representing the Virginia Association of Campus Law Enforcement Administrators appointed after consideration of the names submitted by the Association, if any; one member of the Private Security Services Advisory Board; and one representative of the Virginia Association of Regional Jails appointed after consideration of the names submitted by the Association, if any.

Four members of the Board shall be members of the General Assembly appointed as follows: one member of the House Committee on Appropriations appointed by the Speaker of House of Delegates after consideration of the recommendation by the committee's chairman; one member of the House Committee for Courts of Justice appointed by the Speaker of the House of Delegates after consideration of the recommendation by the committee's chairman; one member of the Senate Committee on Finance appointed by the Senate Committee on Rules after consideration of the recommendation of the chairman of the Senate Committee on Finance; and one member of the Senate Committee for Courts of Justice appointed by the Senate Committee on Rules after consideration of the recommendation of the chairman of the Senate Committee for Courts of Justice. The legislative members shall serve for terms coincident with their terms of office and shall serve as ex officio, nonvoting members. Legislative members may be reappointed for successive terms.

B. The members of the Board appointed by the Governor shall serve for terms of four years, provided that no member shall serve beyond the time when he holds the office or employment by reason of which he was initially eligible for appointment. Gubernatorial appointed members of the Board shall not be eligible to serve for more than two consecutive full terms. Three or more years within a four-year period shall be deemed a full term. Any vacancy on the Board shall be filled in the same manner as the original appointment, but for the unexpired term.

C. The Governor shall appoint a chairman of the Board for a two-year term. No member shall be eligible to serve more than two consecutive terms as chairman. The Board shall designate one or more vice-chairmen from among its members, who shall serve at the pleasure of the Board.

D. Notwithstanding any provision of any statute, ordinance, local law, or charter provision to the contrary, membership on the Board shall not disqualify any member from holding any other public office or employment, or cause the forfeiture thereof.

E. The Board shall hold no less than four regular meetings a year. Subject to the requirements of this subsection, the chairman shall fix the times and places of meetings, either on his own motion or upon written request of any five members of the Board.

F. The Board may adopt bylaws for its operation.

G. Legislative members of the Board shall receive such compensation as provided in § 30-19.12 and nonlegislative citizen members shall receive such compensation as provided in § 2.2-2813 for the

performance of their duties. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department of Criminal Justice Services.

1981, c. 632, § 9-168; 1984, cc. 30, 515, 538, 734; 1986, c. 519; 1987, c. 144; 1989, c. 733; 1990, c. 98; 1991, cc. 59, 685; 1993, c. 415; 1994, cc. 20, 226; 1997, cc. 32, 795, 883; 1999, c. 495; 2001, c. 844; 2004, c. 1000; 2005, cc. 594, 672; 2011, cc. 594, 681, 691, 714; 2012, cc. 803, 835; 2017, c. 206.

§ 9.1-108.1. Executive Committee; authority; effect of certain actions.

A. The Board may establish an Executive Committee consisting of the Chairman and seven members of the Board appointed by the Chair. The Chair shall serve a term coincident with his term of office as Chairman of the Board and the other members of the Executive Committee shall serve terms of two years. Five members of the Executive Committee shall constitute a quorum.

B. The Executive Committee shall have the authority to take any action authorized by this chapter including, but not limited to, hearing appeals by a regulant of a determination of a violation of regulations promulgated by the Board.

C. Any decision rendered by the Executive Committee on appeals by a regulant of a determination of a violation of regulations promulgated by the Board shall have the same effect as if made by the Board and shall be subject to judicial review in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

All other actions of the Executive Committee shall be acted upon by the full Board as soon as practicable.

2008, c. 305.

§ 9.1-109. Administration of federal programs.

The Board is designated as the supervisory board and the Department is designated as the planning and coordinating agency responsible for the implementation and administration of any federal programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control throughout the Commonwealth.

1981, c. 632, § 9-171; 2001, c. 844.

§ 9.1-110. School Resource Officer Grants Program and Fund.

A. From the funds appropriated for such purpose and from the gifts, donations, grants, bequests, and other funds received on its behalf, there is established (i) the School Resource Officer Grants Program, to be administered by the Board, in consultation with the Board of Education, and (ii) a special nonreverting fund within the state treasury known as the School Resource Officer Incentive Grants Fund, hereinafter known as the "Fund." The Fund shall be established on the books of the Comptroller, and any moneys remaining in the Fund at the end of the biennium shall not revert to the gen-

eral fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

Subject to the authority of the Board to provide for its disbursement, the Fund shall be disbursed to award matching grants to local law-enforcement agencies and local school boards that have established a collaborative agreement to employ uniformed school resource officers, as defined in § 9.1-101, in middle and high schools within the relevant school division. The Board may disburse annually up to five percent of the Fund for the training of the school resource officers. School resource officers shall be certified law-enforcement officers and shall be employed to help ensure safety and prevent truancy and violence in schools.

B. The Board shall establish criteria for making grants from the Fund, including procedures for determining the amount of a grant and the required local match. Any grant of general funds shall be matched by the locality on the basis of the composite index of local ability to pay. The Board may adopt guidelines governing the Program and the employment and duties of the school resource officers as it deems necessary and appropriate.

1999, c. 512, § 9-171.1; 2000, c. 785; 2001, cc. 33, 844; 2002, cc. 836, 868; 2016, c. 466.

§ 9.1-111. Advisory Committee on Juvenile Justice and Prevention; membership; terms; quorum; compensation and expenses; duties.

A. The Advisory Committee on Juvenile Justice and Prevention (the Advisory Committee) is established as an advisory committee in the executive branch of state government. The Advisory Committee shall have the responsibility for advising and assisting the Board, the Department, all agencies, departments, boards, and institutions of the Commonwealth, and units of local government, or combinations thereof, on matters related to the prevention and treatment of juvenile delinquency and the administration of juvenile justice in the Commonwealth.

The membership of the Advisory Committee shall comply with the membership requirements contained in the federal Juvenile Justice and Delinquency Prevention Act pursuant to 34 U.S.C. § 11133, as amended, and shall consist of the Commissioner of Behavioral Health and Developmental Services; the Commissioner of Social Services; the Director of the Department of Juvenile Justice; the Superintendent of Public Instruction; the Commissioner of Health; one member of the Senate Committee for Courts of Justice appointed by the Senate Committee on Rules after consideration of the recommendation of the Chairman of the Senate Committee for Courts of Justice; one member of the House Committee on Health, Welfare and Institutions appointed by the Speaker of the House of Delegates after consideration of the recommendation of the Chairman of the House Committee on Health, Welfare and Institutions; and such number of nonlegislative citizen members appointed by the Governor to comply with the membership range established by such federal act. The Advisory Committee may serve as an advisory committee as may be required by other federal or state laws or programs administered by the Department. Membership shall be adjusted as necessary to fulfill the requirements of such laws or programs.

Legislative members, the Superintendent of Public Instruction, and the agency directors shall serve terms coincident with their terms of office. All other members shall be citizens of the Commonwealth and be appointed by the Governor for a term of four years. However, no member shall serve beyond the time when he holds the office or employment by reason of which he was initially eligible for appointment.

The Advisory Committee shall elect its chairman and vice-chairman from among its members.

B. Gubernatorial appointed members of the Advisory Committee shall not be eligible to serve for more than two consecutive full terms. Three or more years within a four-year period shall be deemed a full term. Any vacancy on the Advisory Committee shall be filled in the same manner as the original appointment, but for the unexpired term.

C. Twelve members of the Advisory Committee, including voting and nonvoting members, shall constitute a quorum.

The Advisory Committee may adopt bylaws for its operation.

D. Members of the Advisory Committee shall not receive compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of the expenses shall be provided from federal or state funds received for such purposes by the Department of Criminal Justice Services.

E. The Advisory Committee shall have the duty and responsibility to:

1. Review the operation of the juvenile justice system and delinquency prevention activities in the Commonwealth, including facilities and programs, and prepare appropriate reports;

2. Review statewide plans, conduct studies, and make recommendations on needs and priorities for the development and improvement of the juvenile justice system and delinquency prevention in the Commonwealth; and

3. Advise on all matters related to the federal Juvenile Justice and Delinquency Prevention Act of 1974 (P.L. 93-415, as amended), and recommend such actions on behalf of the Commonwealth as may seem desirable to secure benefits of that or other federal programs for delinquency prevention and the administration of juvenile justice.

F. The Department of Criminal Justice Services shall provide staff support to the Advisory Committee. Upon request, each administrative entity or collegial body within the executive branch of the state government shall cooperate with the Advisory Committee as it carries out its responsibilities.

1981, c. 632, § 9-168; 1984, cc. 30, 515, 538, 734; 1986, c. 519; 1987, c. 144; 1989, c. 733; 1990, c. 98; 1991, cc. 59, 685; 1993, c. 415; 1994, cc. 20, 226; 1997, cc. 32, 795, 883; 1999, c. 495; 2001, c. 844; 2004, c. 1000; 2009, cc. 813, 840; 2015, cc. 210, 419.

§ 9.1-112. Committee on Training; membership.

There is created a permanent Committee on Training under the Board that shall be the policy-making body responsible to the Board for effecting the provisions of subdivisions 2 through 17 of § 9.1-102. The Committee on Training shall be composed of 15 members of the Board as follows: the Superintendent of the Department of State Police; the Director of the Department of Corrections; a member of the Private Security Services Advisory Board; the Executive Secretary of the Supreme Court of Virginia; two sheriffs representing the Virginia State Sheriffs Association; two representatives of the Chiefs of Police Association; the active-duty law-enforcement officer representing police and fraternal associations; the attorney for the Commonwealth representing the Association of Commonwealth's Attorneys; a representative of the Virginia Municipal League; a representative of the Virginia Association of Counties; a regional jail superintendent representing the Virginia Association of Regional Jails; one citizen representing community interests; and one member designated by the chairman of the Board from among the other appointments made by the Governor.

The Committee on Training shall annually elect its chairman from among its members.

1981, c. 632, § 9-168; 1984, cc. 30, 515, 538, 734; 1986, c. 519; 1987, c. 144; 1989, c. 733; 1990, c. 98; 1991, cc. 59, 685; 1993, c. 415; 1994, cc. 20, 226; 1997, cc. 32, 795, 883; 1999, c. 495; 2001, c. 844; 2007, c. 228; 2011, cc. 594, 681; 2012, c. 827; 2014, cc. 83, 535; 2017, c. 206; 2019, c. 366.

§ 9.1-113. Compliance with minimum training standards by certain officers; exceptions.
The provisions of this chapter shall not be construed to require (i) law-enforcement officers serving under permanent appointment on July 1, 1971, (ii) officers serving under permanent appointment under the provisions of § 56-353 appointed prior to July 1, 1982, or (iii) officers serving under permanent appointment under the provisions of § 10.1-115 appointed prior to July 1, 2003; to meet the compulsory minimum training standards provided for in subdivision 2 of § 9.1-102. Nor shall failure of any such officer to meet such standards make him ineligible for any promotional examination for which he is otherwise eligible. However, any law-enforcement officer designated under the provisions of § 53.1-120 to provide courthouse and courtroom security shall be required to meet the standards provided under subdivision 7 of § 9.1-102. Any full-time deputy sheriff who is a law-enforcement officer and who is exempted from the compulsory minimum training standards under this section shall be eligible for the minimum salary established pursuant to Article 3 (§ 15.2-1609 et seq.) of Chapter 16 of Title 15.2.

1981, c. 632, § 9-179; 1982, c. 419; 1984, c. 779; 1999, c. 495; 2001, c. 844; 2003, c. 744.

§ 9.1-114. Compliance with minimum training standards by officers employed after July 1, 1971, by officers appointed under § 56-353 after July 1, 1982, and by part-time officers.
Every full-time law-enforcement officer employed after July 1, 1971, officers appointed under the provisions of § 56-353 after July 1, 1982, and every part-time law-enforcement officer employed after July 1, 1989, shall comply with the compulsory minimum training standards established by the Board within a period of time fixed by the Board in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). However, any part-time law-enforcement officer employed for eighty, or fewer, compensated hours in a calendar year, or any noncompensated auxiliary deputy sheriff, or

noncompensated auxiliary police officer who carries a firearm in the course of his employment shall be required to have completed basic firearms training and received ongoing in-service firearms training, as defined by the Board. The Board may require law-enforcement agencies of the Commonwealth and its political subdivisions to submit rosters of their personnel and pertinent data with regard to the training status of such personnel.

1981, c. 632, § 9-180; 1982, c. 419; 1989, c. 233; 2001, c. 844.

§ 9.1-114.1. Compliance with minimum training standards by school resource officers.

Every full-time or part-time law-enforcement officer employed as a school resource officer after July 1, 2020, shall comply with the compulsory minimum training standards for school resource officers established by the Board within a period of time fixed by the Board. The Department shall ensure that such required training is available throughout the Commonwealth.

2019, cc. 487, 488.

§ 9.1-114.2. Compliance with minimum training standards and reporting requirements for detector canine handlers and detector canines.

Within a period of time established by the Board, every correctional officer employed by the Department of Corrections who performs the duties of a detector canine handler shall comply with the compulsory minimum training standards for detector canine handlers, and the Department of Corrections shall ensure that any canines used at state correctional facilities are trained in accordance with the compulsory training standards established by the Board. Each state correctional facility shall submit information to the central database on the performance and effectiveness of detector canines as required by the Board. The Department shall ensure that such required training is available throughout the Commonwealth.

2020, c. 535.

§ 9.1-115. Forfeiture of office for failing to meet training standards; termination of salary and benefits; extension of term.

A. Every person required to comply with the training standards adopted by the Board, excluding private security services business personnel, who fails to comply with the standards within the time limits established by the regulations adopted by the Board shall forfeit his office, upon receipt of notice, as provided in subsection B. Such forfeiture shall create a vacancy in the office and all pay and allowances shall cease.

B. Notice shall be by certified mail, in a form approved by the Board, to the officer failing to comply and the chief administrative officer of the agency employing the officer. Notice shall be mailed to the State Compensation Board, if approval of that Board of the necessity of his office or compensation is required by law.

C. If the necessity for the officer or compensation of the officer is required by law to be approved by the State Compensation Board, that Board, upon receipt of notice as provided in subsection B, shall notify

the Comptroller, who shall cause payment of his compensation to cease as of the date of receipt of the notice by the State Compensation Board of the notice.

D. It shall be the duty of the chief administrative officer of any agency employing a person who fails to meet the training standards to enforce the provisions of § 9.1-114 and this section. Willful failure to do so shall constitute misfeasance in office, and, in addition, upon conviction, shall constitute a Class 3 misdemeanor.

1981, c. 632, § 9-181; 2001, c. 844.

§ 9.1-116. Exemptions of certain persons from certain training requirements.

The Director of the Department, with the approval of the Board, may exempt a chief of police or any law-enforcement officer or any courthouse and courtroom security officer, jail officer, dispatcher, process server, or custodial officer or corrections officer of the Commonwealth or any political subdivision who has demonstrated sensitivity to cultural diversity issues and had previous experience and training as a law-enforcement officer, courthouse and courtroom security officer, jail officer, dispatcher, process server or custodial officer or corrections officer with any law-enforcement or custodial agency, from the mandatory attendance of any or all courses which are required for the successful completion of the compulsory minimum training standards established by the Board.

The exemption authorized by this section shall be available to all law-enforcement officers, courthouse and courtroom security officers, jail officer, dispatchers, process servers and custodial officers, and corrections officers, regardless of any officer's date of initial employment, and shall entitle the officer when exempted from mandatory attendance to be deemed in compliance with the compulsory minimum training standards and eligible for the minimum salary established pursuant to Article 3 (§ 15.2-1609 et seq.) of Chapter 16 of Title 15.2, provided that the officer is otherwise qualified.

1981, c. 632, § 9-173; 1984, c. 515; 1988, c. 138; 2001, cc. 162, 844.

§ 9.1-116.1. Virginia Sexual and Domestic Violence Victim Fund; purpose; guidelines.

A. There is created the Virginia Sexual and Domestic Violence Victim Fund as a special nonreverting fund to be administered by the Department of Criminal Justice Services to support the prosecution of domestic violence cases and victim services.

B. The Department shall adopt guidelines, the purpose of which shall be to make funds available to (i) local attorneys for the Commonwealth for the purpose of funding the cost of additional attorneys or to further dedicate existing resources to prosecute felonies and misdemeanors involving domestic violence, sexual violence, sexual abuse, stalking and family abuse, and (ii) law-enforcement authorities or appropriate programs, including civil legal assistance, to assist in protecting and providing necessary services to victims of and children affected by domestic violence, sexual abuse, stalking and family abuse.

C. A portion of the sum collected pursuant to § 16.1-69.48:1 as specified in that section shall be deposited into the state treasury to the credit of this Fund in addition to any other monies appropriated, allocated or received specifically for such purpose. The Fund shall be distributed according to grant

procedures adopted pursuant to this section and shall be established on the books of the Comptroller. Any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund.

D. The Department shall establish a grant procedure to govern funds awarded for this purpose.

2004, c. 375; 2006, c. 288.

§ 9.1-116.2. Advisory Committee on Sexual and Domestic Violence; membership; terms; compensation and expenses; duties.

A. The Advisory Committee on Sexual and Domestic Violence (the Advisory Committee) is established as an advisory committee in the executive branch of state government. The Advisory Committee shall have the responsibility for advising and assisting the Board, the Department, all agencies, departments, boards, and institutions of the Commonwealth, and units of local government, or combinations thereof, on matters related to the prevention and reduction of sexual and domestic violence in the Commonwealth, and to promote the efficient administration of grant funds to state and local programs that work in these areas.

The Advisory Committee shall have a total of 15 members consisting of the following, or their designees: the Commissioner of Social Services; the Director of the Department of Criminal Justice Services; the Commissioner of Health; the Director of the Department of Housing and Community Development; the Executive Director of the Virginia sexual and domestic violence coalition; one member of the Senate to be appointed by the Senate Committee on Rules; one member of the House of Delegates to be appointed by the Speaker of the House; the Chairman of the Virginia State Crime Commission; and the Attorney General. The membership shall also consist of six nonlegislative citizen members appointed by the Governor, one of whom shall be a representative of a crime victims' organization or a victim of sexual or domestic violence, one of whom shall be a member of the board of the Virginia Victim Assistance Network, and four of whom shall be directors of local sexual and domestic violence programs, of whom one shall be a director of a program that concentrates solely on domestic violence, one shall be a director of a program that concentrates solely on sexual violence, and two shall be directors of programs that work in both sexual and domestic violence. The appointments of the four directors shall be representative of regional and geographic locations of the Commonwealth.

Legislative members and the agency directors shall serve terms coincident with their terms of office. All other members shall be citizens of the Commonwealth and shall serve a term of four years. However, no member shall serve beyond the time when he holds the office or employment by reason of which he was initially eligible for appointment.

The Advisory Committee shall elect its chairman and vice-chairman from among its members.

B. No member of the Advisory Committee appointed by the Governor shall be eligible to serve for more than two consecutive full terms. A term of three or more years within a four-year period shall be

deemed a full term. Any vacancy on the Advisory Committee shall be filled in the same manner as the original appointment, but for the unexpired term.

C. A majority of the members of the Advisory Committee shall constitute a quorum. The Advisory Committee shall hold no less than four regular meetings a year. Subject to the requirements of this subsection, the chairman shall fix the times and places of meetings, either on his own motion or upon written request of any five members of the Advisory Committee.

D. The Advisory Committee may adopt bylaws for its operation.

E. Members of the Advisory Committee shall not receive compensation, but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in § 2.2-2825. Funding for the costs of the expenses shall be provided from federal funds received for such purposes by the Department.

F. The Advisory Committee shall have the following duties and responsibilities:

1. Provide guidance on appropriate standards for the accreditation of sexual and domestic violence programs;

2. Review statewide plans, conduct studies, and make recommendations on needs and priorities for the development and improvement of local services to victims of sexual and domestic violence in the Commonwealth;

3. Advise on all matters related to federal funds received by the Commonwealth for crime prevention and crime victim assistance related to sexual and domestic violence and recommend such actions on behalf of the Commonwealth as may seem desirable to secure benefits of these federal programs;

4. Promote coordination among state agencies and local service providers to improve the Commonwealth's identification of and response to sexual and domestic violence, including the effective implementation of trauma-informed services, evidence-based homicide reduction strategies, and evidence-based prevention strategies;

5. Develop a comprehensive plan for data collection on sexual and domestic violence;

6. Review statewide reports and conduct studies to identify service demands and gaps and make funding recommendations that ensure adequate funding and improve the administration of both state and federal funds to local sexual and domestic violence programs; and

7. Make recommendations on improving efficiencies in the administration of grants of both state and federal funds to local sexual and domestic violence programs.

G. The Department shall provide staff support to the Advisory Committee. Upon request, each administrative entity or collegial body within the executive branch of the state government shall cooperate with the Advisory Committee as it carries out its responsibilities.

2015, cc. 222, 402.

§ 9.1-116.3. Virginia Sexual and Domestic Violence Program Professional Standards Committee.

The Virginia Sexual and Domestic Violence Program Professional Standards Committee (the Committee) shall establish voluntary accreditation standards and procedures by which local sexual and domestic violence programs can be systematically measured and evaluated with a peer-reviewed process. The Committee may adopt bylaws for its operation, membership terms, fees, and other items as necessary. Fees for accreditation shall be used to support any administrative costs of the Department. Upon request of the Committee, the Department and the Virginia sexual and domestic violence coalition may provide accreditation assistance and training and resource material that will assist the local programs in obtaining or retaining accreditation.

The Committee shall consist of the following: six directors of local sexual and domestic violence programs appointed by the Advisory Committee on Sexual and Domestic Violence, six directors of local sexual and domestic violence programs appointed by the Virginia sexual and domestic violence coalition, one nonvoting member appointed by the Department, and one nonvoting member appointed by the Virginia sexual and domestic violence coalition. The appointments made by the Advisory Committee on Sexual and Domestic Violence and the Virginia sexual and domestic violence coalition shall both adhere to the following requirements: appointments shall be representative of regional and geographic locations and types of local sexual and domestic violence programs and shall include a director of a program concentrating solely on sexual violence, a director of a program concentrating solely on domestic violence, and four directors of programs concentrating on both sexual and domestic violence. A chairman and vice-chairman, who shall be voting members, shall be elected annually, and each position shall alternate between a director who is appointed by the Advisory Committee and a director who is appointed by the coalition; if the chairman is a director appointed by the Advisory Committee, the vice-chairman shall be a person appointed by the coalition, and vice versa.

2015, cc. 222, 402.

§ 9.1-116.4. Virginia Prevention of Sex Trafficking Fund; purpose; guidelines.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Prevention of Sex Trafficking Fund (the Fund). The Fund shall be established on the books of the Comptroller. All moneys accruing to the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used for the purpose of promoting prevention and awareness of sex trafficking. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department.

B. The Fund shall be administered by the Department, and the Department shall adopt guidelines to make funds available to agencies of the state and local governments for the purpose of promoting awareness of and preventative training and education related to sex trafficking.

2019, c. 728.

§ 9.1-116.5. Sex Trafficking Response Coordinator; duties; report.

A. There is established within the Department a Sex Trafficking Response Coordinator (the Coordinator). The Coordinator shall:

1. Create a statewide plan for local and state agencies to identify and respond to victims of sex trafficking;

2. Coordinate the development of standards and guidelines for treatment programs for victims of sex trafficking;

3. Maintain a list of programs that provide treatment or specialized services to victims of sex trafficking and make such list available to law-enforcement agencies, attorneys for the Commonwealth, crime victim and witness assistance programs, the Department of Juvenile Justice, the Department of Social Services, the Department of Education, and school divisions;

4. Oversee the development of a curriculum to be completed by persons convicted of solicitation of prostitution under subsection B of § 18.2-346; and

5. Promote strategies for the education, training, and awareness of sex trafficking and for the reduction of demand for commercial sex.

B. The Coordinator may request and shall receive from every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party or any political subdivision thereof, cooperation and assistance in the performance of its duties. The Coordinator may also consult and exchange information with local government agencies and interested stakeholders.

C. The Coordinator shall report annually on or before October 1 to the Governor and the General Assembly. The report shall include a summary of activities for the year and any recommendations to address sex trafficking within the Commonwealth. The Department shall ensure that such report is available to the public.

2019, cc. 486, 514.

§ 9.1-116.6. Virginia Gun Violence Intervention and Prevention Fund; purpose; guidelines.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Gun Violence Intervention and Prevention Fund (the Fund). The Fund shall be established on the books of the Comptroller. All moneys accruing to the Fund, including funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf, shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used for the purpose of supporting gun violence intervention and prevention programs. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of the Department.

B. The Fund shall be administered by the Department, and the Department shall adopt guidelines to make funds available to agencies of local government, community-based organizations, and hospitals for the purpose of supporting implementation of evidence-informed gun violence intervention and prevention efforts, including street outreach, hospital-based violence intervention, and group violence intervention programs.

C. The Department shall establish a grant procedure to govern funds awarded for this purpose.

2020, cc. 818, 1129.

Article 2 - DIVISION OF FORENSIC SCIENCE

§§ 9.1-117 through 9.1-125. Repealed.

Repealed by Acts 2005, cc. 868 and 881, cl. 2.

Article 3 - CRIMINAL JUSTICE INFORMATION SYSTEM

§ 9.1-126. Application and construction of article.

A. This article shall apply to original or copied criminal history record information, maintained by a criminal justice agency of (i) the Commonwealth or its political subdivisions and (ii) the United States or another state or its political subdivisions which exchange such information with an agency covered in clause (i), but only to the extent of that exchange.

B. The provisions of this article shall not apply to original or copied (i) records of entry, such as police blotters, maintained by a criminal justice agency on a chronological basis and permitted to be made public, if such records are not indexed or accessible by name, (ii) court records of public criminal proceedings, including opinions and published compilations thereof, (iii) records of traffic offenses disseminated to or maintained by the Department of Motor Vehicles for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' or other operators' licenses, (iv) statistical or analytical records or reports in which individuals are not identified and from which their identities cannot be ascertained, (v) announcements of executive clemency, pardons, or removals of political disabilities, (vi) posters, announcements, or lists for identifying or apprehending fugitives or wanted persons, (vii) criminal justice intelligence information, or (viii) criminal justice investigative information. Except as provided in §§ 15.2-1722, 16.1-299, and 19.2-390, nothing contained in this article shall be construed as requiring any criminal justice agency to collect, maintain, or update criminal history record information, as defined in § 9.1-101, when such information is already available and readily accessible from another criminal justice agency.

C. Nothing contained in this article shall be construed as prohibiting a criminal justice agency from disclosing to the public factual information concerning the status of an investigation, the apprehension, arrest, release, or prosecution of an individual, the adjudication of charges, or the correctional status of an individual, which is related to the offense for which the individual is currently within the criminal justice system.

1981, c. 632, § 9-184; 2001, c. 844; 2007, c. 389.

§ 9.1-127. Repealed.

Repealed by Acts 2011, cc. 821 and 854, cl. 2.

§ 9.1-128. Dissemination of criminal history record information; Board to adopt regulations and procedures.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only in accordance with § 19.2-389.

B. The Board shall adopt regulations and procedures for the interstate dissemination of criminal history record information by which criminal justice agencies of the Commonwealth shall ensure that the limitations on dissemination of criminal history record information set forth in § 19.2-389 are accepted by recipients and will remain operative in the event of further dissemination.

C. The Board shall adopt regulations and procedures for the validation of an interstate recipient's right to obtain criminal history record information from criminal justice agencies of the Commonwealth.

1981, c. 632, §§ 9-187, 9-188; 2001, c. 844.

§ 9.1-129. Participation of state and local agencies in interstate system; access to system limited.

A. The Board shall regulate participation of state and local agencies in any interstate system for the exchange of criminal history record information and shall be responsible for ensuring the consistency of such participation with the terms and purposes of this article. The Board shall have no authority to compel any agency to participate in any such interstate system.

B. Direct access to any such system shall be limited to the criminal justice agencies expressly designated for that purpose by the Board.

1981, c. 632, § 9-189; 2001, c. 844.

§ 9.1-130. Procedures to be adopted by agencies maintaining criminal justice information systems.

Each criminal justice agency maintaining and operating a criminal justice information system shall adopt procedures reasonably designed to ensure:

1. The physical security of the system and the prevention of unauthorized disclosure of the information in the system;

2. The timeliness and accuracy of information in the system;

3. That all criminal justice agencies to which criminal offender record information is disseminated or from which it is collected are currently and accurately informed of any correction, deletion, or revision of such information;

4. Prompt purging or sealing of criminal offender record information when required by state or federal statute, regulation, or court order;

5. Use or dissemination of criminal offender record information by criminal justice agency personnel only after it has been determined to be the most accurate and complete information available to the criminal justice agency.

1981, c. 632, § 9-191; 2001, c. 844.

§ 9.1-131. Annual audits.

The Board shall ensure that annual audits are conducted of a representative sample of state and local criminal justice agencies to ensure compliance with this article and Board regulations. The Board shall adopt such regulations as may be necessary for the conduct of audits, the retention of records to facilitate such audits, the determination of necessary corrective actions, and the reporting of corrective actions taken.

1981, c. 632, § 9-186; 1984, cc. 30, 734; 2001, c. 844.

§ 9.1-132. Individual's right of access to and review and correction of information.

A. Any individual who believes that criminal history record information is being maintained about him by the Central Criminal Records Exchange (the "Exchange"), or by the arresting law-enforcement agency in the case of offenses not required to be reported to the Exchange, shall have the right to inspect a copy of his criminal history record information at the Exchange or the arresting law-enforcement agency, respectively, for the purpose of ascertaining the completeness and accuracy of the information. The individual's right to access and review shall not extend to any information or data other than that defined in § 9.1-101.

B. The Board shall adopt regulations with respect to an individual's right to access and review criminal history record information about himself reported to the Exchange or, if not reported to the Exchange, maintained by the arresting law-enforcement agency. The regulations shall provide for (i) public notice of the right of access; (ii) access to criminal history record information by an individual or an attorney-at-law acting for an individual; (iii) the submission of identification; (iv) the places and times for review; (v) review of Virginia records by individuals located in other states; (vi) assistance in understanding the record; (vii) obtaining a copy for purposes of initiating a challenge to the record; (viii) procedures for investigation of alleged incompleteness or inaccuracy; (ix) completion or correction of records if indicated; and (x) notification of the individuals and agencies to whom an inaccurate or incomplete record has been disseminated.

C. If an individual believes information maintained about him is inaccurate or incomplete, he may request the agency having custody or control of the records to purge, modify, or supplement them. Should the agency decline to so act, or should the individual believe the agency's decision to be otherwise unsatisfactory, the individual may make written request for review by the Board. The Board or its designee shall, in each case in which it finds prima facie basis for a complaint, conduct a hearing at which the individual may appear with counsel, present evidence, and examine and cross-examine witnesses. The Board shall issue written findings and conclusions. Should the record in question be found to be inaccurate or incomplete, the criminal justice agency maintaining the information shall purge, modify, or supplement it in accordance with the findings and conclusions of the Board. Notification of purging, modification, or supplementation of criminal history record information shall be promptly made by the criminal justice agency maintaining the previously inaccurate information to any

individuals or agencies to which the information in question was communicated, as well as to the individual who is the subject of the records.

D. Criminal justice agencies shall maintain records of all agencies to whom criminal history record information has been disseminated, the date upon which the information was disseminated, and such other record matter for the number of years required by regulations of the Board.

E. Any individual or agency aggrieved by any order or decision of the Board may appeal the order or decision in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

1981, c. 632, § 9-192; 1986, c. 615; 2001, c. 844.

§ 9.1-133. Certain information not subject to review or correction.

A. Background checks for security clearances and investigative information not connected with a criminal prosecution or litigation including investigations of rule infractions in correctional institutions shall not be subject to review or correction by data subjects.

B. Correctional information about an offender including counselor reports, diagnostic summaries and other sensitive information not explicitly classified as criminal history record information shall not be subject to review or correction by data subjects.

1981, c. 632, § 9-193; 2001, c. 844.

§ 9.1-134. Sealing of criminal history record information.

The Board shall adopt procedures reasonably designed to (i) ensure prompt sealing or purging of criminal history record information when required by state or federal law, regulation or court order, and (ii) permit opening of sealed information under conditions authorized by law.

1981, c. 632, § 9-190; 2001, c. 844.

§ 9.1-135. Civil remedies for violation of this chapter or Chapter 23 of Title 19.2.

A. Any person may institute a civil action in the circuit court of the jurisdiction in which the Board has its administrative headquarters, or in the jurisdiction in which any violation is alleged to have occurred:

1. For actual damages resulting from violation of this article or to restrain any such violation, or both.

2. To obtain appropriate equitable relief against any person who has engaged, is engaged, or is about to engage in any acts or practices in violation of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, this chapter or rules or regulations of the Board.

B. This section shall not be construed as a waiver of the defense of sovereign immunity.

1981, c. 632, § 9-194; 2001, c. 844.

§ 9.1-136. Criminal penalty for violation.

Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information to any agency or person in violation of this article or Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, shall be guilty of a Class 2 misdemeanor.

1981, c. 632, § 9-195; 2001, c. 844.

§ 9.1-137. Article to control over other laws; exceptions.

A. In the event any provisions of this article conflict with other provisions of law, the provision of this article shall control, except as provided in subsection B.

B. Notwithstanding the provisions of subsection A, this article shall not alter, amend, or supersede any provisions of the Code of Virginia relating to the collection, storage, dissemination, or use of juvenile records.

1981, c. 632, § 9-196; 2001, c. 844.

Article 4 - PRIVATE SECURITY SERVICES BUSINESSES

§ 9.1-138. Definitions.

In addition to the definitions set forth in § 9.1-101, as used in this article, unless the context requires a different meaning:

"Alarm respondent" means an individual who responds to the signal of an alarm for the purpose of detecting an intrusion of the home, business or property of the end user.

"Armed" means a private security registrant who carries or has immediate access to a firearm in the performance of his duties.

"Armed security officer" means a natural person employed to (i) safeguard and protect persons and property or (ii) deter theft, loss, or concealment of any tangible or intangible personal property on the premises he is contracted to protect, and who carries or has access to a firearm in the performance of his duties.

"Armored car personnel" means persons who transport or offer to transport under armed security from one place to another, money, negotiable instruments or other valuables in a specially equipped motor vehicle with a high degree of security and certainty of delivery.

"Business advertising material" means display advertisements in telephone directories, letterhead, business cards, local newspaper advertising, contracts, and any electronic medium, including the Internet, social media, and digital advertising.

"Central station dispatcher" means an individual who monitors burglar alarm signal devices, burglar alarms or any other electrical, mechanical or electronic device used (i) to prevent or detect burglary, theft, shoplifting, pilferage or similar losses; (ii) to prevent or detect intrusion; or (iii) primarily to summon aid for other emergencies.

"Certification" means the method of regulation indicating that qualified persons have met the minimum requirements as private security services training schools, private security services instructors, compliance agents, or certified detector canine handler examiners.

"Compliance agent" means an individual who owns or is employed by a licensed private security services business to ensure the compliance of the private security services business with this title.

"Computer or digital forensic services" means the use of highly specialized expertise for the recovery, authentication, and analysis of electronic data or computer usage.

"Courier" means any armed person who transports or offers to transport from one place to another documents or other papers, negotiable or nonnegotiable instruments, or other small items of value that require expeditious services.

"Detector canine" means any dog that detects drugs or explosives.

"Detector canine handler" means any individual who uses a detector canine in the performance of private security duties.

"Detector canine handler examiner" means any individual who examines the proficiency and reliability of detector canines and detector canine handlers in the detection of drugs or explosives.

"Detector canine team" means the detector canine handler and his detector canine performing private security duties.

"Electronic security business" means any person who engages in the business of or undertakes to (i) install, service, maintain, design or consult in the design of any electronic security equipment to an end user; (ii) respond to or cause a response to electronic security equipment for an end user; or (iii) have access to confidential information concerning the design, extent, status, password, contact list, or location of an end user's electronic security equipment.

"Electronic security employee" means an individual who is employed by an electronic security business in any capacity which may give him access to information concerning the design, extent, status, password, contact list, or location of an end user's electronic security equipment.

"Electronic security equipment" means (i) electronic or mechanical alarm signaling devices including burglar alarms or holdup alarms used to safeguard and protect persons and property; or (ii) cameras used to detect intrusions, concealment or theft, to safeguard and protect persons and property. This shall not include tags, labels, and other devices that are attached or affixed to items offered for sale, library books, and other protected articles as part of an electronic article surveillance and theft detection and deterrence system.

"Electronic security sales representative" means an individual who sells electronic security equipment on behalf of an electronic security business to the end user.

"Electronic security technician" means an individual who installs, services, maintains or repairs electronic security equipment.

"Electronic security technician's assistant" means an individual who works as a laborer under the supervision of the electronic security technician in the course of his normal duties, but who may not make connections to any electronic security equipment.

"Employed" means to be in an employer/employee relationship where the employee is providing work in exchange for compensation and the employer directly controls the employee's conduct and pays

some taxes on behalf of the employee. The term "employed" shall not be construed to include independent contractors.

"End user" means any person who purchases or leases electronic security equipment for use in that person's home or business.

"Firearms training verification" means the verification of successful completion of either initial or retraining requirements for handgun or shotgun training, or both.

"General public" means individuals who have access to areas open to all and not restricted to any particular class of the community.

"Key cutting" means making duplicate keys from an existing key and includes no other locksmith services.

"License number" means the official number issued to a private security services business licensed by the Department.

"Locksmith" means any individual that performs locksmith services, or advertises or represents to the general public that the individual is a locksmith even if the specific term locksmith is substituted with any other term by which a reasonable person could construe that the individual possesses special skills relating to locks or locking devices, including use of the words lock technician, lockman, safe technician, safeman, boxman, unlocking technician, lock installer, lock opener, physical security technician or similar descriptions.

"Locksmith services" mean selling, servicing, rebuilding, repairing, rekeying, repinning, changing the combination to an electronic or mechanical locking device; programming either keys to a device or the device to accept electronic controlled keys; originating keys for locks or copying keys; adjusting or installing locks or deadbolts, mechanical or electronic locking devices, egress control devices, safes, and vaults; opening, defeating or bypassing locks or latching mechanisms in a manner other than intended by the manufacturer; with or without compensation for the general public or on property not his own nor under his own control or authority.

"Natural person" means an individual person.

"Personal protection specialist" means any individual who engages in the duties of providing close protection from bodily harm to any person.

"Private investigator" means any individual who engages in the business of, or accepts employment to make, investigations to obtain information on (i) crimes or civil wrongs; (ii) the location, disposition, or recovery of stolen property; (iii) the cause of accidents, fires, damages, or injuries to persons or to property; or (iv) evidence to be used before any court, board, officer, or investigative committee.

"Private security services business" means any person engaged in the business of providing, or who undertakes to provide, armored car personnel, security officers, personal protection specialists, private investigators, couriers, security canine handlers, security canine teams, detector canine handlers,

detector canine teams, alarm respondents, locksmiths, central station dispatchers, electronic security employees, electronic security sales representatives or electronic security technicians and their assistants to another person under contract, express or implied.

"Private security services instructor" means any individual certified by the Department to provide mandated instruction in private security subjects for a certified private security services training school.

"Private security services registrant" means any qualified individual who has met the requirements under this article to perform the duties of alarm respondent, locksmith, armored car personnel, central station dispatcher, courier, electronic security sales representative, electronic security technician, electronic security technician's assistant, personal protection specialist, private investigator, security canine handler, detector canine handler, unarmed security officer or armed security officer.

"Private security services training school" means any person certified by the Department to provide instruction in private security subjects for the training of private security services business personnel in accordance with this article.

"Registration" means a method of regulation whereby certain personnel employed by a private security services business are required to register with the Department pursuant to this article.

"Registration category" means any one of the following categories: (i) unarmed security officer and armed security officer/courier, (ii) security canine handler, (iii) armored car personnel, (iv) private investigator, (v) personal protection specialist, (vi) alarm respondent, (vii) central station dispatcher, (viii) electronic security sales representative, (ix) electronic security technician, (x) electronic technician's assistant, (xi) detector canine handler, or (xii) locksmith.

"Security canine" means a dog that has attended, completed, and been certified as a security canine by a certified security canine handler instructor in accordance with approved Department procedures and certification guidelines. "Security canines" shall not include detector dogs.

"Security canine handler" means any individual who utilizes his security canine in the performance of private security duties.

"Security canine team" means the security canine handler and his security canine performing private security duties.

"Supervisor" means any individual who directly or indirectly supervises registered or certified private security services business personnel.

"Unarmed security officer" means a natural person who performs the functions of observation, detection, reporting, or notification of appropriate authorities or designated agents regarding persons or property on the premises he is contracted to protect, and who does not carry or have access to a firearm in the performance of his duties.

1976, c. 737, § 54-729.27; 1977, c. 376, § 54.1-1900; 1980, c. 425, cc. 57, 779; 1988, c. 765; 1992, c. 578, § 9-183.1; 1994, cc. 45, 335, 810; 1995, c. 79; 1996, c. 541; 1997, c. 80; 1998, cc. 122, 807; 1999,

c. 33; 2001, cc. 821, 844; 2003, c. 124; 2004, c. 470; 2005, c. 365; 2008, c. 638; 2009, c. 375; 2011, c. 263; 2017, c. 85.

§ 9.1-139. Licensing, certification, and registration required; qualifications; temporary licenses.
A. No person shall engage in the private security services business or solicit private security business in the Commonwealth without having obtained a license from the Department. No person shall be issued a private security services business license until a compliance agent is designated in writing on forms provided by the Department. The compliance agent shall ensure the compliance of the private security services business with this article and shall meet the qualifications and perform the duties required by the regulations adopted by the Board.

B. No person shall act as a private security services training school or solicit students for private security training in the Commonwealth without being certified by the Department. No person shall be issued a private security services training school certification until a school director is designated in writing on forms provided by the Department. The school director shall ensure the compliance of the school with the provisions of this article and shall meet the qualifications and perform the duties required by the regulations adopted by the Board.

C. No person shall be employed by a licensed private security services business in the Commonwealth as armored car personnel, courier, armed security officer, detector canine handler, unarmed security officer, security canine handler, private investigator, personal protection specialist, alarm respondent, locksmith, central station dispatcher, electronic security sales representative, electronic security technician's assistant, or electronic security technician without possessing a valid registration issued by the Department, except as provided in this article. Notwithstanding any other provision of this article, a licensed private security services business may hire as an independent contractor a personal protection specialist or private investigator who has been issued a registration by the Department.

D. A temporary license may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary license until (i) he has designated a compliance agent who has complied with the compulsory minimum training standards established by the Board pursuant to subsection A of § 9.1-141 for compliance agents, (ii) each principal of the business has submitted his fingerprints for a National Criminal Records search and a Virginia Criminal History Records search, and (iii) he has met all other requirements of this article and Board regulations.

E. No person shall be employed by a licensed private security services business in the Commonwealth unless such person is certified or registered in accordance with this chapter.

F. A temporary registration may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary registration until he has (i) complied with, or been exempted from the compulsory minimum training standards established by the Board, pursuant to subsection A of § 9.1-141, for armored car

personnel, couriers, armed security officers, detector canine handlers, unarmed security officers, security canine handlers, private investigators, personal protection specialists, alarm respondents, locksmith, central station dispatchers, electronic security sales representatives, electronic security technician's assistants, or electronic security technicians, (ii) submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search, and (iii) met all other requirements of this article and Board regulations.

G. A temporary certification as a private security instructor or private security training school may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary certification as a private security services instructor until he has (i) met the education, training and experience requirements established by the Board and (ii) submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search. No person shall be issued a temporary certification as a private security services training school until (a) he has designated a training director, (b) each principal of the training school has submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search, and (c) he has met all other requirements of this article and Board regulations.

H. A licensed private security services business in the Commonwealth shall not employ as an unarmed security officer, electronic security technician's assistant, unarmed alarm respondent, central station dispatcher, electronic security sales representative, locksmith, or electronic security technician, any person who has not complied with, or been exempted from, the compulsory minimum training standards established by the Board, pursuant to subsection A of § 9.1-141, except that such person may be so employed for not more than 90 days while completing compulsory minimum training standards.

I. No person shall be employed as an electronic security employee, electronic security technician's assistant, unarmed alarm respondent, locksmith, central station dispatcher, electronic security sales representative, electronic security technician or supervisor until he has submitted his fingerprints to the Department to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search. The provisions of this subsection shall not apply to an out-of-state central station dispatcher meeting the requirements of subdivision 19 of § 9.1-140.

J. The compliance agent of each licensed private security services business in the Commonwealth shall maintain documentary evidence that each private security registrant and certified employee employed by his private security services business has complied with, or been exempted from, the compulsory minimum training standards required by the Board. Before January 1, 2003, the compliance agent shall ensure that an investigation to determine suitability of each unarmed security officer employee has been conducted, except that any such unarmed security officer, upon initiating a request for such investigation under the provisions of subdivision A 11 of § 19.2-389, may be employed for up to 30 days pending completion of such investigation. After January 1, 2003, no person shall be employed as an unarmed security officer until he has submitted his fingerprints to the

Department for the conduct of a National Criminal Records search and a Virginia Criminal History Records search. Any person who was employed as an unarmed security officer prior to January 1, 2003, shall submit his fingerprints to the Department in accordance with subsection B of § 9.1-145.

K. No person with a criminal conviction for a misdemeanor involving (i) moral turpitude, (ii) assault and battery, (iii) damage to real or personal property, (iv) controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (v) prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or (vi) firearms, or any felony shall be (a) employed as a registered or certified employee by a private security services business or training school, or (b) issued a private security services registration, certification as an unarmed security officer, electronic security employee or technician's assistant, a private security services training school or instructor certification, compliance agent certification, or a private security services business license, except that, upon written request, the Director of the Department may waive such prohibition. Any grant or denial of such waiver shall be made in writing within 30 days of receipt of the written request and shall state the reasons for such decision.

L. The Department may grant a temporary exemption from the requirement for licensure, certification, or registration for a period of not more than 30 days in a situation deemed an emergency by the Department.

M. All private security services businesses and private security services training schools in the Commonwealth shall include their license or certification number on all business advertising materials.

N. A licensed private security services business in the Commonwealth shall not employ as armored car personnel any person who has not complied with, or been exempted from, the compulsory minimum training standards established by the Board pursuant to subsection A of § 9.1-141, except such person may serve as a driver of an armored car for not more than 90 days while completing compulsory minimum training standards, provided such person does not possess or have access to a firearm while serving as a driver.

1976, c. 737, § 54-729.29; 1977, c. 376, § 54.1-1902; 1978, cc. 28, 428; 1984, cc. 57, 779; 1988, cc. 48, 765; 1991, c. 589; 1992, c. 578, § 9-183.3; 1994, cc. 45, 47, 810; 1995, c. 79; 1996, c. 541; 1998, cc. 53, 122, 807; 2000, c. 26; 2001, cc. 821, 844; 2002, cc. 578, 597; 2003, c. 124; 2004, c. 470; 2008, c. 638; 2015, c. 202; 2016, c. 561; 2018, c. 214.

§ 9.1-140. Exceptions from article; training requirements for out-of-state central station dispatchers.

The provisions of this article shall not apply to:

1. An officer or employee of the United States, the Commonwealth, or a political subdivision of either, while the officer or employee is performing his official duties;

2. A person, except a private investigator as defined in § 9.1-138, engaged exclusively in the business of obtaining and furnishing information regarding an individual's financial rating or a person engaged in the business of a consumer reporting agency as defined by the Federal Fair Credit Reporting Act;

3. An attorney licensed to practice in Virginia or his employees;

4. The legal owner of personal property which has been sold under any security agreement while performing acts relating to the repossession of such property;

5. A person receiving compensation for private employment as a security officer, or receiving compensation under the terms of a contract, express or implied, as a security officer, who is also a law-enforcement officer as defined by § 9.1-101 and employed by the Commonwealth or any of its political subdivisions;

6. Any person appointed under § 46.2-2003 or 56-353 while engaged in the employment contemplated thereunder, unless they have successfully completed training mandated by the Department;

7. Persons who conduct investigations as a part of the services being provided as a claims adjuster, by a claims adjuster who maintains an ongoing claims adjusting business, and any natural person employed by the claims adjuster to conduct investigations for the claims adjuster as a part of the services being provided as a claims adjuster;

8. Any natural person otherwise required to be registered pursuant to § 9.1-139 who is employed by a business that is not a private security services business for the performance of his duties for his employer. Any such employee, however, who carries a firearm and is in direct contact with the general public in the performance of his duties shall possess a valid registration with the Department as required by this article;

9. Persons, sometimes known as "shoppers," employed to purchase goods or services solely for the purpose of determining or assessing the efficiency, loyalty, courtesy, or honesty of the employees of a business establishment;

10. Licensed or registered private investigators from other states entering Virginia during an investigation originating in their state of licensure or registration when the other state offers similar reciprocity to private investigators licensed and registered by the Commonwealth;

11. Unarmed regular employees of telephone public service companies where the regular duties of such employees consist of protecting the property of their employers and investigating the usage of telephone services and equipment furnished by their employers, their employers' affiliates, and other communications common carriers;

12. An end user;

13. A material supplier who renders advice concerning the use of products sold by an electronics security business and who does not provide installation, monitoring, repair or maintenance services for electronic security equipment;

14. Members of the security forces who are directly employed by electric public service companies;

15. Any professional engineer or architect licensed in accordance with Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 to practice in the Commonwealth, or his employees;

16. Any person who only performs telemarketing or schedules appointments without access to information concerning the electronic security equipment purchased by an end user;

17. Any certified forensic scientist employed as an expert witness for the purpose of possibly testifying as an expert witness;

18. Members of the security forces who are directly employed by shipyards engaged in the construction, design, overhaul or repair of nuclear vessels for the United States Navy;

19. An out-of-state central station dispatcher employed by a private security services business licensed by the Department provided he (i) possesses and maintains a valid license, registration, or certification as a central station dispatcher issued by the regulatory authority of the state in which he performs the monitoring duties and (ii) has submitted his fingerprints to the regulatory authority for the conduct of a national criminal history records search;

20. Any person, or independent contractor or employee of any person, who (i) exclusively contracts directly with an agency of the federal government to conduct background investigations and (ii) possesses credentials issued by such agency authorizing such person, subcontractor or employee to conduct background investigations;

21. Any person whose occupation is limited to the technical reconstruction of the cause of accidents involving motor vehicles as defined in § 46.2-100, regardless of whether the information resulting from the investigation is to be used before a court, board, officer, or investigative committee, and who is not otherwise a private investigator as defined in § 9.1-138;

22. Retail merchants performing locksmith services, selling locks or engaged in key cutting activities conducted at the business location who do not represent themselves to the general public as locksmiths;

23. Law-enforcement, fire, rescue, emergency service personnel, or other persons performing locksmith services in an emergency situation without compensation and who do not represent themselves to the general public as locksmiths;

24. Motor vehicle dealers as defined in § 46.2-1500 performing locksmith services who do not represent themselves to the general public as locksmiths;

25. Taxicab and towing businesses performing locksmith services that do not represent themselves to the general public as locksmiths;

26. Contractors licensed under Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 performing locksmith services when acting within the scope of such license who do not represent themselves to the general public as locksmiths;

27. Any contractor as defined in § 54.1-1100 (i) who is exempt from the licensure requirements of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1, (ii) where the total value referred to in a single contract or project is less than $1,000, (iii) when the performance of locksmith services is ancillary to the work performed by such contractor, and (iv) who does not represent himself to the general public as a locksmith;

28. Any individual, employed by a retail merchant that also holds a private security services business license as a locksmith, where such individual's duties relating to such license are limited to key cutting and the key cutting is performed under the direct supervision of the licensee;

29. Any individual engaged in (i) computer or digital forensic services as defined in § 9.1-138 or in the acquisition, review, or analysis of digital or computer-based information, in order to obtain or furnish information for evidentiary purposes or to provide expert testimony before a court, or (ii) network or system vulnerability testing, including network scans and risk assessment and analysis of computers connected to a network;

30. Employees and sales representatives of a retailer of electronic security equipment, provided such employees and sales representatives (i) sell electronic security equipment at a store location, online, or by telephone, but not at the end user's premises; (ii) are not electronic security technicians; and (iii) do not have access to end user confidential information regarding the end user's electronic security equipment; or

31. A certified public accountant authorized to practice in the Commonwealth under Chapter 44 (§ 54.1-4400 et seq.) of Title 54.1 or his employees.

1976, c. 737, § 54-729.28; 1977, c. 376, § 54.1-1901; 1981, c. 538; 1983, c. 569; 1984, c. 375; 1988, c. 765; 1992, c. 578, § 9-183.2; 1994, cc. 45, 810; 1995, c. 79; 1996, cc. 541, 543, 576; 1997, cc. 80, 204; 2000, c. 26; 2001, cc. 388, 650, 821, 844; 2002, cc. 578, 597; 2003, c. 136; 2008, c. 638; 2009, c. 225; 2011, c. 263; 2013, c. 411; 2014, c. 214.

§ 9.1-140.01. Exemption from training requirements; central station dispatchers employed by central stations certified by a Nationally Recognized Testing Laboratory.

Central station dispatchers employed by a central station that is certified by a Nationally Recognized Testing Laboratory (NRTL) shall be exempt from the training requirements of this article. For the purposes of this section, "Nationally Recognized Testing Laboratory" means the designation given by the federal Occupational Safety and Health Administration (OSHA) to a private sector testing facility that provides product safety testing and certification services.

2014, c. 610.

§ 9.1-140.1. Registration; waiver of examination; locksmiths.

Notwithstanding any other provision of this article, unless an applicant is found by the Board to have engaged in any act that would constitute grounds for disciplinary action, the Board shall issue a registration, without examination, to any applicant who provides satisfactory proof to the Board of having

been actively and continuously providing locksmith services immediately prior to July 1, 2008, for at least two years.

2008, c. 638.

§ 9.1-141. Powers of Board relating to private security services business.

A. The Board may adopt regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), establishing compulsory minimum, entry-level, in-service, and advanced training standards for persons employed by private security services businesses in classifications defined in § 9.1-138. The regulations may include provisions delegating to the Board's staff the right to inspect the facilities and programs of persons conducting training to ensure compliance with the law and Board regulations. In establishing compulsory training standards for each of the classifications defined in § 9.1-138, the Board shall be guided by the policy of this section to secure the public safety and welfare against incompetent or unqualified persons engaging in the activities regulated by this section and Article 4 (§ 9.1-138 et seq.) of this chapter. The regulations may provide for partial exemption from such compulsory, entry-level training for persons having previous employment as law-enforcement officers for a local, state or the federal government, to include units of the United States armed forces, or for persons employed in classifications defined in § 9.1-138. However, no such exemption shall be granted to persons having less than five continuous years of such employment, nor shall an exemption be provided for any person whose employment as a law-enforcement officer or whose employment as a private security services business employee was terminated because of his misconduct or incompetence. The regulations may include separate provisions for full exemption from compulsory training for persons having previous training that meets or exceeds the minimum training standards and has been approved by the Department. However, no such exemption shall be granted to persons whose employment as a private security services business employee was terminated because of his misconduct or incompetence. No regulation adopted by the Board shall prevent any person employed by an electronic security business, other than an alarm respondent, or as a locksmith from carrying a firearm in the course of his duties when such person carries with him a valid concealed handgun permit issued in accordance with Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7 of Title 18.2.

B. The Board may enter into an agreement with other states for reciprocity or recognition of private security services businesses and their employees, duly licensed by such states. The agreements shall allow those businesses and their employees to provide and perform private security services within the Commonwealth to secure the public safety and welfare against incompetent, unqualified, unscrupulous, or unfit persons engaging in the activities of private security services businesses.

C. The Board may adopt regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) to secure the public safety and welfare against incompetent, unqualified, unscrupulous, or unfit persons engaging in the activities of private security services businesses that:

1. Establish the qualifications of applicants for registration, certification, or licensure under Article 4 (§ 9.1-138) of this chapter;

2. Examine, or cause to be examined, the qualifications of each applicant for registration, certification, or licensure, including when necessary the preparation, administration, and grading of examinations;

3. Certify qualified applicants for private security training schools and instructors or license qualified applicants as practitioners of private security services businesses;

4. Levy and collect fees for registration, certification, or licensure and renewal that are sufficient to cover all expenses for administration and operation of a program of registration, certification, and licensure for private security services businesses and training schools;

5. Are necessary to ensure continued competency, and to prevent deceptive or misleading practices by practitioners and effectively administer the regulatory system adopted by the Board;

6. Receive complaints concerning the conduct of any person whose activities are regulated by the Board, to conduct investigations, and to take appropriate disciplinary action if warranted; and

7. Revoke, suspend or fail to renew a registration, certification, or license for just cause as enumerated in Board regulations.

D. In adopting its regulations under subsections A and C, the Board shall seek the advice of the Private Security Services Advisory Board established pursuant to § 9.1-143.

1981, c. 632, § 9-182; 1990, c. 354; 1992, c. 578; 1994, cc. 45, 335, 810; 1995, c. 79; 1998, cc. 122, 807; 2001, c. 844; 2009, c. 375; 2013, c. 69; 2014, c. 32.

§ 9.1-142. Powers of Department relating to private security services businesses.

A. In addition to the powers otherwise conferred upon it by law, the Department may:

1. Charge each applicant for licensure, certification or registration a nonrefundable fee as established by the Board to cover the costs of the Department for processing an application for a registration, certification or license, and enforcement of these regulations, and other costs associated with the maintenance of this program of regulation.

2. Charge nonrefundable fees for private security services training as established by the Board for processing school certifications and enforcement of training standards.

3. Conduct investigations to determine the suitability of applicants for registration, licensure, or certification of compliance agents, training schools, and instructors. For purposes of this investigation, the Department shall have access to criminal history record information maintained by the Central Criminal Records Exchange of the Department of State Police and shall conduct a background investigation, to include a National Criminal Records search and a Virginia Criminal History Records search.

4. Issue subpoenas. The Director or a designated subordinate may make an ex parte application to the circuit court for the city or county wherein evidence sought is kept or wherein a licensee does business, for the issuance of a subpoena duces tecum in furtherance of the investigation of a sworn complaint within the jurisdiction of the Department or the Board to request production of any relevant

records, documents and physical or other evidence of any person, partnership, association or corporation licensed or regulated by the Department pursuant to this article. The court may issue and compel compliance with such a subpoena upon a showing of reasonable cause. Upon determining that reasonable cause exists to believe that evidence may be destroyed or altered, the court may issue a subpoena duces tecum requiring the immediate production of evidence.

5. Recover costs of the investigation and adjudication of violations of this article or Board regulations. Such costs may be recovered from the respondent when a sanction is imposed to fine or place on probation, suspend, revoke, or deny the issuance of any license, certification, or registration. Such costs shall be in addition to any monetary penalty which may be imposed. All costs recovered shall be deposited into the state treasury to the credit of the Private Security Services Regulatory Fund.

6. Institute proceedings to enjoin any person from engaging in any lawful act enumerated in § 9.1-147. Such proceedings shall be brought in the name of the Commonwealth by the Department in circuit court of the city or county in which the unlawful act occurred or in which the defendant resides.

B. The Director, or agents appointed by him, shall be vested with the authority to administer oaths or affirmations for the purpose of receiving complaints and conducting investigations of violations of this article, or any Board regulation promulgated pursuant to authority given by this article. Information concerning alleged criminal violations shall be turned over to law-enforcement officers in appropriate jurisdictions. Agents shall be vested with authority to serve such paper or process issued by the Department or the Board under regulations approved by the Board.

1976, c. 737, § 54-729.30; 1977, c. 376, § 54.1-1903; 1984, cc. 57, 779; 1985, c. 448; 1988, c. 765; 1991, c. 589; 1992, c. 578, § 9-183.4; 1994, c. 46; 1998, cc. 122, 807; 2001, c. 844.

§ 9.1-143. Private Security Services Advisory Board; membership.

The Private Security Services Advisory Board is established as an advisory board within the meaning of § 2.2-2100, in the executive branch of state government. The Private Security Services Advisory Board shall consist of 15 members as follows: two members shall be private investigators; two shall be representatives of electronic security businesses; two members shall be representatives of locksmith businesses; three shall be representatives of private security services businesses providing security officers, armed couriers, detector canine handlers, or security canine handlers; one shall be a representative of a private security services business providing armored car personnel; one shall be a representative of a private security services business involving personal protection specialists; one shall be a certified private security services instructor; one shall be a special conservator of the peace appointed pursuant to § 19.2-13; one shall be a licensed bail bondsman and one shall be a representative of law enforcement. The Private Security Services Advisory Board shall be appointed by the Criminal Justice Services Board and shall advise the Criminal Justice Services Board on all issues relating to regulation of private security services businesses.

1976, c. 737, § 54-729.30; 1977, c. 376, § 54.1-1904; 1984, cc. 57, 779; 1985, c. 448; 1988, c. 765; 1992, c. 578, § 9-183.5; 1994, c. 810; 1997, c. 79; 2001, c. 844; 2003, c. 922; 2004, c. 460; 2008, c. 638; 2009, c. 375.

§ 9.1-144. Insurance required.

In order for his license or certificate to be operative, any person licensed as a private security services business under subsection A of § 9.1-139 or certified as a private security services training school under subsection B of § 9.1-139 shall file with the Department evidence of a policy of liability insurance in an amount and with coverage as fixed by the Department. The liability insurance shall be maintained for so long as the licensee or certificate holder is licensed or certified by the Department.

Every personal protection specialist and private investigator who has been issued a registration by the Department and is hired as an independent contractor by a licensed private security services business shall maintain comprehensive general liability insurance in a reasonable amount to be fixed by the Department, evidence of which shall be provided to the private security services business prior to the hiring of such independent contractor pursuant to subsection C of § 9.1-139.

1976, c. 737, § 54-729.31; 1988, c. 765, § 54.1-1905; 1992, c. 578, § 9-183.6; 1998, cc. 122, 807; 2001, c. 844; 2015, c. 202; 2018, c. 214.

§ 9.1-145. Fingerprints required; penalty.

A. Each applicant for initial registration, licensure or certification as a compliance agent, private security services training school or instructor or unarmed security officer under the provisions of this article and every person employed as an electronic security employee or electronic security technician's assistant shall submit his fingerprints to the Department on a form provided by the Department. The Department shall use the applicant's fingerprints and personal descriptive information for the conduct of a National Criminal Records search and a Virginia Criminal History Records search.

B. Each currently certified unarmed security officer applying for renewal between January 1, 2003, and December 31, 2004, shall submit his fingerprints to the Department on a form provided by the Department. The Department shall use the applicant's fingerprints and personal descriptive information for the conduct of a National Criminal Records search and a Virginia Criminal History Records search.

C. The Department may suspend the registration, license or certification of any applicant who is subsequently convicted of a misdemeanor involving (i) moral turpitude, (ii) assault and battery, (iii) damage to real or personal property, (iv) controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (v) prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or (vi) firearms or any felony.

D. Any person willfully and intentionally making a false statement in the personal descriptive information required on the fingerprint card is guilty of a Class 5 felony.

1976, c. 737, § 54-729.32; 1988, c. 765, § 54.1-1906; 1992, c. 578, § 9-183.7; 1994, c. 810; 1995, c. 79; 1998, cc. 122, 807; 2001, c. 844; 2002, cc. 578, 597.

§ 9.1-146. Limitation on powers of registered armed security officers.

Compliance with the provisions of this article shall not itself authorize any person to carry a concealed weapon or exercise any powers of a conservator of the peace. A registered armed security officer of a private security services business while at a location which the business is contracted to protect shall have the power to effect an arrest for an offense occurring (i) in his presence on such premises or (ii) in the presence of a merchant, agent, or employee of the merchant the private security business has contracted to protect, if the merchant, agent, or employee had probable cause to believe that the person arrested had shoplifted or committed willful concealment of goods as contemplated by § 18.2-106. For the purposes of § 19.2-74, a registered armed security officer of a private security services business shall be considered an arresting officer.

1976, c. 737, § 54-729.33; 1978, c. 560, § 54.1-1907; 1980, c. 425; 1988, cc. 48, 765; 1992, c. 578, § 9-183.8; 1994, c. 45; 2001, c. 844.

§ 9.1-147. Unlawful conduct generally; penalty.

A. It shall be unlawful for any person to:

1. Practice any trade or profession licensed, certified or registered under this article without obtaining the necessary license, certification or registration required by statute or regulation;

2. Materially misrepresent facts in an application for licensure, certification or registration;

3. Willfully refuse to furnish the Department information or records required or requested pursuant to statute or regulation; and

4. Violate any statute or regulation governing the practice of the private security services businesses or training schools regulated by this article.

B. Any person who is convicted of willful violation of subsection A shall be guilty of a Class 1 misdemeanor. Any person convicted of a third or subsequent offense under this section during a thirty-six-month period shall be guilty of a Class 6 felony.

1992, c. 578, § 9-183.11; 1998, cc. 122, 807; 2001, c. 844.

§ 9.1-148. Unlawful procurement of a license; penalty.

A. It shall be unlawful for any person to:

1. Procure, or assist another to procure, through theft, fraud or other illegal means, a registration or license, by giving to, or receiving from, any person any information, oral, written or printed, during the administration of the examination, which is intended to, or will, assist any person taking the examination in passing the examination and obtaining the required registration or license;

2. Attempt to procure, through theft, fraud or other illegal means, any questions intended to be used by the Department conducting the examination, or the answers to the questions;

3. Promise or offer any valuable or other consideration to a person having access to the questions or answers as an inducement to procure for delivery to the promisor, or any other person, a copy of any questions or answers.

B. No person, other than a designee of the Department, shall procure or have in his possession prior to the beginning of an examination, without written authority of the Department, any question intended to be used by the Department, or receive or furnish to any person taking the examination, prior to or during the examination, any written or printed material purporting to be answers to, or aid in answering such questions;

C. If an examination is divided into separate parts, each of the parts shall be deemed an examination for the purposes of this section.

D. Any person convicted of a violation of subsections A or B shall be guilty of a Class 2 misdemeanor.

1992, c. 578, § 9-183.10; 2001, c. 844.

§ 9.1-149. Unlicensed activity prohibited; penalty.

A. No person:

1. Required to possess a registration under subsection C of § 9.1-139 shall be employed by a private security services business, except as provided in this article, as armored car personnel, courier, armed security officer, security canine handler, personal protection specialist, private investigator, alarm respondent, central station dispatcher, electronic security sales representative or electronic security technician without possessing a valid registration.

2. Licensed or required to be licensed under subsection A of § 9.1-139 shall employ or otherwise utilize, except as provided in this article, as armored car personnel, courier, armed security officer, security canine handler, personal protection specialist, private investigator, alarm respondent, central station dispatcher, electronic security sales representative or electronic security technician, any person not possessing a valid registration.

3. Required to possess an instructor certification under subsection D of § 9.1-139 shall provide mandated instruction, except as provided in § 9.1-141 and Board regulations, without possessing a valid private security instructor certification.

4. Certified or required to be certified as a private security services training school under subsection B of § 9.1-139 shall employ or otherwise utilize, except as provided in § 9.1-141 and Board regulations, as a private security instructor, any person not possessing a valid instructor certification.

B. No compliance agent employed or otherwise utilized by a person licensed or required to be licensed under subsection A of § 9.1-139 shall:

1. Employ or otherwise utilize as an unarmed security officer, except as provided in this article, any individual for whom the compliance agent does not possess documentary evidence of compliance with, or exemption from, the compulsory minimum training standards established by the Board for

unarmed security officers and before January 1, 2003, maintain documentary evidence that an investigation to determine suitability has been conducted.

2. Employ or otherwise utilize as an electronic security technician's assistant, except as provided in this article, any individual for whom the compliance agent does not possess documentary evidence of compliance with, or exemption from, the compulsory minimum training standards established by the Board for electronic security technician's assistants.

C. Any person convicted of a violation of subsections A or B shall be guilty of a Class 1 misdemeanor.

1976, c. 737, § 54-729.34; 1980, c. 425, § 54.1-1908; 1988, cc. 48, 765; 1992, c. 578, § 9-183.9; 1994, cc. 45, 810; 1995, c. 79; 1998, cc. 122, 807; 2001, c. 844; 2002, cc. 578, 597.

§ 9.1-149.1. Unlawful advertisement for regulated services; notice; penalty.

A. It shall be unlawful for any person to place before the public through any medium an advertisement for services in the Commonwealth requiring a license, certification, or registration under this article unless the individual who will perform such services possesses the necessary license, certification, or registration at the time of the posting.

B. Whenever the Board receives information that an advertisement has been placed in violation of this section, the Board shall provide notice to the entity publishing the advertisement to the public.

C. Any person who is convicted of a violation of subsection A is guilty of a Class 1 misdemeanor.

2014, c. 396.

§ 9.1-150. Monetary penalty.

Any person required to be licensed, certified or registered by the Board pursuant to this article who violates any statute or Board regulation who is not criminally prosecuted is subject to the monetary penalty provided in this section. If the Board determines that such person has violated any statute or Board regulation, the Board shall determine the amount of the monetary penalty for the violation, which shall not exceed $2,500 for each violation. The penalty may be sued for and recovered in the name of the Commonwealth. The monetary penalty shall be paid into the state treasury to the credit of the Literary Fund in accordance with § 19.2-353.

1992, c. 578, § 9-183.12; 1994, c. 810; 1998, cc. 122, 807; 2001, c. 844; 2011, cc. 821, 854.

Article 4.1 - SPECIAL CONSERVATORS OF THE PEACE

§ 9.1-150.1. Definitions.

In addition to the definitions set forth in § 9.1-101, as used in this article, unless the context requires a different meaning:

"Special conservator of the peace" means any individual appointed pursuant to § 19.2-13 on or after September 15, 2004.

2003, c. 922.

§ 9.1-150.2. Powers of Criminal Justice Services Board relating to special conservators of the peace appointed pursuant to § 19.2-13.

The Board shall adopt regulations establishing compulsory minimum, entry-level, in-service, and advanced training standards for special conservators of the peace. The regulations may include provisions delegating to the Board's staff the right to inspect the facilities and programs of persons conducting training to ensure compliance with the law and its regulations. In establishing compulsory training standards for special conservators of the peace, the Board shall require training to be obtained at a criminal justice training academy established pursuant to § 15.2-1747, or at a private security training school certified by the Department, and shall ensure the public safety and welfare against incompetent or unqualified persons engaging in the activities regulated by this section. The regulations may provide for exemption from training of persons having previous employment as law-enforcement officers for a state or the federal government. However, no such exemption shall be granted to persons having less than five continuous years of such employment, nor shall an exemption be provided for any person whose employment as a law-enforcement officer was terminated because of his misconduct or incompetence or who has been decertified as a law-enforcement officer. The regulations may include provisions for exemption from such training for persons having previous training that meets or exceeds the minimum training standards and has been approved by the Department. The Board may also adopt regulations that (i) establish the qualifications of applicants for registration; (ii) cause to be examined the qualifications of each applicant for registration; (iii) provide for collection of fees for registration and renewal that are sufficient to cover all expenses for administration and operation of a program of registration; (iv) ensure continued competency and prevent deceptive or misleading practices by practitioners; (v) effectively administer the regulatory system promulgated by the Board; (vi) provide for receipt of complaints concerning the conduct of any person whose activities are regulated by the Board; (vii) provide for investigations, and appropriate disciplinary action if warranted; and (viii) allow the Board to revoke, suspend or refuse to renew a registration, certification, or license for just cause as enumerated in regulations of the Board. The Board shall adopt compulsory, entry-level training standards that shall not exceed, but shall be a minimum of 98 hours for unarmed special conservators of the peace and that shall not exceed, but shall be a minimum of 130 hours for armed special conservators of the peace. In adopting its regulations, the Board shall seek the advice of the Private Security Services Advisory Board established pursuant to § 9.1-143.

2003, c. 922; 2015, cc. 766, 772.

§ 9.1-150.3. Powers of Department of Criminal Justice Services relating to special conservators of the peace appointed pursuant to § 19.2-13.

A. In addition to the powers otherwise conferred upon it by law, the Department may (i) charge each applicant for registration a nonrefundable fee as established by the Board to cover the costs of the Department for processing an application for registration, and enforcement of the regulations, and other costs associated with the maintenance of the program of regulation; (ii) charge nonrefundable fees for private security services training as established by the Board for processing school certifications and enforcement of training standards; and (iii) conduct investigations to determine the

suitability of applicants for registration, including a drug and alcohol screening. For purposes of this investigation, the Department shall require the applicant to provide personal descriptive information to be forwarded, along with the applicant's fingerprints, to the Central Criminal Records Exchange for the purpose of conducting a Virginia criminal history records search. The Central Criminal Records Exchange shall forward the fingerprints and personal description to the Federal Bureau of Investigation for the purpose of obtaining a national criminal record check.

B. The Director or his designee may make an ex parte application to the circuit court for the city or county wherein evidence sought is kept or wherein a licensee does business for the issuance of a subpoena duces tecum in furtherance of the investigation of a sworn complaint within the jurisdiction of the Department or the Board to request production of any relevant records, documents and physical or other evidence of any person, partnership, association or corporation licensed or regulated by the Department pursuant to this article. The court may issue and compel compliance with such a subpoena upon a showing of reasonable cause. Upon determining that reasonable cause exists to believe that evidence may be destroyed or altered, the court may issue a subpoena duces tecum requiring the immediate production of evidence. Costs of the investigation and adjudication of violations of this article or Board regulations may be recovered. All costs recovered shall be deposited into the state treasury to the credit of the Conservators of the Peace Regulatory Fund. Such proceedings shall be brought in the name of the Commonwealth by the Department in the circuit court of the city or county in which the unlawful act occurred or in which the defendant resides. The Director, or agents appointed by him, shall have the authority to administer oaths or affirmations for the purpose of receiving complaints and conducting investigations of violations of this article, or any regulation promulgated hereunder and to serve process issued by the Department or the Board.

2003, c. 922.

§ 9.1-150.4. Unlawful conduct; penalties.

A. It shall be unlawful for any person to (i) misrepresent facts in an application for registration; (ii) willfully refuse to furnish the Department information or records required or requested pursuant to statute or regulation; or (iii) violate any statute or regulation governing the practice of special conservators of the peace regulated by this article or § 19.2-13.

B. Any person registered by the Department pursuant to § 19.2-13 who the Department or the Board determines has violated any statute or Board regulation and who is not criminally prosecuted shall be subject to a monetary penalty not to exceed $2,500 for each violation. The penalty may be sued for and recovered in the name of the Commonwealth and shall be paid into the state treasury to the credit of the Literary Fund in accordance with § 19.2-353.

C. Any person who is convicted of a willful violation of the provisions of this article or § 19.2-13 is guilty of a Class 1 misdemeanor. Any person convicted of a third or subsequent offense under this article or § 19.2-13 during a 36-month period is guilty of a Class 6 felony.

2003, c. 922.

Article 5 - Court-Appointed Special Advocate Program

§ 9.1-151. Court-Appointed Special Advocate Program; appointment of advisory committee.
A. There is established a Court-Appointed Special Advocate Program (the Program) that shall be administered by the Department. The Program shall provide services in accordance with this article to children who are subjects of judicial proceedings (i) involving allegations that the child is abused, neglected, in need of services, or in need of supervision or (ii) for the restoration of parental rights pursuant to § 16.1-283.2 and for whom the juvenile and domestic relations district court judge determines such services are appropriate. Court-Appointed Special Advocate volunteer appointments may continue for youth 18 years of age and older who are in foster care if the court has retained jurisdiction pursuant to subsection Z of § 16.1-241 or § 16.1-242 and the juvenile and domestic relations district court judge determines such services are appropriate. The Department shall adopt regulations necessary and appropriate for the administration of the Program.

B. The Board shall appoint an Advisory Committee to the Court-Appointed Special Advocate Program, consisting of 15 members, one of whom shall be a judge of the juvenile and domestic relations district court or circuit court, knowledgeable of court matters, child welfare, and juvenile justice issues and representative of both state and local interests. The duties of the Advisory Committee shall be to advise the Board on all matters relating to the Program and the needs of the clients served by the Program, and to make such recommendations as it may deem desirable.

1990, c. 752, § 9-173.6; 1994, c. 24; 2001, c. 844; 2013, cc. 338, 685; 2014, c. 636; 2016, c. 202; 2020, cc. 95, 732.

§ 9.1-152. Local court-appointed special advocate programs; powers and duties.
A. The Department shall provide a portion of any funding appropriated for this purpose to applicants seeking to establish and operate a local court-appointed special advocate program in their respective judicial districts. Only local programs operated in accordance with this article shall be eligible to receive state funds.

B. Local programs may be established and operated by local boards created for this purpose. Local boards shall ensure conformance to regulations adopted by the Board and may:

1. Solicit and accept financial support from public and private sources.

2. Oversee the financial and program management of the local court-appointed special advocate program.

3. Employ and supervise a director who shall serve as a professional liaison to personnel of the court and agencies serving children.

4. Employ such staff as is necessary to the operation of the program.

1990, c. 752, § 9-173.7; 1991, c. 421; 2001, c. 844.

§ 9.1-153. Volunteer court-appointed special advocates; powers and duties; assignment; qualifications; training.

A. Services in each local court-appointed special advocate program shall be provided by volunteer court-appointed special advocates, hereinafter referred to as advocates. The advocate's duties shall include:

1. Investigating the case to which he is assigned to provide independent factual information to the court.

2. Submitting to the court of a written report of his investigation in compliance with the provisions of § 16.1-274. The report may, upon request of the court, include recommendations as to the child's welfare.

3. Monitoring the case to which he is assigned to ensure compliance with the court's orders.

4. Assisting any appointed guardian ad litem to represent the child in providing effective representation of the child's needs and best interests.

5. Reporting a suspected abused or neglected child pursuant to § 63.2-1509.

B. The advocate is not a party to the case to which he is assigned and shall not call witnesses or examine witnesses. The advocate shall not, with respect to the case to which he is assigned, provide legal counsel or advice to any person, appear as counsel in court or in proceedings which are part of the judicial process, or engage in the unauthorized practice of law. The advocate may testify if called as a witness.

C. The program director shall assign an advocate to a child when requested to do so by the judge of the juvenile and domestic relations district court having jurisdiction over the proceedings. The advocate shall continue his association with each case to which he is assigned until relieved of his duties by the court or by the program director.

D. The Department shall adopt regulations governing the qualifications of advocates who for purposes of administering this subsection shall be deemed to be criminal justice employees. The regulations shall require that an advocate be at least twenty-one years of age and that the program director shall obtain with the approval of the court (i) a copy of his criminal history record or certification that no conviction data are maintained on him and (ii) a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him or certification that no such record is maintained on him. Advocates selected prior to the adoption of regulations governing qualifications shall meet the minimum requirements set forth in this article.

E. An advocate shall have no associations which create a conflict of interests or the appearance of such a conflict with his duties as an advocate. No advocate shall be assigned to a case of a child whose family has a professional or personal relationship with the advocate. Questions concerning conflicts of interests shall be determined in accordance with regulations adopted by the Department.

F. No applicant shall be assigned as an advocate until successful completion of a program of training required by regulations. The Department shall set standards for both basic and ongoing training.

1990, c. 752, § 9-173.8; 1994, cc. 700, 830; 1997, c. 606; 1999, c. 606; 2001, c. 844.

§ 9.1-154. Immunity.

No staff of or volunteers participating in a program, whether or not compensated, shall be subject to personal liability while acting within the scope of their duties, except for gross negligence or intentional misconduct.

1990, c. 752, § 9-173.10; 2001, c. 844.

§ 9.1-155. Notice of hearings and proceedings.

The provision of § 16.1-264 regarding notice to parties shall apply to ensure that an advocate is notified of hearings and other proceedings concerning the case to which he is assigned.

1990, c. 752, § 9-173.9; 2001, c. 844.

§ 9.1-156. Inspection and copying of records by advocate; confidentiality of records.

A. Upon presentation by the advocate of the order of his appointment and upon specific court order, any state or local agency, department, authority, or institution, and any hospital, school, physician, or other health or mental health care provider shall permit the advocate to inspect and copy, without the consent of the child or his parents, any records relating to the child involved in the case. Upon the advocate presenting to the mental health provider the order of the advocate's appointment and, upon specific court order, in lieu of the advocate inspecting and copying any related records of the child involved, the mental health care provider shall be available within seventy-two hours to conduct for the advocate a review and an interpretation of the child's treatment records which are specifically related to the investigation.

B. An advocate shall not disclose the contents of any document or record to which he becomes privy, which is otherwise confidential pursuant to the provisions of this Code, except upon order of a court of competent jurisdiction.

1990, c. 752, §§ 9-173.11, 9-173.12; 1995, c. 490; 2001, c. 844.

§ 9.1-157. Cooperation of state and local entities.

All state and local departments, agencies, authorities, and institutions shall cooperate with the Department and with each local court-appointed special advocate program to facilitate its implementation of the Program.

1990, c. 752, § 9-173.13; 2001, c. 844.

Article 6 - CRIME PREVENTION PROGRAMS

§§ 9.1-158 through 9.1-160. Repealed.

Repealed by Acts 2011, cc. 821 and 854, cl. 2.

§ 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 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.

1994, cc. 60, 868, § 9-173.19; 2001, c. 844; 2004, c. 466.

§ 9.1-162. Eligibility for crime prevention specialists.

Any employee of a local, state or federal government agency who serves in a law-enforcement, crime prevention or criminal justice capacity is eligible to be trained and certified as a crime prevention specialist.

The chief executive of any local, state or federal government agency may designate one or more employees in his department or office, who serves in a law-enforcement, crime prevention or criminal justice capacity, to be trained and certified as a crime prevention specialist.

No person who is a candidate for certification shall serve as a crime prevention specialist unless his certification is approved by the chief law-enforcement officer of the locality wherein the person serves.

1994, cc. 60, 868, § 9-173.20; 2001, c. 844; 2002, c. 209; 2004, c. 466.

Article 7 - DETOXIFICATION PROGRAMS

§§ 9.1-163, 9.1-164. Repealed.

Repealed by Acts 2011, cc. 821 and 854.

Article 8 - LAW-ENFORCEMENT EXPENDITURES

§ 9.1-165. Definitions.

As used in this article, unless the context requires a different meaning:

"Adjusted crime index" means the potential crime rate for a locality multiplied by the base year population of the locality as estimated by the Center for Public Service.

"Average crime rate" for a city or eligible county means the annual average number of violent and property index crimes per 100,000 persons, as reported by the Superintendent of State Police, for the

base year and the fiscal year immediately preceding, and the fiscal year immediately following, the base year. If the data are not available for the fiscal year immediately following the base year, the average shall be based on the base year and the two immediately preceding fiscal years.

"Base year" means the most recent fiscal year for which comparable data are available for: (i) population estimates by the Center for Public Service or the United States Bureau of the Census, adjusted for annexation as determined by the Department, (ii) actual state expenditures for salaries and expenses of sheriffs as reported by the Compensation Board, (iii) number of persons eligible for Temporary Assistance to Needy Families as defined in § 63.2-100, (iv) number of persons in foster care, as defined in § 63.2-100, and (v) the number of persons receiving maintenance payments in a general relief program as defined in § 63.2-100.

"Distribution formula" means that linear equation derived biennially by the Department, using standard statistical procedures, which best predicts average crime rates in all cities and eligible counties in the Commonwealth on the basis of the following factors in their simplest form:

1. The total base year number of (i) persons enrolled in Temporary Assistance to Needy Families, (ii) persons in foster care, and (iii) persons receiving maintenance payments in a general relief program, per 100,000 base year population; and

2. The local population density, based on the base year population estimates of the Center for Public Service, adjusted for annexation as determined by the Department, and the land area in square miles of the city or eligible county as reported by the United States Census Bureau, adjusted for annexation as determined by the Department.

"Eligible county" means any county which operates a police department.

"Police department" means that organization established by ordinance by a local governing body that is responsible for the prevention and detection of crime, the apprehension of criminals, the safeguard of life and property, the preservation of peace and the enforcement of state and local laws, regulations, and ordinances. Such department shall have a chief of police, which in the case of counties may be the sheriff, and such officers, privates, and other personnel as may be provided for in the ordinance, one sworn member of which shall be a full-time employee. All law-enforcement officers serving as members of such police department, whether full-time or part-time, and whether permanently or temporarily employed, shall meet the minimum training standards established pursuant to §§ 9.1-102 and 9.1-114, unless such personnel are exempt from the minimum training standards as provided in §§ 9.1-113 and 9.1-116. Any police department established subsequent to July 1, 1981, shall also have, at a minimum, one officer on duty at all times for the purposes set forth above.

However, notwithstanding any contrary provision of this definition,

1. Any locality receiving funds under this article during the 1980-82 biennium shall be considered to have a valid police department eligible for funds as long as such police department continues in operation;

2. Any town receiving funds under this article during the 1986-1988 biennium shall be considered to have a valid police department eligible for funds even though police services for such town may thereafter be provided by the sheriff of the county in which the town is located by agreement made pursuant to § 15.2-1726. Eligibility for funds under this subdivision shall last as long as such agreement remains in effect. Police services for the town furnished by the sheriff shall be equal to or greater than the police services last furnished by the town's police department.

"Population served by police departments" means the total base year population of the Commonwealth less the population served by sheriffs only.

"Population served by sheriffs only" means the total base year population of those counties without a police department, less the latest available estimate from the United States Bureau of the Census of the total population of towns, or portions of towns, having police departments, located in such counties.

"Potential crime rate" means the number of crimes per 100,000 persons in the base year population for each city or eligible county, as derived from the distribution formula.

"State aid to localities with police" means that amount which bears the same relationship to the population served by police departments as state aid to sheriff-only localities bears to the population served by sheriffs only.

"State aid to sheriff-only localities" means the estimated total amount for salaries and expenses to be paid by the Commonwealth, pursuant to Article 3 (§ 15.2-1609 et seq.) of Chapter 16 of Title 15.2, to sheriffs' offices in those counties without a police department, based on the actual percentage of total state expenditures in the base year distributed to those counties without police departments.

1979, c. 83, § 14.1-84.2; 1981, c. 485; 1982, c. 600; 1984, c. 779; 1985, c. 140; 1989, cc. 84, 292; 1998, c. 872, § 9-183.14; 2001, c. 844.

§ 9.1-166. Local governments to receive state funds for law enforcement.

The Department of the Treasury shall disburse funds to cities, towns and counties, to aid in the law-enforcement expenditures of those local governments, pursuant to the terms of this article.

1979, c. 83, § 14.1-84.1; 1981, c. 485; 1998, c. 872, § 9-183.13; 2001, c. 844.

§ 9.1-167. Calculation of adjusted crime index; use.

By January 1 of each even-numbered year, the Department, using the relevant base year data, shall calculate the adjusted crime index for each city and each eligible county. Such calculation shall be used for the succeeding fiscal biennium adjusted for annexation as determined by the Department.

1979, c. 83, § 14.1-84.3; 1981, c. 485; 1989, c. 84; 1998, c. 872, § 9-183.15; 2001, c. 844.

§ 9.1-168. Eligibility for funds.

A. Any city, county, or town establishing a police department shall provide the Department written notice of its intent to seek state funds in accordance with the provisions of this article. Such city,

county, or town shall become eligible to receive funds at the beginning of the next fiscal year which commences not sooner than twelve months after the filing of this notice.

B. No city, county, or town shall receive any funds in accordance with the terms of this article unless it notifies the Department prior to July 1 each year that its law-enforcement personnel, whether full-time or part-time and whether permanently or temporarily employed, have complied with the minimum training standards as provided in §§ 9.1-102 and 9.1-114, unless such personnel are exempt from the minimum training standards as provided in §§ 9.1-113 and 9.1-116 or that an effort will be made to have its law-enforcement personnel comply with such minimum training standards during the ensuing fiscal year. Any city, county, or town failing to make an effort to comply with the minimum training standards may be declared ineligible for funding in the succeeding fiscal year by the Department.

C. A change in the form of government from city to tier-city shall not preclude the successor tier-city which continues to provide a police department from eligibility for funds.

D. Any county consolidated under the provisions of Chapter 35 (§ 15.2-3500 et seq.) of Title 15.2 shall be eligible to receive financial assistance for law-enforcement expenditures subject to the provisions of this article. The consolidated county shall be eligible to receive, on behalf of the formerly incorporated towns that became shires, boroughs or special service tax districts within the consolidated county, law-enforcement assistance under the provisions of this article, provided that the consolidation agreement approved pursuant to Chapter 35 (§ 15.2-3500 et seq.) of Title 15.2 provides for the additional law-enforcement governmental services previously provided by the police department of such incorporated towns.

1981, c. 485, § 14.1-84.6:1; 1982, c. 600; 1983, c. 4, § 14.1-84.6:2; 1984, cc. 695, 779; 1998, c. 872, §§ 9-183.19, 9-183.20; 2001, c. 844.

§ 9.1-169. Total amount and method of distribution of funds to counties and cities.

A. The total amount of funds to be distributed as determined by the Department shall be equal to the amount of state aid to localities with police, as defined in § 9.1-165, minus (i) the salaries and expenses of sheriffs' offices in such cities and counties as estimated pursuant to Article 3 (§ 15.2-1609 et seq.) of Chapter 16 of Title 15.2 and (ii) five percent of the remainder, which shall be placed in a discretionary fund to be administered as specified in § 9.1-171. However, the percentage change in the total amount of funds to be distributed for any fiscal year from the preceding fiscal year shall be equal to the anticipated percentage change in total general fund revenue collections for the same time period as stated in the appropriation act.

B. Each city and eligible county shall receive a percentage of such total amount to be distributed equal to the percentage of the total adjusted crime index attributable to such city or county. Payments to the cities and eligible counties shall be made in equal quarterly installments by the State Treasurer on warrants issued by the Comptroller. Notwithstanding the foregoing provisions, the General Assembly, through the appropriation act, may appropriate specific dollar amounts to provide financial assistance to localities with police departments.

1979, c. 83, § 14.1-84.4; 1981, c. 485; 1986, c. 235; 1998, c. 872, § 9-183.16; 2001, c. 844.

§ 9.1-170. Distribution of funds to towns.

A. Towns located in eligible counties and which have police departments shall receive a percentage of the funds distributed to the county in accordance with § 9.1-169, such percentage to be equal to the ratio of the town's population as determined by the Department to the total population of the county.

B. Towns located in noneligible counties shall be assigned an adjusted crime index based on their population and the average of the three lowest predicted crime rates for cities. Such towns shall receive funds based on such adjusted crime index in the same manner as cities and eligible counties as provided in § 9.1-169.

1979, c. 83, § 14.1-84.5; 1981, c. 485; 1998, c. 872, § 9-183.17; 2001, c. 844.

§ 9.1-171. Distribution of discretionary fund.

In the case of a city with a population of more than 200,000 receiving per capita aid for law enforcement in accordance with § 9.1-169 of less than sixty-five percent of the average per capita aid to law enforcement received by all other cities with a population of more than 200,000 under such provisions, exclusive of amounts payable by reason of this section, the discretionary fund established by § 9.1-169 shall first be used to pay such city an aggregate sum so as to make its per capita receipts for law enforcement under § 9.1-169 equal to sixty-five percent of the average per capita aid for law enforcement disbursed to all other cities with a population of more than 200,000. The remainder, if any, shall be distributed per capita among (i) cities with populations under 200,000, (ii) eligible counties, and (iii) towns having police departments.

1979, c. 83, § 14.1-84.6; 1981, c. 485; 1998, c. 872, § 9-183.18; 2001, c. 844.

§ 9.1-172. Periodic determination of weights and constants.

Prior to the convening of the General Assembly in each even-numbered year, the Department shall determine whether the variables incorporated in the equation used in the distribution formula are statistically acceptable for such computation, and to determine whether any other variables would be better predictors of crime. If, as a result of this research, the Department determines that the variables used in the equation should be changed, it shall recommend to the General Assembly appropriate legislation to accomplish this change.

1979, c. 83, § 14.1-84.7; 1981, c. 485; 1998, c. 872, § 9-183.21; 2001, c. 844.

Article 9 - COMPREHENSIVE COMMUNITY CORRECTIONS ACT FOR LOCAL-RESPONSIBLE OFFENDERS

§ 9.1-173. Purpose.

It is the purpose of this article to enable any city, county or combination thereof to develop, establish, and maintain a local community-based probation services agency to provide the judicial system with sentencing alternatives for certain misdemeanants or persons convicted of felonies that are not felony

acts of violence, as defined in § 19.2-297.1 and sentenced pursuant to § 19.2-303.3, for whom the court imposes a sentence of 12 months or less and who may require less than institutional custody.

The article shall be interpreted and construed so as to:

1. Allow individual cities, counties, or combinations thereof greater flexibility and involvement in responding to the problem of crime in their communities;

2. Provide more effective protection of society and to promote efficiency and economy in the delivery of correctional services;

3. Provide increased opportunities for offenders to make restitution to victims of crimes through financial reimbursement or community service;

4. Permit cities, counties or combinations thereof to operate and utilize local community-based probation services specifically designed to meet the rehabilitative needs of selected offenders; and

5. Provide appropriate post-sentencing alternatives in localities for certain offenders with the goal of reducing the incidence of repeat offenders.

1980 c. 300, § 53.1-180; 1982, c. 636; 1983, c. 344; 1990, c. 578; 1992, c. 196; 1994, 2nd Sp. Sess., cc. 1, 2; 1995, cc. 502, 574; 1996, c. 568; 2000, c. 1040; 2001, c. 844; 2002, c. 491; 2007, c. 133.

§ 9.1-173.1. Procedures for treatment of veterans and active service members.
Localities may establish special treatment procedures for veterans and active military service members pursuant to § 2.2-2001.1.

2011, cc. 772, 847.

§ 9.1-174. Establishment of a community-based probation services agency.
To facilitate local involvement and flexibility in responding to the problem of crime in their communities and to permit a locally designed community-based probation services agency that will fit its needs, any city, county or combination thereof may, and any city, county or combination thereof that is required by § 53.1-82.1 to file a community-based corrections plan shall establish a system of community-based services pursuant to this article. This system is to provide alternatives for (i) offenders who are convicted and sentenced pursuant to § 19.2-303.3 and who are considered suitable candidates for probation services that require less than incarceration in a local correctional facility and (ii) defendants who are provided a deferred proceeding and placed on probation services. Such services may be provided by qualified public agencies or by qualified private agencies pursuant to appropriate contracts.

Code 1950, § 53-128.17; 1980, c. 300; 1982, c. 636, § 53.1-181; 1983, c. 344; 1992, c. 196; 1994, 2nd Sp. Sess., cc. 1, 2; 1995, cc. 502, 574; 1999, c. 372; 2000, c. 1040; 2001, c. 844; 2006, c. 883; 2007, c. 133.

§ 9.1-175. Board to prescribe standards; biennial plan.

The Board shall approve standards as prescribed by the Department for the development, implementation, operation and evaluation of local community-based probation services and facilities authorized by this article. Any city, county or combination thereof which establishes and provides local community-based probation services pursuant to this article shall submit a biennial criminal justice plan to the Department for review and approval.

Code 1950, § 53-128.18; 1980, c. 300; 1982, c. 636, § 53.1-182; 1994, 2nd Sp. Sess., cc. 1, 2; 1999, c. 372; 2000, c. 1040; 2001, c. 844; 2002, c. 491; 2007, c. 133.

§ 9.1-176. Mandated services; optional services and facilities.

A. As used in this section:

"Detoxification center program" means any facility program or procedure for the placement of public inebriates as an alternative to arresting and jailing such persons, for the purpose of monitoring the withdrawal from excessive use of alcohol or use of a narcotic drug or other intoxicant or drug of whatever nature.

"Public inebriate" means any person who is intoxicated in a public place and would be subject to arrest for public intoxication under § 18.2-388 or a local ordinance established for the same offense.

B. Any city, county or combination thereof that elects or is required to establish a local community-based probation services agency pursuant to this article shall provide to the judicial system the following services as components of local community-based probation supervision: community service; home incarceration with or without electronic monitoring; electronic monitoring; and substance abuse screening, assessment, testing and treatment. Additional services and facilities, including, but not limited to, local day reporting centers and services, local halfway house facilities and services for the temporary care of adults placed on community-based probation, and law-enforcement diversion into detoxification center programs may be established by the city, county or combination thereof.

Any city, county, or combination thereof, may develop, establish, operate, maintain, or contract with any qualified public or private agency for local or regional detoxification center programs, services, or facilities.

The chief judge of the general district court in the jurisdiction that will be served by the facility shall approve the facility for the diversion of public inebriates from arrest and jail pursuant to § 18.2-388.

1994, 2nd Sp. Sess., cc. 1, 2, § 53.1-182.1; 1996, c. 569; 1997, c. 339; 1999, c. 372; 2000, c. 1040; 2001, c. 844; 2002, c. 491; 2007, c. 133; 2011, cc. 821, 854.

§ 9.1-176.1. Duties and responsibilities of local community-based probation officers.

A. Each local community-based probation officer, for the localities served, shall:

1. Supervise and assist all local-responsible adult offenders, residing within the localities served and placed on local community-based probation by any judge of any court within the localities served;

2. Ensure offender compliance with all orders of the court, including the requirement to perform community service;

3. Conduct, when ordered by a court, substance abuse screenings, or conduct or facilitate the preparation of assessments pursuant to state approved protocols;

4. Conduct, at his discretion, random drug and alcohol tests on any offender whom the officer has reason to believe is engaged in the illegal use of controlled substances or marijuana or the abuse of alcohol or prescribed medication;

5. Facilitate placement of offenders in substance abuse education or treatment programs and services or other education or treatment programs and services based on the needs of the offender;

6. Seek a capias from any judicial officer in the event of failure to comply with conditions of local community-based probation or supervision on the part of any offender provided that noncompliance resulting from intractable behavior presents a risk of flight, or a risk to public safety or to the offender;

7. Seek a motion to show cause for offenders requiring a subsequent hearing before the court;

8. Provide information to assist any law-enforcement officer with the return to custody of defendants placed on supervision for which a capias has been sought;

9. Keep such records and make such reports as required by the Department of Criminal Justice Services;

10. Determine by reviewing the Local Inmate Data System upon intake and again prior to discharge whether a blood, saliva, or tissue sample has been taken for DNA analysis for each offender required to submit a sample pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 and, if no sample has been taken, require an offender to submit a sample for DNA analysis;

11. Monitor the collection and payment of restitution to the victims of crime for offenders placed on local supervised probation; and

12. Determine by reviewing the offender's criminal history record at least 60 days prior to discharge whether all offenses for which the offender is being supervised appear on such record and, if any such offense that is required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390 does not appear, (i) order the offender to report to the law-enforcement agency that made the arrest for such offense or to the Department of State Police and submit to having his fingerprints and photograph taken for each such offense, (ii) provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that the offense does not appear on the offender's criminal history record, and (iii) verify that such fingerprints and photograph have been taken.

B. Each local probation officer may provide the following optional services, as appropriate and when available resources permit:

1. Supervise local-responsible adult offenders placed on home incarceration with or without home electronic monitoring as a condition of local community-based probation;

2. Investigate and report on any local-responsible adult offender and prepare or facilitate the preparation of any other screening, assessment, evaluation, testing or treatment required as a condition of probation;

3. Monitor placements of local-responsible adults who are required to perform court-ordered community service at approved work sites;

4. Assist the courts, when requested, by monitoring the collection of court costs and fines for offenders placed on local probation; and

5. Collect supervision and intervention fees pursuant to § 9.1-182 subject to local approval and the approval of the Department of Criminal Justice Services.

2003, c. 142; 2007, cc. 133, 528; 2011, cc. 384, 410; 2014, cc. 674, 719; 2018, cc. 316, 671; 2019, cc. 782, 783.

§ 9.1-177. Form of oath of office for local community-based probation officers.

Every local community-based probation officer who is an employee of a local community-based probation agency, established by any city, county or combination thereof, or operated pursuant to this article, that provides probation and related services pursuant to the requirements of this article, shall take an oath of office as prescribed in § 49-1 before entering the duties of his office. The oath of office shall be taken before any general district or circuit court judge in any city or county that has established services for the judicial system pursuant to this article.

2000, c. 1040, § 53.1-182.1:1; 2001, c. 844; 2007, c. 133.

§ 9.1-177.1. Confidentiality of records of and reports on adult persons under investigation by, or placed on probation supervision with a local community-based probation services agency.

A. Any investigation report, including a presentencing investigation report, prepared by a local community-based probation officer is confidential and is exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). Such reports shall be filed as a part of the case record. Such reports shall be made available only by court order and shall be sealed upon final order by the court; except that such reports shall be available upon request to (i) any criminal justice agency, as defined in § 9.1-101, of this or any other state or of the United States; (ii) any agency where the accused is referred for assessment or treatment; (iii) counsel for the person who is the subject of the report; or (iv) counsel who represents the person in pursuit of a post-conviction remedy, subject to the limitations set forth in § 37.2-901.

B. Any report on the progress of an offender under the supervision of a local community-based probation agency and any information relative to the identity of or inferring personal characteristics of an accused, including demographic information, diagnostic summaries, records of office visits, medical, substance abuse, psychiatric or psychological records or information, substance abuse screening, assessment and testing information, and other sensitive information not explicitly classified as criminal history record information, is exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

However, such information may be disseminated to criminal justice agencies as defined in § 9.1-101 in the discretion of the custodian of these records.

2002, c. 769; 2003, c. 146; 2006, c. 289; 2007, c. 133; 2010, c. 223.

§ 9.1-178. Community criminal justice boards.

A. Each county or city or combination thereof developing and establishing a local pretrial services or a community-based probation services agency pursuant to this article shall establish a community criminal justice board. Each county and city participating in local pretrial services or local community-based probation services shall be represented on the community criminal justice board. In the event that one county or city appropriates funds to these services as part of a multijurisdictional effort, any other participating county or city shall be considered to be participating if such locality appropriates funds to these services. Appointments to the board shall be made by each local governing body. In cases of multijurisdictional participation, unless otherwise agreed upon, each participating city or county shall have an equal number of appointments. Boards shall be composed of the number of members established by a resolution or ordinance of each participating jurisdiction.

B. Each board shall include, at a minimum, the following members: a person appointed by each governing body to represent the governing body; a judge of the general district court; a circuit court judge; a juvenile and domestic relations district court judge; a chief magistrate; one chief of police or the sheriff in a jurisdiction not served by a police department to represent law enforcement; an attorney for the Commonwealth; a public defender or an attorney who is experienced in the defense of criminal matters; a sheriff or the regional jail administrator responsible for jails serving those jurisdictions involved in local pretrial services and community-based probation services; a local educator; and a community services board administrator. Any officer of the court appointed to a community criminal justice board pursuant to this subsection may designate a member of his staff approved by the governing body to represent him at meetings of the board.

Code 1950, § 53-128.19; 1980, c. 300; 1982, c. 636, § 53.1-183; 1983, c. 344; 1988, c. 557; 1994, 2nd Sp. Sess., cc. 1, 2; 1995, cc. 502, 574, 768; 1996, c. 342; 1997, c. 339; 2000, c. 1040; 2001, c. 593; 2001, c. 844; 2002, c. 491; 2004, c. 395; 2007, c. 133.

§ 9.1-179. Withdrawal from services.

Any participating city or county may, at the beginning of any calendar quarter, by ordinance or resolution of its governing body, notify the Director of the Department and, in the case of multijurisdictional services, the other member jurisdictions, of its intention to withdraw from participation in local community-based probation services. Withdrawal shall be effective as of the last day of the quarter in which the notice is given.

Code 1950, § 53-128.20; 1980, c. 300; 1982, c. 636, § 53.1-184; 1994, 2nd Sp. Sess., cc. 1, 2; 1995, cc. 502, 574; 2000, c. 1040; 2001, c. 844; 2002, c. 491; 2007, c. 133.

§ 9.1-180. Responsibilities of community criminal justice boards.

On behalf of the counties, cities, or combinations thereof which they represent, the community criminal justice boards shall have the responsibility to:

1. Advise on the development and operation of local pretrial services and community-based probation services pursuant to §§ 19.2-152.2 and 9.1-176 for use by the courts in diverting offenders from local correctional facility placements;

2. Assist community agencies and organizations in establishing and modifying programs and services for defendants and offenders on the basis of an objective assessment of the community's needs and resources;

3. Evaluate and monitor community programs and pretrial and local community-based probation services and facilities to determine their impact on offenders;

4. Develop and amend the criminal justice plan in accordance with guidelines and standards set forth by the Department and oversee the development and amendment of the community-based corrections plan as required by § 53.1-82.1 for approval by participating local governing bodies;

5. Review the submission of all criminal justice grants regardless of the source of funding;

6. Facilitate local involvement and flexibility in responding to the problem of crime in their communities; and

7. Do all things necessary or convenient to carry out the responsibilities expressly given in this article.

Code 1950, § 53-128.21; 1980, c. 300; 1982, c. 636, § 53.1-185; 1983, c. 344; 1991, c. 43; 1992, c. 740; 1994, 2nd Sp. Sess., cc. 1, 2; 1995, cc. 502, 574; 2000, c. 1040; 2001, c. 844; 2002, c. 491; 2007, c. 133.

§ 9.1-181. Eligibility to participate.

A. Any city, county, or combination thereof, which elects to, or is required to establish services shall participate in a local community-based probation services agency by ordinance or resolution of its governing authority. In cases of multijurisdictional participation, each ordinance or resolution shall identify the chosen administrator and fiscal agent as set forth in § 9.1-183. Such ordinances or resolutions shall be provided to the Director of the Department, regardless of funding source for the established programs.

B. Any local community-based probation services agency established pursuant to this article shall be available as a sentencing alternative for persons sentenced to incarceration in a local correctional facility or who otherwise would be sentenced to incarceration and who would have served their sentence in a local or regional correctional facility.

1992, c. 196, § 53.1-185.1; 1994, 2nd Sp. Sess., cc. 1, 2; 2000, c. 1040; 2001, c. 844; 2007, c. 133.

§ 9.1-182. Funding; failure to comply; prohibited use of funds.

A. Counties and cities shall be required to establish a local community-based probation services agency under this article only to the extent funded by the Commonwealth through the general appropriation act.

B. The Department shall periodically review each program established under this article to determine compliance with the submitted plan and operating standards. If the Department determines that a program is not in substantial compliance with the submitted plan or standards, the Department may suspend all or any portion of financial aid made available to the locality for purposes of this article until there is compliance.

C. Funding shall be used for the provision of local community-based probation services and operation of facilities but shall not be used for capital expenditures.

D. The Department, in conjunction with local boards, shall establish a statewide system of supervision and intervention fees to be paid by offenders participating in local community-based probation services established under this article for reimbursement towards the costs of their supervision.

E. Any supervision or intervention fees collected by local community-based probation services agencies established under this article shall be retained by the locality serving as fiscal agent and shall be utilized solely for expansion and development of services, or to supplant local costs of operation. Any local community-based probation services agency collecting such fees shall keep records of the collected fees, report the amounts to the locality serving as fiscal agent and make all records available to the community criminal justice board. Such fees shall be in addition to any other imposed on a defendant or offender as a condition of a deferred proceeding, conviction or sentencing by a court as required by general law.

1994, 2nd Sp. Sess., cc. 1, 2, § 53.1-185.2; 1995, cc. 502, 574, 768; 2000, c. 1040; 2001, c. 844; 2007, c. 133.

§ 9.1-183. City or county to act as administrator and fiscal agent.

Any single participating city or county shall act as the administrator and fiscal agent for the funds awarded for purposes of implementing a local pretrial services or community-based probation services agency. In cases of multijurisdictional participation, the governing authorities of the participating localities shall select one of the participating cities or counties, with its consent, to act as administrator and fiscal agent for the funds awarded for purposes of implementing the local pretrial services or community-based probation services agency on behalf of the participating jurisdictions.

The participating city or county acting as administrator and fiscal agent pursuant to this section may be reimbursed for the actual costs associated with the implementation of the local pretrial services or community-based probation services agency, including fiscal administration, accounting, payroll services, financial reporting, and auditing. Any costs must be approved by the community criminal justice board and reimbursed from those funds received for the operation of the local pretrial or community-based probation services agency, and may not exceed one percent of those funds received in any single fiscal year.

1994, 2nd Sp. Sess., cc. 1, 2, § 53.1-185.3; 1995, cc. 502, 574; 1996, c. 969; 2000, c. 1040; 2001, c. 844; 2007, c. 133.

Article 10 - Virginia Center for School and Campus Safety

§ 9.1-184. Virginia Center for School and Campus Safety created; duties.

A. From such funds as may be appropriated, the Virginia Center for School and Campus Safety (the Center) is hereby established within the Department. The Center shall:

1. Provide training for Virginia public school personnel in school safety, on evidence-based anti-bullying tactics based on the definition of bullying in § 22.1-276.01, and in the effective identification of students who may be at risk for violent behavior and in need of special services or assistance;

2. Serve as a resource and referral center for Virginia school divisions by conducting research, sponsoring workshops, and providing information regarding current school safety concerns, such as conflict management and peer mediation, bullying as defined in § 22.1-276.01, school facility design and technology, current state and federal statutory and regulatory school safety requirements, and legal and constitutional issues regarding school safety and individual rights;

3. Maintain and disseminate information to local school divisions on effective school safety initiatives in Virginia and across the nation;

4. Develop a case management tool for the collection and reporting of data by threat assessment teams pursuant to § 22.1-79.4;

5. Collect, analyze, and disseminate various Virginia school safety data, including school safety audit information submitted to it pursuant to § 22.1-279.8, collected by the Department and, in conjunction with the Department of Education, information relating to the activities of school resource officers submitted pursuant to § 22.1-279.10;

6. Encourage the development of partnerships between the public and private sectors to promote school safety in Virginia;

7. Provide technical assistance to Virginia school divisions in the development and implementation of initiatives promoting school safety, including threat assessment-based protocols with such funds as may be available for such purpose;

8. Develop a memorandum of understanding between the Director of the Department of Criminal Justice Services and the Superintendent of Public Instruction to ensure collaboration and coordination of roles and responsibilities in areas of mutual concern, such as school safety audits and crime prevention;

9. Provide training for and certification of school security officers, as defined in § 9.1-101 and consistent with § 9.1-110;

10. Develop, in conjunction with the Department of State Police, the Department of Behavioral Health and Developmental Services, and the Department of Education, a model critical incident response

training program for public school personnel and others providing services to schools that shall also be made available to private schools in the Commonwealth;

11. In consultation with the Department of Education, provide schools with a model policy for the establishment of threat assessment teams, including procedures for the assessment of and intervention with students whose behavior poses a threat to the safety of school staff or students; and

12. Develop a model memorandum of understanding setting forth the respective roles and responsibilities of local school boards and local law-enforcement agencies regarding the use of school resource officers. Such model memorandum of understanding may be used by local school boards and local law-enforcement agencies to satisfy the requirements of § 22.1-280.2:3.

B. All agencies of the Commonwealth shall cooperate with the Center and, upon request, assist the Center in the performance of its duties and responsibilities.

2000, c. 519, § 9-173.21; 2001, cc. 436, 440, 844; 2002, cc. 836, 868; 2012, cc. 281, 433; 2013, cc. 676, 710; 2014, cc. 7, 92, 158; 2019, cc. 39, 455, 456, 502; 2020, cc. 169, 1039.

Article 11 - BAIL BONDSMEN

§ 9.1-185. Definitions.

As used in this article, unless the context requires a different meaning:

"Agent" means a person who is a licensed bail bondsman who has been given power of attorney to act on the behalf of a licensed property bail bondsman.

"Bail bondsman" means any person who is licensed by the Department who engages in the business of bail bonding and is thereby authorized to conduct business in all courts of the Commonwealth.

"Board" means the Criminal Justice Services Board.

"Certificate" means a certificate issued by a judge on or before June 30, 2005, pursuant to former § 19.2-152.1.

"Department" means the Department of Criminal Justice Services.

"Property bail bondsman" means a person licensed pursuant to this article who, for compensation, enters into a bond or does so through his agent and who pledges real property, cash or certificates of deposit issued by a federally insured institution, or any combination thereof as security for a bond as defined in § 19.2-119 that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail.

"Surety bail bondsman" means a person licensed pursuant to this article who is also licensed by the State Corporation Commission as a property and casualty insurance agent, and who sells, solicits, or negotiates surety insurance as defined in § 38.2-121 on behalf of insurers licensed in the Commonwealth, pursuant to which the insurer becomes surety on or guarantees a bond, as defined in §

19.2-119, that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail.

2004, c. 460; 2007, c. 708.

§ 9.1-185.1. Inapplicability of this article.

This article shall not apply to a person who does not receive profit or consideration for his services.

2004, c. 460.

§ 9.1-185.2. Powers of the Criminal Justice Services Board relating to bail bondsmen.

The Board shall have full regulatory authority and oversight of property and surety bail bondsmen.

The Board shall adopt regulations that are necessary to ensure respectable, responsible, safe and effective bail bonding within the Commonwealth. The Board's regulations shall include but not be limited to regulations that (i) establish the qualifications of applicants for licensure and renewal under this article; (ii) examine, or cause to be examined, the qualifications of each applicant for licensure, including when necessary the preparation, administration, and grading of examinations; (iii) levy and collect nonrefundable fees for licensure and renewal that are sufficient to cover all expenses for administration and operation of a program of licensure; (iv) ensure continued competency and prevent deceptive or misleading practices by practitioners; (v) administer the regulatory system; (vi) provide for receipt of complaints concerning the conduct of any person whose activities are regulated by the Board; (vii) provide for investigations and appropriate disciplinary action if warranted; (viii) establish standards for professional conduct, solicitation, collateral received in the course of business, firearms training and usage, uniforms and identification, documentation and recordkeeping requirements, reporting requirements, and methods of capture for the recovery of bailees; and (ix) allow the Board to suspend, revoke or refuse to issue, reissue or renew a license for just cause. The Board shall not adopt compulsory, minimum, firearms training standards in excess of 24 hours per year for bail bondsmen. In adopting its regulations, the Board shall seek the advice of the Private Security Services Advisory Board established pursuant to § 9.1-143.

2004, c. 460.

§ 9.1-185.3. Powers of Department of Criminal Justice Services relating to bail bondsmen.

A. In addition to the powers otherwise conferred upon it by law, the Department may (i) charge each applicant for licensure a nonrefundable fee as established by the Board to cover the costs of processing an application for licensure, enforcement of the regulations, and other costs associated with the maintenance of the program of regulation; (ii) charge nonrefundable fees for training, processing school certifications and enforcement of training standards; (iii) conduct investigations to determine the suitability of applicants for licensure; and (iv) conduct investigations to determine if any disciplinary actions against a licensed bondsman are warranted. For purposes of determining eligibility for licensure, the Department shall require the applicant to provide personal descriptive information to be forwarded, along with the applicant's fingerprints, to the Central Criminal Records Exchange for the purpose of conducting a Virginia criminal history records search. The Central Criminal Records

Exchange shall forward the fingerprints and personal description to the Federal Bureau of Investigation for the purpose of obtaining a national criminal record check.

B. The Director or his designee may make an ex parte application to the circuit court for the city or county wherein evidence sought is kept or wherein a licensee does business for the issuance of a subpoena duces tecum in furtherance of the investigation of a sworn complaint within the jurisdiction of the Department or the Board to request production of any relevant records, documents and physical or other evidence of any person, partnership, association or corporation licensed or regulated by the Department pursuant to this article. The court may issue and compel compliance with such a subpoena upon a showing of reasonable cause. Upon determining that reasonable cause exists to believe that evidence may be destroyed or altered, the court may issue a subpoena duces tecum requiring the immediate production of evidence. Costs of the investigation and adjudication of violations of this article or Board regulations may be recovered. All costs recovered shall be deposited into the state treasury to the credit of the Bail Bondsman Regulatory Fund. Such proceedings shall be brought in the name of the Commonwealth by the Department in the circuit court of the city or county in which the unlawful act occurred or in which the defendant resides. The Director, or agents appointed by him, shall have the authority to administer oaths or affirmations for the purpose of receiving complaints and conducting investigations of violations of this article, or any regulation promulgated hereunder and to serve process issued by the Department or the Board.

2004, c. 460.

§ 9.1-185.4. Limitations on licensure.

A. In order to be licensed as a bail bondsman a person shall (i) be 18 years of age or older, (ii) have received a high school diploma or passed a high school equivalency examination approved by the Board of Education, and (iii) have successfully completed the bail bondsman exam required by the Board or successfully completed prior to July 1, 2005, a surety bail bondsman exam required by the State Corporation Commission under former § 38.2-1865.7.

B. The following persons are not eligible for licensure as bail bondsmen and may not be employed nor serve as the agent of a bail bondsman:

1. Persons who have been convicted of a felony within the Commonwealth, any other state, or the United States, who have not been pardoned, or whose civil rights have not been restored;

2. Employees of a local or regional jail;

3. Employees of a sheriff's office;

4. Employees of a state or local police department;

5. Persons appointed as conservators of the peace pursuant to Article 4.1 (§ 9.1-150.1 et seq.) of this chapter;

6. Employees of an office of an attorney for the Commonwealth;

7. Employees of the Department of Corrections, Department of Criminal Justice Services, or a local pretrial or community-based probation services agency; and

8. Spouses of or any persons residing in the same household as persons referred to in subdivisions 2 through 7 who are sworn officers or whose responsibilities involve direct access to records of inmates.

C. The exclusions in subsection B shall not be construed to limit the ability of a licensed bail bondsman to employ or contract with a licensed bail enforcement agent authorized to do business in the Commonwealth.

2004, c. 460; 2007, c. 133; 2008, c. 438; 2014, c. 84.

§ 9.1-185.5. Bail bondsman licensure requirements.

A. An applicant for a bail bondsman license shall apply for such license in a form and manner prescribed by the Board, and containing any information the Board requires.

B. Prior to the issuance of any bail bondsman license, each bondsman applicant shall:

1. File with the Department an application for such license on the form and in the manner prescribed by the Board.

2. Pass the bail bondsman exam as prescribed by the Board pursuant to this article or have successfully completed a surety bail bondsman exam as required by the State Corporation Commission under former § 38.2-1865.7. Any applicant who improperly uses notes or other reference materials, or otherwise cheats on the exam, shall be ineligible to become a licensed bail bondsman.

3. Submit to fingerprinting by a local or state law-enforcement agency and provide personal descriptive information to be forwarded, along with the applicant's fingerprints, to the Department of State Police Central Criminal Records Exchange. The Central Criminal Records Exchange shall forward the applicant's fingerprints and personal descriptive information to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such applicant. The applicant shall pay for the cost of such fingerprinting and criminal records check. The Department of State Police shall forward to the Director of the Department, or his designee, who shall be a governmental entity, the results of the records search from the Central Criminal Records Exchange and the Federal Bureau of Investigation. The Director of the Department, or his designee, who shall be a governmental entity, shall review the record and if the report indicates a prior felony conviction, the individual shall be prohibited from pursuing the application process for issuance of a bail bondsman license unless the individual submits proof that his civil rights have been restored by the Governor or other appropriate authority.

4. Submit the appropriate nonrefundable application processing fee to the Department.

C. Additionally, prior to the issuance of a property bail bondsman license, each property bail bondsman applicant shall provide proof of collateral of $200,000 on his bonds and proof of collateral of $200,000 on the bonds of each of his agents. Any collateral that is not in the form of real estate, cash,

or certificates of deposit issued by a FDIC-insured financial institution shall be specifically approved by the Department before it may be used as collateral.

1. If the property used as collateral is real estate, such real estate shall be located in the Commonwealth. In addition, the property bail bondsman applicant shall submit to the Department:

a. A true copy of the current real estate tax assessment thereof, certified by the appropriate assessing officer of the locality wherein such property is located or, at the option of the property bail bondsman, an appraisal of the fair market value of the real estate, which appraisal shall have been prepared by a licensed real estate appraiser, within one year of its submission.

b. A new appraisal, if, at its discretion, the Department so orders for good cause shown prior to certification. At the discretion of the Department, after the original submission of any property appraisal or tax assessment, further appraisals or tax assessments for that property may not be required more than once every five years.

c. An affidavit by the property bail bondsman applicant that states, to the best of such person's knowledge, the amount of equity in the real estate, and the amounts due under any obligations secured by liens or similar encumbrances against the real estate, including any delinquent taxes, as of the date of the submission. At its discretion, the Department may require additional documentation to verify these amounts.

2. If the property used as collateral consists of cash or certificates of deposit, the property bail bondsman applicant shall submit to the Department verification of the amounts, and the names of the financial institution in which they are held.

3. Any property bail bondsman issued a certificate by a judge pursuant to former § 19.2-152.1, prior to July 1, 1989, who has continuously maintained his certification and who has never provided to a court collateral of $200,000 or more, shall continue to be exempt from the $200,000 collateral requirements specified above. Those property bail bondsmen who are exempted from this provision shall satisfy all of the other requirements in this article for bail bondsmen, and shall provide to the Department the collateral amount to which they may bond and provide proof of his prior certification by obtaining a certified copy of: (i) the certificate issued pursuant to former § 19.2-152.1 and (ii) the documents held by the originating court that stated the collateral amount for which they were able to bond.

4. Each property bail bondsman, if so directed by the Department, shall place a deed of trust on the real estate that he is using for the limit of his expected bonded indebtedness to secure the Commonwealth and shall name the attorney for the Commonwealth of the affected locality as trustee under the deed of trust, and furnish the Department an acceptable appraisal and title certificate of the real estate subject to any such deed of trust.

D. Prior to the issuance of a surety bail bondsman license, each surety bail bondsman applicant shall:

1. Submit proof of current licensing as a property and casualty insurance agent validated by the State Corporation Commission.

2. Submit copies of each qualifying power of attorney that will be used to provide surety. All qualifying powers of attorney filed with the Department shall contain the name and contact information for both the surety agent and the registered agent of the issuing company. In the event an applicant for a surety bail bondsman license is unable to obtain a qualifying power of attorney prior to the issuance of his license, he may be granted his license, on the condition that each qualifying power of attorney obtained after his licensure be filed with the Department within 30 days after its receipt. A surety bail bondsman shall not be permitted to write bail bonds for any insurance company without first filing the company qualifying power of attorney with the Department.

3. All surety bail bondsman licenses in effect with the State Corporation Commission shall become void after June 30, 2005. Applicants for licensure for bail bondsmen may submit an application to the Department on or after May 1, 2005.

4. Any surety bail bondsman license issued pursuant to this article shall terminate immediately upon the termination of the licensee's property and casualty insurance agent license, and may not be applied for again until the individual has been issued a new property and casualty insurance agent license. Upon notification from the State Corporation Commission of a license suspension, the Department shall immediately suspend a surety bondsman's license, pending the results of an investigation conducted pursuant to this article. In the event a surety bail bondsman is under investigation by the State Corporation Commission for allegations regarding his activities as a licensed property and casualty agent, the Commission shall notify the Department of such investigation and the Department and the Commission may conduct a joint investigation of the individual. All powers granted to the Department and the Commission regarding investigation and disciplinary proceedings shall be permitted to be applied to any such joint investigation, and both the Department and the Commission shall be permitted to utilize their own rules and internal procedures in determining appropriate disciplinary proceedings, if any.

2004, c. 460.

§ 9.1-185.6. Licenses; renewal.

A. A license granted to a bondsman by the Department shall authorize such person to enter into bonds, as defined in § 19.2-119, in any county or city in the Commonwealth.

B. Every bail bondsman license issued pursuant to this article shall be for a term of two years.

C. A bail bondsman license may be renewed for an ensuing two-year period, upon the filing of an application in the form prescribed by the Department and payment of the nonrefundable renewal application processing fee prescribed by the Department. In addition, applicants for renewal of a bail bondsman license shall undergo a criminal history background check as set out in subdivision B 3 of § 9.1-185.5 and shall provide all other documentation listed in subsections C and D of § 9.1-185.5 as the Department deems appropriate.

D. On or before the first day of the month prior to the month his license is due to expire, the licensee shall make application for license renewal and shall at that time pay the renewal application fee.

E. Any license not renewed by its expiration date shall terminate on such date.

2004, c. 460.

§ 9.1-185.7. Licensure of nonresidents.

A. All nonresident transfers and applicants for a bail bondsman license shall satisfy all licensing requirements for residents of the Commonwealth.

B. For the purposes of this article, any individual whose physical place of residence and physical place of business are in a county or city located partly within the Commonwealth and partly within another state may be considered as meeting the requirements as a resident of the Commonwealth, provided the other state has established by law or regulation similar requirements as to residence of such individuals.

2004, c. 460.

§ 9.1-185.8. Professional conduct standards; grounds for disciplinary actions.

A. Any violations of the restrictions or standards under this statute shall be grounds for placing on probation, refusal to issue or renew, sanctioning, suspension or revocation of the bail bondsman's license. A licensed bail bondsman is responsible for ensuring that his employees, partners and individuals contracted to perform services for or on behalf of the bonding business comply with all of these provisions, and do not violate any of the restrictions that apply to bail bondsmen. Violations by a bondsman's employee, partner, or agent may be grounds for disciplinary action against the bondsman, including probation, suspension or revocation of license.

B. A licensed bail bondsman shall not:

1. Knowingly commit, or be a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, forgery, scheme or device whereby any other person lawfully relies upon the word, representation, or conduct of the bail bondsman.

2. Solicit sexual favors or extort additional consideration as a condition of obtaining, maintaining, or exonerating bail bond, regardless of the identity of the person who performs the favors.

3. Conduct a bail bond transaction that demonstrates bad faith, dishonesty, coercion, incompetence, extortion or untrustworthiness.

4. Coerce, suggest, aid and abet, offer promise of favor, or threaten any person on whose bond he is surety or offers to become surety, to induce that person to commit any crime.

5. Give or receive, directly or indirectly, any gift of any kind to any nonelected public official or any employee of a governmental agency involved with the administration of justice, including but not limited to law-enforcement personnel, magistrates, judges, and jail employees, as well as attorneys. De minimis gifts, not to exceed $50 per year per recipient, are acceptable, provided the purpose of the gift is not to directly solicit business, or would otherwise be a violation of Board regulations or the laws of the Commonwealth.

6. Fail to comply with any of the statutory or regulatory requirements governing licensed bail bondsmen.

7. Fail to cooperate with any investigation by the Department.

8. Fail to comply with any subpoena issued by the Department.

9. Provide materially incorrect, misleading, incomplete or untrue information in a license application, renewal application, or any other document filed with the Department.

10. Provide bail for any person if he is also an attorney representing that person.

11. Provide bail for any person if the bondsman was initially involved in the arrest of that person.

C. A licensed bail bondsman shall ensure that each recognizance on all bonds for which he signs shall contain the name and contact information for both the surety agent and the registered agent of the issuing company.

D. An administrative fee may be charged by a bail bondsman, not to exceed reasonable costs. Reasonable costs may include, but are not limited to, travel, court time, recovery fees, phone expenses, administrative overhead and postage.

E. A property bail bondsman shall not enter into any bond if the aggregate of the penalty of such bond and all other bonds, on which he has not been released from liability, is in excess of four times the true market value of the equity in his real estate, cash or certificates of deposit issued by a federally insured institution, or any combination thereof.

F. A property bail bondsman or his agent shall not refuse to cover any forfeiture of bond against him or refuse to pay such forfeiture after notice and final order of the court.

G. A surety bail bondsman shall not write bail bonds on any qualifying power of attorney for which a copy has not been filed with the Department.

H. A surety bail bondsman shall not violate any of the statutes or regulations that govern insurance agents.

I. A licensed bail bondsman shall not charge a bail bond premium less than 10 percent or more than 15 percent of the amount of the bond. A licensed bail bondsman shall not loan money with interest for the purpose of helping another obtain a bail bond.

For the purposes of this subsection, "bail bond premium" means the amount of money paid to a licensed bail bondsman for the execution of a bail bond.

J. A licensed bail bondsman who has been arrested for a felony offense shall not issue any new bonds pending the outcome of the investigation by the Department.

K. If a recognizance is forfeited pursuant to § 19.2-143 and such recognizance is not paid by 4:00 p.m. on the last day of the 150-day period from the finding of default, the clerk shall notify the Department of such default and the Department shall suspend the license of any bail bondsman on the bond in the

forfeited recognizance until the forfeited recognizance is satisfied, unless suspended for another cause. If any employer of such bail bondsman receives notice pursuant to § 19.2-143 to pay a forfeited recognizance within 10 business days and such forfeiture is not paid within 10 business days of the notice to pay, the Department shall suspend the licenses of the employer of the bail bondsman and the agents thereof until the forfeited recognizance is satisfied, unless suspended for another cause.

2004, c. 460; 2007, c. 708; 2011, c. 623; 2015, c. 600; 2019, c. 200.

§ 9.1-185.9. Solicitation of business; standards; restrictions and requirements.

A. Only licensed bail bondsmen shall be authorized to solicit bail bond business in the Commonwealth.

B. A licensed bail bondsman shall not:

1. Solicit bail bond business by directly initiating contact with any person in any court, jail, lock-up, or surrounding government property.

2. Loiter by any jail or magistrate's office unless there on legitimate business.

3. Refer a client or a principal for whom he has posted bond to an attorney for financial profit or other consideration.

C. The Board shall adopt regulations as to what constitutes impermissible solicitations by bondsmen, their employees and agents.

2004, c. 460.

§ 9.1-185.10. Collateral received in the course of business; standards and requirements.

A. A licensed bail bondsman shall be permitted to accept collateral security or other indemnity from the principal, which shall be returned upon final termination of liability on the bond, including the conclusion of all appeals or appeal periods. Such collateral security or other indemnity required by the bail bondsman shall be reasonable in relation to the amount of the bond.

B. When a bondsman accepts collateral, he shall give a written receipt to the depositor. The receipt shall provide a full description of the collateral received and the terms of redemption or forfeiture. The receipt shall also include the depositor's name and contact information.

C. Any bail bondsman who receives collateral in connection with a bail transaction shall receive such collateral in a fiduciary capacity, and prior to any forfeiture of bail shall keep it separate and apart from any other funds or assets of such bail bondsman. In the event a bondsman receives collateral in the nature of a tangible good, it shall be a per se violation of the bail bondsman's fiduciary duty to make personal use of any such collateral unless there is a proper forfeiture of bail.

D. Any collateral received shall be returned with all due diligence to the person who deposited it with the bail bondsman or any assignee other than the bail bondsman as soon as the obligation is discharged and all fees owed to the bail bondsman have been paid. In any event, after a specific request

for the return of the collateral by the depositor, the collateral shall be returned within 15 days after all fees owed have been paid.

2004, c. 460.

§ 9.1-185.11. Firearms, training and usage; standards and requirements.

A. If a bail bondsman chooses to carry a firearm in the course of his duties, he shall be required to:

1. First complete basic firearms training, as defined by the Board; and

2. Receive ongoing in-service firearms training, as defined by the Board.

B. In the event a bail bondsman discharges a firearm during the course of his duties, he shall report it to the Department within 24 business hours.

2004, c. 460.

§ 9.1-185.12. Uniforms and identification; standards and restrictions.

A. A bail bondsman shall not wear, carry, or display any uniform, badge, shield, or other insignia or emblem that implies he is an agent of state, local, or federal government.

B. A bail bondsman shall wear or display only identification issued by, or whose design has been approved by, the Department.

2004, c. 460.

§ 9.1-185.13. Documentation and recordkeeping standards and requirements.

A. The bail bondsman shall retain, for a minimum of the three calendar years from the date of the termination of the liability:

1. Copies of all written representations made to any court or to any public official for the purpose of avoiding a forfeiture of bail, setting aside a forfeiture, or causing a defendant to be released on his own recognizance.

2. Copies of all affidavits and receipts made in connection with collateral received in the course of business.

3. Evidence of the return of any security or collateral received in the course of business, including a copy of the receipt showing when and to whom the collateral was returned.

B. Upon request of the Department, a bail bondsman shall provide any documents required to be kept pursuant to this section.

2004, c. 460.

§ 9.1-185.14. Reporting standards and requirements.

A. Each licensed bail bondsman shall report within 10 calendar days to the Department any change in his residence, name, business name or business address, and ensure that the Department has the names and all fictitious names of all companies under which he carries out his bail bonding business.

B. Each licensed bail bondsman arrested for or convicted of a felony shall report within 10 calendar days to the Department the facts and circumstances regarding the criminal arrest or conviction.

C. Each licensed bail bondsman shall report to the Department within 10 calendar days of the final disposition of the matter any administrative action taken against him by another governmental agency in the Commonwealth or in another jurisdiction. Such report shall include a copy of the order, consent to order or other relevant legal documents.

D. Each licensed property bail bondsman shall submit to the Department, on a prescribed form, not later than the fifth day of each month, a list of all outstanding bonds on which he was obligated as of the last day of the preceding month, together with the amount of the penalty of each such bond.

E. Each licensed property bail bondsman shall report to the Department any change in the number of agents in his employ within seven days of such change and concurrently provide proof of collateral of $200,000 for each new agent, in accordance with subsection C of § 9.1-185.5.

F. Each licensed surety bail bondsman shall report to the Department within 30 days any change in his employment or agency status with a licensed insurance company. If the surety bail bondsman receives a new qualifying power of attorney from an insurance company, he shall forward a copy thereof within 30 days to the Department, in accordance with subdivision D 2 of § 9.1-185.5.

G. Each licensed property bail bondsman shall report to the Department within five business days if any new lien, encumbrance, or deed of trust is placed on any real estate that is being used as collateral on his or his agents' bonds as well as the amount it is securing. The reporting requirement deadline is deemed to begin as soon as the licensed property bail bondsman learns of the new lien, encumbrance, or deed of trust, or should have reasonably known that such a lien, encumbrance, or deed of trust had been recorded.

2004, c. 460; 2015, c. 600.

§ 9.1-185.15. Recovery of bailees; methods of capture; standards and requirements; limitations.
A. During the recovery of a bailee, a bail bondsman shall have a copy of the relevant recognizance for the bailee. In the event a bail bondsman is recovering the bailee of another bondsman, he shall also have written authorization from the bailee's bondsman, obtained prior to effecting the capture. The Department shall develop the written authorization form to be used in such circumstances.

B. A bail bondsmen shall not enter a residential structure without first verbally notifying the occupants who are present at the time of the entry.

C. Absent exigent circumstances, a bail bondsman shall give prior notification of at least 24 hours to local law enforcement or state police of the intent to apprehend a bailee. In all cases, a bail bondsman shall inform local law enforcement within 30 minutes of capturing a bailee.

D. A bail bondsman shall not break any laws of the Commonwealth in the act of apprehending a bailee.

2004, c. 460.

§ 9.1-185.16. Department submission to the State Corporation Commission.

A. The Department shall provide to the State Corporation Commission a list of all newly licensed surety bondsmen each month.

B. When the Department terminates a surety bail bondsman's license, the Department shall immediately notify the State Corporation Commission of the surety bail bondsman's termination and the reason for such termination.

2004, c. 460.

§ 9.1-185.17. Department submissions to local and regional correctional facilities.

Once a year, the Department shall provide to each local and regional correctional facility a list of all licensed bail bondsmen in the Commonwealth. The list shall consist of each bondsman's individual name, the name of the bondsman's business and the address where the bondsman's office is physically located. The Department shall update the list monthly and have the list available on its website.

2004, c. 460.

§ 9.1-185.18. Penalties.

It shall be a Class 1 misdemeanor to engage in bail bonding for profit or other consideration without a valid license issued by the Department in this Commonwealth. A third conviction shall be a Class 6 felony.

Any person licensed by the Board pursuant to this article who violates any statute or Board regulation who is not criminally prosecuted shall be subject to the monetary penalty provided in this section. If the Board determines that a respondent has committed the violation complained of, the Board shall determine the amount of the monetary penalty for the violation, which shall not exceed $2,500 for each violation. The penalty may be sued for and recovered in the name of the Commonwealth.

2004, c. 460.

Article 12 - BAIL ENFORCEMENT AGENTS

§ 9.1-186. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Bail enforcement agent," also known as "bounty hunter," means any individual engaged in bail recovery.

"Bail recovery" means an act whereby a person arrests a bailee with the object of surrendering the bailee to the appropriate court, jail, or police department, for the purpose of discharging the bailee's surety from liability on his bond. "Bail recovery" shall include investigating, surveilling or locating a bailee in preparation for an imminent arrest, with such object and for such purpose.

"Bailee" means a person who has been released on bail, and who is or has been subject to a bond, as defined in § 19.2-119.

"Board" means the Criminal Justice Services Board.

"Department" means the Department of Criminal Justice Services.

2004, c. 397.

§ 9.1-186.1. Inapplicability of article.

The provisions of this article shall not apply to licensed bail bondsmen nor to law-enforcement officers.

2004, c. 397.

§ 9.1-186.2. Powers of Department and Board relating to bail enforcement agents.

A. The Board shall have full regulatory authority and oversight of bail enforcement agents.

B. The Board shall adopt regulations establishing compulsory minimum, entry-level and in-service training and education for bail enforcement agents. The regulations may include provisions allowing the Department to inspect the facilities and programs of persons conducting training to ensure compliance with the law and regulations. In establishing compulsory training standards for bail enforcement agents, the Board shall ensure the public safety and welfare against incompetent or unqualified persons engaging in the activities regulated by this article. The regulations may provide for exemption from training of persons having previous employment as law-enforcement officers for a local, state or the federal government. However, no such exemption shall be granted for any person whose employment as a law-enforcement officer was terminated because of his misconduct or incompetence. The regulations may include provisions for partial exemption from such training for persons having previous training that meets or exceeds the minimum training standards and has been approved by the Department.

C. The Board shall adopt regulations that are necessary to ensure respectable, responsible, safe and effective bail enforcement within the Commonwealth and shall include but not be limited to regulations that: (i) establish qualifications of applicants for licensure and renewal under this article; (ii) examine, or cause to be examined, the qualifications of each applicant for licensure, including when necessary the preparation, administration, and grading of examinations; (iii) levy and collect nonrefundable fees for licensure and renewal that are sufficient to cover all expenses for administration and operation of a program of licensure; (iv) ensure continued competency and prevent deceptive or misleading practices by practitioners; (v) administer the regulatory system; (vi) provide for receipt of complaints concerning the conduct of any person whose activities are regulated by the Board; (vii) provide for investigations, and appropriate disciplinary action if warranted; (viii) establish professional conduct standards, firearms training and usage standards, uniform and identification standards, reporting standards, and standards for the recovery and capture of bailees; (ix) allow the Board to revoke, suspend or refuse to renew a license for just cause; and (x) establish an introductory training curriculum which includes search, seizure and arrest procedure, pursuit, arrest, detainment and transportation of a bailee, specific duties and responsibilities regarding entering an occupied structure, the laws and rules relating to the bail bond business, the rights of the accused, ethics and Virginia law and regulation. The Board shall adopt annual compulsory, minimum, firearms training standards for bail

enforcement agents. In adopting its regulations, the Board shall seek the advice of the Private Security Services Advisory Board established pursuant to § 9.1-143.

2004, c. 397.

§ 9.1-186.3. Powers of Department relating to bail enforcement agents.

A. In addition to the powers otherwise conferred upon it by law, the Department may charge each applicant for licensure or licensee a nonrefundable fee as established by the Board to (i) cover the costs of processing an application for licensure, enforcement of the regulations, and other costs associated with the maintenance of the program of regulation; (ii) cover the costs of bail recovery training, processing school certifications and enforcement of training standards; (iii) conduct investigations to determine the suitability of applicants for licensure and (iv) conduct investigations to determine if any disciplinary actions against a licensed bail enforcement agent are warranted. For purposes of determining eligibility for licensure, the Department shall require the applicant to provide personal descriptive information to be forwarded, along with the applicant's fingerprints, to the Central Criminal Records Exchange for the purpose of conducting a Virginia criminal history records search. The Central Criminal Records Exchange shall forward the fingerprints and personal description to the Federal Bureau of Investigation for the purpose of obtaining a national criminal record check.

B. The Director or his designee may make an ex parte application to the circuit court for the city or county wherein evidence sought is kept or wherein a licensee does business for the issuance of a subpoena duces tecum in furtherance of the investigation of a sworn complaint within the jurisdiction of the Department or the Board to request production of any relevant records, documents and physical or other evidence of any person, partnership, association or corporation licensed or regulated by the Department pursuant to this article. The court may issue and compel compliance with such a subpoena upon a showing of reasonable cause. Upon determining that reasonable cause exists to believe that evidence may be destroyed or altered, the court may issue a subpoena duces tecum requiring the immediate production of evidence. Costs of the investigation and adjudication of violations of this article or Board regulations may be recovered. All costs recovered shall be deposited into the state treasury to the credit of the Bail Enforcement Agent Regulatory Fund. Such proceedings shall be brought in the name of the Commonwealth by the Department in the circuit court of the city or county in which the unlawful act occurred or in which the defendant resides. The Director, or agents appointed by him, shall have the authority to administer oaths or affirmations for the purpose of receiving complaints and conducting investigations of violations of this article, or any regulation promulgated hereunder and to serve process issued by the Department or the Board.

2004, c. 397.

§ 9.1-186.4. Limitations on licensure.

A. In order to be licensed as a bail enforcement agent a person shall (i) be 21 years of age or older, (ii) have received a high school diploma or passed a high school equivalency examination approved by the Board of Education, and (iii) have satisfactorily completed a basic certification course in training

for bail enforcement agents offered by the Department. Partial exemptions to the training requirements may be approved by the Department if the individual has received prior training.

B. The following persons are not eligible for licensure as a bail enforcement agent and may not be employed nor serve as agents for a bail enforcement agent:

1. Persons who have been convicted of a felony within the Commonwealth, any other state, or the United States, who have not been pardoned, or whose civil rights have not been restored.

2. Persons who have been convicted of any misdemeanor within the Commonwealth, any other state, or the United States within the preceding five years. This prohibition may be waived by the Department, for good cause shown, so long as the conviction was not for one of the following or a substantially similar misdemeanor: carrying a concealed weapon, assault and battery, sexual battery, a drug offense, driving under the influence, discharging a firearm, a sex offense, or larceny.

3. Persons who have been convicted of any misdemeanor within the Commonwealth, any other state, or the United States, that is substantially similar to the following: brandishing a firearm or stalking. The Department may not waive the prohibitions under this subdivision 3.

4. Persons currently the subject of a protective order within the Commonwealth or another state.

5. Employees of a local or regional jail.

6. Employees of a sheriff's office, or a state or local police department.

7. Commonwealth's Attorneys, and any employees of their offices.

8. Employees of the Department of Corrections, Department of Criminal Justice Services, or a local pretrial or community-based probation services agency.

C. The exclusions in subsection B shall not be construed to prohibit law enforcement from accompanying a bail enforcement agent when he engages in bail recovery.

2004, c. 397; 2007, c. 133; 2014, c. 84.

§ 9.1-186.5. Bail enforcement agent license; criminal history records check.

A. An applicant for a bail enforcement license shall apply for such license in a form and manner prescribed by the Board, and containing any information the Board requires.

B. Prior to the issuance of any bail enforcement agent license, each applicant shall:

1. File with the Department an application for such license on the form and in the manner prescribed by the Board.

2. Complete the basic certification courses in training for bail enforcement agents required by the Department. Any applicant who improperly uses notes or other reference materials, or otherwise cheats in any course, shall be ineligible to become a licensed bail enforcement agent.

3. Submit the appropriate nonrefundable application processing fee to the Department.

4. Submit to fingerprinting by a local or state law-enforcement agency and provide personal descriptive information to be forwarded, along with the applicant's fingerprints, to the Department of State Police Central Criminal Records Exchange. The Central Criminal Records Exchange shall forward the applicant's fingerprints and personal descriptive information to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such applicant. The applicant shall pay for the cost of such fingerprinting and criminal records check. The Department of State Police shall forward it to the Director of the Department, or his designee, who shall be a governmental entity, who shall review the record, and if the report indicates a prior conviction listed in subsection B of § 9.1-186.4, the individual shall be prohibited from pursuing the application process for issuance of a bail enforcement agent license unless the individual submits proof that his civil rights have been restored by the Governor or other appropriate authority.

2004, c. 397.

§ 9.1-186.6. Licenses; renewal.

A. A license granted to a bail enforcement agent by the Department shall authorize such person to engage in the business of bail recovery.

B. Every bail enforcement agent license issued pursuant to this article shall be for a term of two years.

C. A bail enforcement agent license may be renewed for an ensuing two-year period, upon the filing of an application in the form prescribed by the Department and payment of the nonrefundable renewal application processing fee prescribed by the Department. In addition, applicants for renewal of a bail enforcement agent's license shall provide all other documentation as the Department deems appropriate, including but not limited to, a criminal history background check.

D. On or before the first day of the month prior to the month his license is due to expire, the licensee shall make application for license renewal and shall at that time pay the renewal application fee.

E. Any license not renewed by its expiration date shall terminate on such date.

F. Prior to license renewal, bail enforcement agents shall be required to complete eight hours of continuing education approved by the Department.

2004, c. 397.

§ 9.1-186.7. Licensure of nonresidents.

A. All nonresident transfers and applicants for a bail enforcement agent license shall satisfy all licensing requirements for residents of the Commonwealth.

B. For the purposes of this article, any individual whose physical place of residence and physical place of business are in a county or city located partly within the Commonwealth and partly within another state may be considered as meeting the requirements as a resident of the Commonwealth, provided the other state has established by law or regulation similar requirements as to residence of such individuals.

2004, c. 397.

§ 9.1-186.8. Professional conduct standards; grounds for disciplinary actions.

A. Any violations of the restrictions or standards under subsection B shall be grounds for placing on probation, refusal to issue or renew, sanctioning, suspension or revocation of the bail enforcement agent's license. A licensed bail enforcement agent is responsible for ensuring that his employees, partners and individuals contracted to perform services for or on his behalf comply with all of these provisions, and do not violate any of the restrictions that apply to bail enforcement agents. Violations by a bail enforcement agent's employee, partner or agent may be grounds for disciplinary action against the bail enforcement agent, including probation, suspension, or revocation of license.

B. A licensed bail enforcement agent shall not:

1. Engage in any fraud or willful misrepresentation, or provide materially incorrect, misleading, incomplete or untrue information in applying for an original license, or renewal of an existing license, or in submitting any documents to the Department.

2. Use any letterhead, advertising, or other printed matter in any manner representing that he is an agent, employee, or instrumentality of the federal government, a state, or any political subdivision of a state.

3. Impersonate, permit or aid and abet any employee to impersonate, a law-enforcement officer or employee of the United States, any state, or a political subdivision of a state.

4. Use a name different from that under which he is currently licensed for any advertising, solicitation, or contract to secure business unless the name is an authorized fictitious name.

5. Coerce, suggest, aid and abet, offer promise of favor, or threaten any person to induce that person to commit any crime.

6. Give or receive, directly or indirectly, any gift of any kind to any nonelected public official or any employee of a governmental agency involved with the administration of justice, including but not limited to law-enforcement personnel, magistrates, judges, jail employees, and attorneys. De minimis gifts, not to exceed $50 per year per recipient, are acceptable, provided the purpose of the gift is not to directly solicit business, or would otherwise be a violation of Department regulations or the laws of the Commonwealth.

7. Knowingly violate, advise, encourage, or assist in the violation of any statute, court order, or injunction in the course of conducting activities regulated under this chapter.

8. Solicit business for an attorney in return for compensation.

9. Willfully neglect to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties, but if the bail enforcement agent chooses to withdraw from the case and returns the funds for work not yet done, no violation of this section exists.

10. Fail to comply with any of the statutory or regulatory requirements governing licensed bail enforcement agents.

11. Fail or refuse to cooperate with any investigation by the Department.

12. Fail to comply with any subpoena issued by the Department.

13. Employ or contract with any unlicensed or improperly licensed person or agency to conduct activities regulated under this article, if the licensure status was known or could have been ascertained by reasonable inquiry.

14. Solicit or receive a bribe or other consideration in exchange for failing to recover or detain a bailee.

C. The Department shall have the authority to place on probation, suspend or revoke a bail enforcement agent's license if an agent is arrested or issued a summons for a criminal offense, or becomes the subject of a protective order.

2004, c. 397.

§ 9.1-186.9. Firearms, training and usage; standards and requirements.

A. If a bail enforcement agent chooses to carry a firearm, either concealed or visible, in the course of his duties, he shall be required to:

1. First complete basic firearms training, as defined by the Board; and

2. Receive ongoing in-service firearms training, as defined by the Board.

B. In the event a bail enforcement agent discharges a firearm during the course of his duties, he shall report it to the Department within 24 business hours.

2004, c. 397.

§ 9.1-186.10. Uniforms and identification; standards and restrictions.

A. A bail enforcement agent shall not wear, carry, or display any uniform, badge, shield, or other insignia or emblem that implies he is an agent of state, local, or federal government.

B. A bail enforcement agent shall wear or display only identification issued by, or whose design has been approved by, the Department.

2004, c. 397.

§ 9.1-186.11. Reporting standards and requirements.

A. Each licensed bail enforcement agent shall report within 10 calendar days to the Department any change in his residence, name, or business name or business address, and ensure that the Department has the names and fictitious names of all companies under which he carries out his bail recovery business.

B. Each licensed bail enforcement agent arrested or issued a summons for any crime shall report such fact within 10 calendar days to the Department, and shall report to the Department within 10 days the facts and circumstances regarding the final disposition of his case.

C. Each licensed bail enforcement agent shall report to the Department within 10 calendar days of the final disposition any administrative action taken against him by another governmental agency in the Commonwealth or in another jurisdiction. Such report shall include a copy of the order, consent to order or other relevant legal documents.

2004, c. 397; 2015, c. 600.

§ 9.1-186.12. Recovery of bailees; methods of capture; standards and requirements; limitations.
A. During the recovery of a bailee, a bail enforcement agent shall have a copy of the relevant recognizance for the bailee. He shall also have written authorization from the bailee's bondsman, obtained prior to effecting the capture. The Department shall develop the written authorization form to be used in such circumstances.

B. A bail enforcement agent shall not enter the residence of another without first verbally notifying the occupants who are present at the time of entry.

C. Absent exigent circumstances, a bail enforcement agent shall give prior notification of at least 24 hours to local law enforcement or state police of the intent to apprehend a bailee. In all cases, a bail enforcement agent shall inform local law enforcement within 60 minutes of capturing a bailee.

D. A bail enforcement agent shall not break any laws of the Commonwealth in the act of apprehending a bailee.

2004, c. 397.

§ 9.1-186.13. Penalties, criminal and monetary.
Any person who engages in bail recovery in the Commonwealth without a valid license issued by the Department is guilty of a Class 1 misdemeanor. A third conviction under this section is a Class 6 felony.

Any person who violates any statute or Board regulation who is not criminally prosecuted shall be subject to the monetary penalty provided in this section. If the Board determines that a respondent is guilty of the violation complained of, the Board shall determine the amount of the monetary penalty for the violation, which shall not exceed $2,500 for each violation. The penalty may be sued for and recovered in the name of the Commonwealth.

2004, c. 397.

§ 9.1-186.14. Expired.
Expired.

Article 13 - CRISIS INTERVENTION TEAMS

§ 9.1-187. Establishment of crisis intervention team programs.

A. By January 1, 2010, the Department of Criminal Justice Services and the Department of Behavioral Health and Developmental Services, utilizing such federal or state funding as may be available for this purpose, shall support the development and establishment of crisis intervention team programs in areas throughout the Commonwealth. Areas may be composed of any combination of one or more localities or institutions of higher education contained therein that may have law-enforcement officers as defined in § 9.1-101. The crisis intervention teams shall assist law-enforcement officers in responding to crisis situations involving persons with mental illness, substance abuse problems, or both. The goals of the crisis intervention team programs shall be:

1. Providing immediate response by specially trained law-enforcement officers;

2. Reducing the amount of time officers spend out of service awaiting assessment and disposition;

3. Affording persons with mental illness, substance abuse problems, or both, a sense of dignity in crisis situations;

4. Reducing the likelihood of physical confrontation;

5. Decreasing arrests and use of force;

6. Identifying underserved populations with mental illness, substance abuse problems, or both, and linking them to appropriate care;

7. Providing support and assistance for mental health treatment professionals;

8. Decreasing the use of arrest and detention of persons experiencing mental health and/or substance abuse crises by providing better access to timely treatment;

9. Providing a therapeutic location or protocol for officers to bring individuals in crisis for assessment that is not a law-enforcement or jail facility;

10. Increasing public recognition and appreciation for the mental health needs of a community;

11. Decreasing injuries to law-enforcement officers during crisis events;

12. Reducing inappropriate arrests of individuals with mental illness in crisis situations; and

13. Decreasing the need for mental health treatment in jail.

B. The Department, in collaboration with the Department of Behavioral Health and Developmental Services, shall establish criteria for the development of crisis intervention teams that shall include assessment of the effectiveness of the area's plan for community involvement, training, and therapeutic response alternatives and a determination of whether law-enforcement officers have effective agreements with mental health care providers and all other community stakeholders.

C. By November 1, 2009, the Department, and the Department of Behavioral Health and Developmental Services, shall submit to the Joint Commission on Health Care a report outlining the status of the crisis intervention team programs, including copies of any requests for proposals and the criteria developed for such areas.

2009, c. 715; 2012, c. 776.

§ 9.1-188. Crisis intervention team training.

The Department, in consultation with the Department of Behavioral Health and Developmental Services, the Department for Aging and Rehabilitative Services, and law-enforcement, brain injury, and mental health stakeholders, shall develop a training program for all persons involved in the crisis intervention team programs, and all team members shall receive this training. The curriculum shall be approved for Department-certified in-service training credits for law-enforcement officers from each crisis intervention team and shall include a module on brain injury as part of four hours of mandatory training in legal issues.

2009, c. 715; 2020, cc. 514, 515.

§ 9.1-189. Crisis intervention team protocol.

Each crisis intervention team shall develop a protocol that permits law-enforcement officers to release a person with mental illness, substance abuse problems, or both, whom they encounter in crisis situations from their custody when the crisis intervention team has determined the person is sufficiently stable and to refer him for emergency treatment services.

2009, c. 715.

§ 9.1-190. Crisis intervention team program assessment.

The Department, and the Department of Behavioral Health and Developmental Services, shall assess and report on the impact and effectiveness of the crisis intervention team programs in meeting the program goals. The assessment shall include, but not be limited to, consideration of the number of incidents, injuries to the parties involved, successes and problems encountered, the overall operation of the crisis intervention team programs, and recommendations for improvement of the program. The Department, and the Department of Behavioral Health and Developmental Services, shall submit a report to the Joint Commission on Health Care by November 15, 2009, 2010, and 2011.

2009, c. 715.

Article 14 - Virginia Sexual Assault Forensic Examiner Coordination Program

§ 9.1-191. Virginia sexual assault forensic examiner coordination program.

A. The Department shall establish a Virginia sexual assault forensic examiner coordination program. The program shall be headed by a coordinator (the Coordinator). The Coordinator shall:

1. Create and coordinate an annual statewide sexual assault forensic nurse examiner training program in partnership with the Attorney General, the Department of Health, the Virginia Hospital and Healthcare Association, the Victim Compensation Fund, the International Association of Forensic Nurses, and the Secretary of Health and Human Services;

2. Coordinate the development and enhancement of sexual assault forensic examiner programs across the Commonwealth that include prevention of secondary trauma to survivors of sexual assault and culturally sensitive training for health professionals;

3. Participate in the development of hospital protocols and guidelines for treatment of survivors of sexual assault in partnership with the Department of Health;

4. Coordinate and strengthen communications among sexual assault nurse examiner medical directors, sexual assault response teams, and hospitals for existing and developing sexual assault nurse examiner programs;

5. Provide technical assistance for existing and developing sexual assault forensic examiner programs, including local sexual assault forensic examiner training programs;

6. Create and maintain a statewide list, updated biannually, to include the following:

a. A list of available sexual assault forensic examiners, sexual assault nurse examiners, sexual assault forensic nurse examiners, and pediatric sexual assault nurse examiners;

b. The location and facility affiliation of each examiner;

c. The duty hours for each examiner and affiliated facility for sexual assault exam services; and

d. The location of available local sexual assault forensic examiner training programs;

7. Coordinate, share, and disseminate the list created pursuant to subdivision 6 to the emergency operations communications system available to emergency medical services and law-enforcement agencies as well as the internal emergency and hospital communications system;

8. Share and disseminate the list created pursuant to subdivision 6 with all other relevant agencies, including law-enforcement agencies, attorneys for the Commonwealth, victim-witness programs, sexual assault service organizations, the Department of Juvenile Justice, the Department of Social Services, the Department of Education, and school divisions;

9. Create sexual assault nurse examiner recruitment materials for universities and colleges with nursing programs in partnership with the State Council of Higher Education for Virginia; and

10. Support and coordinate community education and public outreach, when appropriate, relating to sexual assault nurse examiner issues for the Commonwealth.

B. The Coordinator may request and shall receive from every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party, or any political subdivision thereof, cooperation and assistance in the performance of its duties. The Coordinator may also consult and exchange information with local government agencies and interested stakeholders.

C. The Coordinator shall report annually on or before October 1 to the Governor and the General Assembly. The report shall include a summary of activities for the year and any recommendations to address sexual assault exams within the Commonwealth, including budget needs to increase the availability of sexual assault exam services across the Commonwealth. The Department shall ensure that such report is available to the public.

2020, cc. 274, 276.

Article 15 - Virginia Community Policing Report

§ 9.1-192. Community Policing Reporting Database; annual report.

A. The Department shall periodically access the Community Policing Reporting Database, which is maintained by the Department of State Police in accordance with § 52-30.3, for the purposes of analyzing the data to determine the existence and prevalence of the practice of bias-based profiling and the prevalence of complaints alleging the use of excessive force. The Department shall maintain all records relating to the analysis, validation, and interpretation of such data. The Department may seek assistance in analyzing the data from any accredited public or private institution of higher education in the Commonwealth or from an independent body having the experience, staff expertise, and technical support capability to provide such assistance.

B. The Director shall annually report the findings and recommendations resulting from the analysis and interpretation of the data from the Community Policing Reporting Database to the Governor, the General Assembly, and the Attorney General beginning on or before July 1, 2021, and each July 1 thereafter. The report shall also include information regarding state or local law-enforcement agencies that have failed or refused to report the required data to the Department of State Police as required by §§ 15.2-1609.10, 15.2-1722.1, and 52-30.2. A copy of the Director's report shall also be provided to each attorney for the Commonwealth of the county or city in which a reporting law-enforcement agency is located.

2020, c. 1165, § 9.1-191.

Chapter 2 - Department of Fire Programs

§ 9.1-200. Department of Fire Programs.

There is created a Department of Fire Programs that shall be headed by a Director who shall be appointed by the Governor to serve at his pleasure. The Department shall be the designated state agency to receive and disburse any funds available to the Commonwealth under the Federal Fire Prevention and Control Act (P. L. 93-498).

1978, c. 606, § 9-153; 1980, c. 728; 1981, c. 154; 1984, c. 720; 2001, c. 844.

§ 9.1-201. Powers of Executive Director.

The Executive Director shall have the following powers to:

1. Supervise the administration of the Department;

2. Prepare, approve, and submit all requests for appropriations and be responsible for all expenditures pursuant to appropriations;

3. Employ such staff as is necessary to carry out the powers and duties of this chapter, within the limits of available appropriations;

4. Accept on behalf of the Department grants from the United States government and agencies and instrumentalities thereof and any other sources. To these ends, the Executive Director shall have the

power to execute such agreements in accordance with any policies of the Virginia Fire Services Board;

5. Do all acts necessary or convenient to carry out the purpose of this chapter and to assist the Board in carrying out its responsibilities and duties;

6. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter, including, but not limited to, contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth;

7. Appoint a director of fire services training;

8. Receive funds as appropriated by the General Assembly collected pursuant to § 38.2-401, on an annual basis to be used as provided in subsection C of § 38.2-401;

9. Administer the Thermal Imaging Camera Grant Funds established pursuant to § 9.1-205; and

10. Administer the provisions of the Statewide Fire Prevention Code (§ 27-94 et seq.).

1978, c. 606, § 9-154; 1981, c. 154; 1985, cc. 397, 545; 2001, c. 844; 2002, c. 721; 2007, cc. 647, 741; 2012, cc. 164, 456.

§ 9.1-202. Virginia Fire Services Board; membership; terms; compensation.

A. The Virginia Fire Services Board (the Board) is established as a policy board within the meaning of § 2.2-2100 in the executive branch of state government. The Board shall consist of 15 members to be appointed by the Governor as follows: a representative of the insurance industry; two members of the general public with no connection to the fire services, one of whom shall be a representative of those industries affected by SARA Title III and OSHA training requirements; one member each from the Virginia Fire Chiefs Association, the Virginia State Firefighters Association, the Virginia Professional Fire Fighters, the Virginia Fire Service Council, the Virginia Fire Prevention Association, the Virginia Chapter of the International Association of Arson Investigators, the Virginia Municipal League, and the Virginia Association of Counties; a local fire marshal as defined by § 27-30; and a certified Virginia fire service instructor. Of these appointees, at least one shall be a volunteer firefighter. The State Forester and a member of the Board of Housing and Community Development appointed by the chairman of that Board shall serve as ex officio members of the Board.

Each of the organizations represented shall submit at least three names for each position for the Governor's consideration in making these appointments.

B. Members of the Board appointed by the Governor shall serve for terms of four years. An appointment to fill a vacancy shall be for the unexpired term. No appointee shall serve more than two successive four-year terms but neither shall any person serve beyond the time he holds the office or organizational membership by reason of which he was initially eligible for appointment.

C. The Board annually shall elect its chairman and vice-chairman from among its membership and shall adopt rules of procedure.

D. All members shall be reimbursed for expenses incurred in the performance of their duties as provided in § 2.2-2825. Funding for the expenses shall be provided from the Fire Programs Fund established pursuant to § 38.2-401.

E. The Board shall meet no more than six times each calendar year. The Secretary of Public Safety and Homeland Security may call a special meeting of the Board should circumstances dictate. A majority of the current membership of the Board shall constitute a quorum for all purposes.

1981, c. 154, § 9-153.1; 1985, c. 448; 1986, c. 60; 1989, c. 258; 1992, c. 213; 2001, c. 844; 2002, c. 211; 2003, c. 836; 2006, c. 58; 2007, c. 96; 2011, cc. 691, 714; 2012, cc. 164, 456; 2014, cc. 31, 115, 490, 820; 2019, c. 208.

§ 9.1-203. Powers and duties of Virginia Fire Services Board; limitation.

A. The Board shall have the responsibility for promoting the coordination of the efforts of fire service organizations at the state and local levels. To these ends, it shall have the following powers and duties to:

1. Ensure the development and implementation of the Virginia Fire Prevention and Control Plan;

2. Review and approve a five-year statewide plan for fire education and training;

3. Approve the criteria for and disbursement of any grant funds received from the federal government and any agencies thereof and any other source and to disburse such funds in accordance therewith;

4. Provide technical assistance and advice to local fire departments, other fire services organizations, and local governments through Fire and Emergency Medical Services studies done in conjunction with the Department of Fire Programs;

5. Advise the Department of Fire Programs on and adopt personnel standards for fire services personnel;

6. Advise the Department of Fire Programs on the Commonwealth's statewide plan for the collection, analysis, and reporting of data relating to fires in the Commonwealth;

7. Make recommendations to the Secretary of Public Safety and Homeland Security concerning legislation affecting fire prevention and protection and fire services organizations in Virginia;

8. Evaluate all fire prevention and protection programs and make any recommendations deemed necessary to improve the level of fire prevention and protection in the Commonwealth;

9. Advise the Department of Fire Programs on the Statewide Fire Prevention Code;

10. Investigate alternative means of financial support for volunteer fire departments and advise jurisdictions regarding the implementation of such alternatives; and

11. Develop a modular training program for volunteer firefighters for adoption by local volunteer fire departments that shall include (i) Fire Fighter I and Fire Fighter II certification pursuant to standards developed by the National Fire Protection Association and (ii) an online training program.

B. Except for those policies established in § 38.2-401, compliance with the provisions of § 9.1-201 and this section and any policies or guidelines enacted pursuant thereto shall be optional with, and at the full discretion of, any local governing body and any volunteer fire department or volunteer fire departments operating under the same corporate charters.

1978, c. 606, § 9-155; 1981, c. 154; 1984, c. 734; 1986, c. 60; 1988, c. 133; 1997, c. 791; 2001, c. 844; 2012, cc. 164, 456; 2014, cc. 115, 490; 2018, c. 403.

§ 9.1-203.1. Firefighter mental health awareness training.

A. Each fire department as defined in § 27-6.01 shall develop curricula for mental health awareness training for its personnel, which shall include training regarding the following:

1. Understanding signs and symptoms of cumulative stress, depression, anxiety, exposure to acute and chronic trauma, compulsive behaviors, and addiction;

2. Combating and overcoming stigmas;

3. Responding appropriately to aggressive behaviors such as domestic violence and harassment;

4. Accessing available mental health treatment and resources; and

5. Managing stress, self-care techniques, and resiliency.

B. Any fire department may develop the mental health awareness training curricula in conjunction with other fire departments or firefighter stakeholder groups or may use any training program, developed by any entity, that satisfies the criteria set forth in subsection A.

C. Firefighters who receive mental health awareness training in accordance with this section shall receive appropriate continuing education credits from the Department of Fire Programs and the Virginia Fire Services Board.

2018, cc. 456, 658; 2020, c. 1262.

§ 9.1-204. Fire service training facilities; allocation of funds therefor.

A. At the beginning of each fiscal year, the Department of Fire Programs, after approval by the Board, may allocate available funds to counties, cities, and towns within the Commonwealth for the purpose of assisting such counties, cities, towns and volunteer fire companies in the construction, improvement, or expansion of fire service training facilities.

B. Available funds shall be allocated at the discretion of the Board through the Executive Director of the Department of Fire Programs, based on the following:

1. The total amount of funds available for distribution;

2. Financial participation by counties, cities, towns, and volunteer fire companies, any such participation being optional on the part of the locality or the particular volunteer fire company; and

3. Anticipated use of such facilities by the Commonwealth, its subdivisions, or volunteer fire companies.

C. Such funds shall be distributed to the counties, cities, and towns pursuant to contracts prepared by the office of the Attorney General.

D. Allocations of such funds to volunteer fire companies shall not be contingent upon or conditioned in any way upon compliance with the provisions of § 9.1-201 or with any rules, regulations, or guidelines enacted pursuant to the provisions of § 9.1-201.

1981, c. 154, § 9-155.1; 2001, c. 844; 2012, cc. 164, 456.

§ 9.1-205. Thermal Imaging Camera Grant Fund established.

A. From only such funds as are appropriated from the general fund by the General Assembly for this purpose and from such gifts, donations, grants, bequests and other funds as may be received on its behalf, there is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Thermal Imaging Camera Grant Fund, hereinafter referred to as the "VTIC Fund." No moneys from the Fire Programs Fund established pursuant to § 38.2-401 may be used or expended for the VTIC Fund. The VTIC Fund is established to assist the localities of the Commonwealth providing fire service operations in purchasing thermal imaging cameras and equipment associated with the use of thermal imaging cameras. The VTIC Fund shall be administered by the Department of Fire Programs and established on the books of the Comptroller. Any moneys remaining in the VTIC Fund at the end of each fiscal year shall not revert to the general fund but shall remain in the VTIC Fund. Moneys in the VTIC Fund shall not be diverted or expended for any purpose not authorized by this section. Notwithstanding any other provision of law to the contrary, policies established by the Virginia Fire Services Board, and any grants provided from the VTIC Fund, that are not inconsistent with the purposes set out in this section shall be binding upon any locality that accepts such funds or related grants. Expenditures for administration of and disbursements from the VTIC Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director of the Department of Fire Programs or his designee.

B. When, and only if, funds are available in the VTIC Fund, a Virginia Thermal Imaging Camera Advisory Panel (the Panel) shall be convened to make recommendations to the Department of Fire Programs for the use of the VTIC Fund. The Panel shall consist of eleven members as follows: three members from the State Fire Chief's Association, three members from the Virginia Professional Firefighters Association and three members from the Virginia State Firefighters Association, appointed by the Fire Services Board from a list of names submitted by each such organization. At least two members shall be appointed from each of the fire program areas established by the Department of Fire Programs. The Panel shall be selected annually only if moneys are available in the VTIC Fund and shall report directly to the Executive Director of the Department of Fire Programs. The Panel shall not have any responsibility or authority over any other matters not specified in this section. Members of the Panel shall not receive compensation, but shall be reimbursed for their reasonable and necessary expenses in the discharge of their duties.

2002, c. 721.

§ 9.1-206. State Fire Marshal; qualifications; powers and duties; power to arrest, to procure and serve warrants and to issue summonses; limitation on authority.

The Executive Director of Fire Programs shall employ a State Fire Marshal and other personnel necessary to carry out the provisions of the Statewide Fire Prevention Code (§ 27-94 et seq.). The State Fire Marshal and other personnel employed pursuant to this section shall be selected upon the basis of education or experience in administering laws and regulations designed to prevent and eliminate hazards to life and property arising from fire.

The State Fire Marshal shall have the powers and duties prescribed by the Statewide Fire Prevention Code (§ 27-94 et seq.), by § 27-61, by Board regulation and by the Director. The State Fire Marshal and those persons duly authorized to enforce the Statewide Fire Prevention Code shall have the authority to arrest, to procure and serve warrants of arrests and to issue summonses in the manner authorized by general law for violation of the Statewide Fire Prevention Code. The authority granted in this section shall not be construed to authorize the State Fire Marshal to wear or carry firearms. All personnel employed pursuant to this section shall meet the training requirements set forth for local fire marshals in § 27-34.2.

2007, cc. 647, 741.

§ 9.1-207. Inspection of certain state-owned, state-operated, or state-licensed facilities; enforcement of safety standards.

Notwithstanding any other provisions of this chapter, the State Fire Marshal, upon presenting appropriate credentials, shall make annual inspections for hazards incident to fire in all (i) residential care facilities operated by any state agency, (ii) assisted living facilities licensed or subject to licensure pursuant to Chapter 18 (§ 63.2-1800 et seq.) of Title 63.2 that are not inspected by the local fire marshal, (iii) student residence facilities owned or operated by a public institution of higher education, and (iv) public schools that are not inspected by the local fire marshal. In the event that any such facility or residence is found to be nonconforming to the Statewide Fire Prevention Code, the State Fire Marshal or local fire marshal may petition any court of competent jurisdiction for the issuance of an injunction.

2007, cc. 647, 741.

§ 9.1-207.1. Firefighting foam management.

A. For purposes of this section, unless the context requires a different meaning:

"Class B firefighting foam" means a foam designed for flammable liquid fires.

"Local government" includes any locality, fire district, regional fire protection authority, or other special purpose district that provides firefighting services.

"PFAS chemicals" means, for the purposes of firefighting agents, a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom and designed to be fully functional in class B firefighting foam formulations, including perfluoroalkyl and polyfluoroalkyl substances.

"Testing" includes calibration testing, conformance testing, and fixed system testing.

B. Beginning July 1, 2021, no person, local government, or agency of the Commonwealth shall discharge or otherwise use class B firefighting foam that contains intentionally added PFAS chemicals (i) for testing purposes, unless otherwise required by law or by the agency having jurisdiction over the testing facility, and with the condition that the testing facility has implemented appropriate containment, treatment, and disposal measures to prevent uncontrolled releases of foam to the environment or (ii) for training purposes, where such foam shall be replaced by nonfluorinated training foams.

C. No provision of this section shall restrict (i) the manufacture, sale, or distribution of class B firefighting foam that contains intentionally added PFAS chemicals or (ii) the discharge or other use of such foams in emergency firefighting or fire prevention operations.

2019, c. 838.

§ 9.1-208. Agreements between Department and other agencies.

The Department is hereby authorized to enter into agreements with federal agencies, other state agencies, and political subdivisions for services related to enforcement and administration of laws, rules, or regulations or ordinances of such agencies affecting fire safety in public buildings.

2007, cc. 647, 741.

Chapter 2.1 - REDUCED CIGARETTE IGNITION PROPENSITY

§ 9.1-209. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Cigarette" has the same meaning ascribed thereto in § 58.1-1031.

"Department" means the Department of Taxation.

"Director" means the Executive Director of the Department of Fire Programs.

"Importer" has the same meaning ascribed thereto in 26 U.S.C. § 5702 (k).

"Manufacturer" means (i) a person who manufactures or otherwise produces, or causes to be manufactured or produced, cigarettes intended for sale in the Commonwealth, including cigarettes intended for sale in the United States through an importer; (ii) the first purchaser anywhere that intends to resell in the United States cigarettes that the original manufacturer or maker does not intend for sale in the United States; or (iii) the successor to a person listed in clause (i) or (ii).

"Package" has the same meaning ascribed thereto in 15 U.S.C. § 1332 (4).

"Quality control and quality assurance program" means laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing, and the testing repeatability remains within the required repeatability value for any test trial used to certify cigarettes under this chapter.

"Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95 percent of the time.

"Retailer" means a person who (i) sells cigarettes to consumers through vending machines on fewer than 40 premises; (ii) otherwise sells cigarettes to consumers; or (iii) holds cigarettes for sale to consumers.

"Vending machine operator" means a person who (i) holds cigarettes for sale to consumers through vending machines on 40 or more premises or (ii) sells cigarettes to consumers through vending machines on 40 or more premises.

"Wholesaler" means a person who (i) holds cigarettes for sale to another person for resale or (ii) sells cigarettes to another person for resale.

2014, cc. 370, 418.

§ 9.1-210. Testing and certification of cigarettes.

A. Except as provided in subsection N, no cigarettes may be sold or offered for sale in the Commonwealth or offered for sale or sold to persons located in the Commonwealth unless:

1. The cigarettes have been tested in accordance with the test method and meet the performance standard specified in this section;

2. The manufacturer has filed a written certification in accordance with § 9.1-211; and

3. The cigarettes have been marked in accordance with § 9.1-212.

B. The performance standard for cigarettes sold or offered for sale in the Commonwealth is stated in subdivision E 1.

C. Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials (ASTM) Standard E2187-04 "Standard Test Method for Measuring the Ignition Strength of Cigarettes." The Director, in consultation with the State Fire Marshal, may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes on a finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM standard E2187-04 and the performance standard of this section.

D. Testing of cigarettes shall be conducted on 10 layers of filter paper.

E. 1. No more than 25 percent of the cigarettes tested in a test trial shall exhibit full-length burns.

2. Forty replicate tests shall comprise a complete test trial for each cigarette tested.

F. The performance standard required by this section shall only be applied to a complete test trial.

G. Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to Standard ISO/IEC 17025 of the International Organization for Standardization or other comparable accreditation standard required by the Director.

H. Each laboratory that conducts tests in accordance with this section shall implement a quality control and quality assurance program that includes a procedure to determine the repeatability of the testing results. The repeatability value shall be no greater than 0.19.

I. Each cigarette listed in a certification that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard of this section shall have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least 15 millimeters from the lighting end of the cigarette. For a cigarette on which the bands are positioned by design, at least two bands shall be located at least 15 millimeters from the lighting end and 10 millimeters from the filter end of the tobacco column. For an unfiltered cigarette, the two complete bands shall be located at least 15 millimeters from the lighting end and 10 millimeters from the labeled end of the tobacco column.

J. If the Director determines that a cigarette cannot be tested in accordance with the test method required by this section, the manufacturer of the cigarette shall propose to the Director a test method and performance standard for that cigarette. The Director, in consultation with the State Fire Marshal, may approve a test method and performance standard that the Director determines is equivalent to the requirements of this section, and the manufacturer may use that test method and performance standard for certification in accordance with § 9.1-211. If the Director determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this chapter, and the Director finds that the officials responsible for implementing those requirements have approved the proposed alternative test method and performance standard for a particular cigarette proposed by a manufacturer as meeting the reduced cigarette ignition propensity standards of that state's law or regulation under a legal provision comparable to this section, then the Director shall authorize that manufacturer to employ the alternative test method and performance standard to certify that cigarette for sale in the Commonwealth, unless the Director demonstrates a reasonable basis why the alternative test should not be accepted under this chapter. All other applicable requirements of this section shall apply to the manufacturer.

K. This section does not require additional testing for cigarettes that are tested in a manner consistent with the requirements of this section for any other purpose.

L. Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three years, and shall make copies of these reports available to the Director, State Fire Marshal, and Attorney General on written request. Any manufacturer who fails to make copies of these reports available within 60 days of receiving a written request shall be subject to a civil penalty not to exceed $10,000 for each day after the sixtieth day that the manufacturer does not make such copies available.

M. Testing performed or sponsored by the Director to determine a cigarette's compliance with the performance standard required by this section shall be conducted in accordance with this section.

N. The requirements of subsection A shall not prohibit the sale of cigarettes solely for the purpose of consumer testing. For purposes of this subdivision, the term "consumer testing" means an assessment of cigarettes that is conducted by a manufacturer, or under the control and direction of a manufacturer, for the purpose of evaluating consumer acceptance of such cigarettes, utilizing only the quantity of cigarettes that is reasonably necessary for such assessment.

2014, cc. 370, 418.

§ 9.1-211. Certification of cigarette testing.

A. Each manufacturer shall submit to the Director written certification attesting that each cigarette has been tested in accordance with and has met the performance standard required under § 9.1-210.

B. The description of each cigarette listed in the certification shall include:

1. The brand;

2. The style;

3. The length in millimeters;

4. The circumference in millimeters;

5. The flavor, if applicable;

6. Whether filter or nonfilter;

7. A package description, such as soft pack or box;

8. The mark approved in accordance with § 9.1-212;

9. The name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test; and

10. The date that the testing occurred.

C. On request, the certification shall be made available to the Attorney General, the Director, and the State Fire Marshal.

D. Each cigarette certified under this section shall be recertified every three years.

E. If a manufacturer has certified a cigarette pursuant to this section, and thereafter makes any change to such cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards mandated by this chapter, then before such cigarette may be sold or offered for sale in the Commonwealth such manufacturer shall retest such cigarette in accordance with the testing standards prescribed in § 9.1-210 and maintain records of such retesting as required by § 9.1-210. Any such altered cigarette that does not meet the performance standard set forth in § 9.1-210 shall not be sold in the Commonwealth.

F. For each brand style of cigarette listed in a certification, a manufacturer shall pay a fee in the amount of $250; however, the Director in consultation with the State Fire Marshal is authorized to adjust the amount of the fee annually to ensure that the amount collected therefrom defrays the actual costs of the processing, testing, enforcement, and oversight activities required by this chapter. The fees assessed under the provisions of this chapter shall be paid into the state treasury and shall be deposited into a special fund designated "Cigarette Fire Safety Standard and Firefighter Protection Act Fund." Moneys deposited into the special fund and the unexpended balance thereof shall be appropriated to the Department of Fire Programs for use by the Director to conduct the processing, testing, enforcement, and oversight activities required by this chapter and performed by the State Fire Marshal pursuant to § 9.1-206 in carrying out the provisions of the Statewide Fire Prevention Code Act (§ 27-94 et seq.), and such expenditures from the special fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

2014, cc. 370, 418.

§ 9.1-212. Marking of cigarettes.

A. Cigarettes that have been certified in accordance with § 9.1-211 shall be marked in accordance with the requirements of this section.

B. The marking shall:

1. Be in a font of at least eight-point type; and

2. Include one of the following:

a. Modification of the product UPC bar code to include a visible mark that is printed at or around the area of the UPC bar code and consists of one or more alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed in conjunction with the UPC bar code;

b. Any visible combination of alphanumeric or symbolic characters permanently stamped, engraved, embossed, or printed on the cigarette package or the cellophane wrap; or

c. Stamped, engraved, embossed, or printed text that indicates that the cigarettes meet the standards of this chapter.

C. The manufacturer shall request approval of a proposed marking from the Director.

D. The Director shall approve or disapprove the marking offered, except that the Director shall approve:

1. The letters "FSC," which signify Fire Standards Compliant, appearing in eight-point type or larger and permanently printed, stamped, engraved, or embossed on the package at or near the UPC code; and

2. Any marking in use and approved for sale in New York pursuant to the New York fire safety standards for cigarettes.

E. A marking is deemed approved if the Director fails to act within 10 days after receiving a request for approval.

F. A manufacturer may not use a modified marking unless the modification has been approved in accordance with this section.

G. A manufacturer shall use only one marking on all brands that the manufacturer markets.

H. A marking or modified marking approved by the Director shall be applied uniformly on all brands marketed and on all packages, including packs, cartons, and cases marketed by that manufacturer.

2014, cc. 370, 418.

§ 9.1-213. Provision of copies of certifications and illustration of the packaging markings; inspections.

A. Each manufacturer shall:

1. Provide a copy of each certification to each wholesaler to which the manufacturer sells cigarettes; and

2. Provide sufficient copies of an illustration of the packaging marking approved and used by the manufacturer in accordance with § 9.1-212 for each retailer and vending machine operator who purchases cigarettes from the wholesaler.

B. The wholesaler shall provide a copy of the illustration to each retailer and vending machine operator to whom the wholesaler sells cigarettes.

C. Each retailer, vending machine operator, and wholesaler shall allow the Director or designee of the Director to inspect the markings on cigarette packaging at any time.

2014, cc. 370, 418.

§ 9.1-214. Nonconforming cigarettes.

A. Any cigarettes that have been sold or offered for sale that do not comply with the performance standard required by § 9.1-210 shall be deemed contraband and subject to forfeiture and disposal by the Commonwealth; however, prior to the destruction of any cigarettes forfeited pursuant to this subsection, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect such cigarettes.

B. The Department and the State Fire Marshal, in the regular course of conducting inspections of retailers and wholesalers, may inspect cigarettes to determine if the cigarettes are marked as required by § 9.1-212. If the cigarettes are not marked as required, the Department shall notify the Director.

C. Whenever law-enforcement personnel, the State Fire Marshal or local fire marshal appointed under § 27-30, or a duly authorized representative of the Director discovers any cigarettes that have not been marked in the manner required by § 9.1-212, such personnel are hereby authorized and empowered to seize and take possession of such cigarettes. Such cigarettes shall be turned over to the Department and shall be forfeited to the Commonwealth. Cigarettes seized pursuant to this section

shall be destroyed; however, prior to the destruction of any cigarette seized pursuant to this subsection, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.

2014, cc. 370, 418.

§ 9.1-215. Powers of Director; regulation and implementation.

The Director:

1. In consultation with the State Fire Marshal, may adopt regulations necessary to carry out and administer this chapter;

2. In consultation with the State Fire Marshal, may adopt regulations for the conduct of random inspections of retailers, vending machine operators, and wholesalers to ensure compliance with this chapter; and

3. Shall ensure that the implementation and substance of this chapter is in accordance with the implementation and substance of the New York fire safety standards for cigarettes.

2014, cc. 370, 418.

§ 9.1-216. Enforcement; civil penalties.

A. A manufacturer or other person who knowingly sells or offers for sale cigarettes other than by retail sale in violation of § 9.1-210 shall be subject to a civil penalty not exceeding $100 for each such pack of cigarettes sold or offered for sale, provided that in no case shall the civil penalty assessed against any such person exceed $100,000 for sales or offers for sale during any 30-day period.

B. A retailer who knowingly sells cigarettes in violation of § 9.1-210 shall be subject to a civil penalty not exceeding $100 for each pack of such cigarettes sold or offered for sale, provided that in no case shall the civil penalty assessed against any retailer exceed $25,000 for sales or offers for sale during any 30-day period.

C. Any person who violates any other provision of this chapter shall be subject to a civil penalty of not more than $1,000 for the first violation. The civil penalty for each subsequent violation shall not exceed $5,000.

D. A manufacturer who knowingly makes a false certification under § 9.1-211 shall be subject to a civil penalty of at least $75,000 and not exceeding $250,000 for each false certification.

E. A civil penalty may be assessed by the Director only after the Director has consulted with the State Fire Marshal and has given the manufacturer charged with making such a false certification an opportunity for a public hearing. Where such a public hearing has been held, the Director shall make findings of fact and issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order therein requiring that the penalty be paid. Any hearing under this section shall be a formal adjudicatory hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). When the person charged with such a violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall be assessed by the Director

after the Director determines that a violation has occurred and the amount of the penalty is warranted and issues an order requiring that the penalty be paid.

F. The Director may collect civil penalties that are owed in the same manner as provided by law in respect to judgment of a court of record. Such civil penalties shall be paid into the Cigarette Fire Safety Standard and Firefighter Protection Act Fund referenced in subsection F of § 9.1-211 and used in carrying out the purposes of this chapter.

2014, cc. 370, 418.

§ 9.1-217. Application of chapter to certain cigarettes; conflicting local ordinances preempted.

A. Nothing in this chapter shall be construed to prohibit any person from manufacturing or selling cigarettes that do not meet the requirements of this chapter if the cigarettes are or will be stamped for sale in another state or sold in North Carolina or South Carolina, or are packaged for sale outside the United States, and that person has taken reasonable steps to ensure that such cigarettes will not be sold or offered for sale to persons located in the Commonwealth.

B. Notwithstanding any other provision of law, a locality may neither enact nor enforce any ordinance or other local law or regulation that conflicts with, or is inconsistent with, any provision of this chapter.

2014, cc. 370, 418.

Chapter 3 - FIREFIGHTERS AND EMERGENCY MEDICAL TECHNICIANS PROCEDURAL GUARANTEE ACT

§ 9.1-300. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Emergency medical services personnel" means any person who holds a valid certificate issued by the Commissioner and who is employed solely within the fire department, emergency medical services agency, or public safety department of an employing agency as a full-time emergency medical services personnel whose primary responsibility is the provision of emergency care to the sick and injured, using either basic or advanced techniques. Emergency medical services personnel may also provide fire protection services and assist in the enforcement of the fire prevention code.

"Employing agency" means any municipality of the Commonwealth or any political subdivision thereof, including authorities and special districts, that employs firefighters and emergency medical services personnel.

"Firefighter" means any person who is employed solely within the fire department or public safety department of an employing agency as a full-time firefighter whose primary responsibility is the prevention and extinguishment of fires, the protection of life and property, and the enforcement of local and state fire prevention codes and laws pertaining to the prevention and control of fires.

"Interrogation" means any questioning of a formal nature as used in Chapter 4 (§ 9.1-500 et seq.) that could lead to dismissal, demotion, or suspension for punitive reasons of a firefighter or emergency medical services personnel.

1987, c. 509, § 2.1-116.9:1; 2001, c. 844; 2015, cc. 502, 503.

§ 9.1-301. Conduct of interrogation.

The provisions of this section shall apply whenever a firefighter or emergency medical services personnel are subjected to an interrogation that could lead to dismissal, demotion, or suspension for punitive reasons:

1. The interrogation shall take place at the facility where the investigating officer is assigned, or at the facility that has jurisdiction over the place where the incident under investigation allegedly occurred, as designated by the investigating officer.

2. No firefighter or emergency medical services personnel shall be subjected to interrogation without first receiving written notice of sufficient detail of the investigation in order to reasonably apprise the firefighter or emergency medical services personnel of the nature of the investigation.

3. All interrogations shall be conducted at a reasonable time of day, preferably when the firefighter or emergency medical services personnel is on duty, unless the matters being investigated are of such a nature that immediate action is required.

4. The firefighter or emergency medical services personnel under investigation shall be informed of the name, rank, and unit or command of the officer in charge of the investigation, the interrogators, and all persons present during any interrogation.

5. Interrogation sessions shall be of reasonable duration, and the firefighter or emergency medical services personnel shall be permitted reasonable periods for rest and personal necessities. The firefighter or emergency medical services personnel may have an observer of his choice present during the interrogation, as long as the interview is not unduly delayed. This observer may not participate or represent the employee, may not be involved in the investigation, and must be an active or retired member of the department, for purposes of confidentiality.

6. The firefighter or emergency medical services personnel being interrogated shall not be subjected to offensive language or offered any incentive as an inducement to answer any questions.

7. If a recording of any interrogation is made, and if a transcript of the interrogation is made, the firefighter or emergency medical services personnel under investigation shall be entitled to a copy without charge. Such record may be electronically recorded.

8. No firefighter or emergency medical services personnel shall be discharged, disciplined, demoted, denied promotion or seniority, or otherwise disciplined or discriminated against in regard to his employment, or be threatened with any such treatment as retaliation for his exercise of any of the rights granted or protected by this chapter.

Nothing contained in this section shall prohibit a local governing body from granting its employees rights greater than those contained herein.

1987, c. 509, § 2.1-116.9:2; 2001, c. 844; 2010, c. 779; 2015, cc. 502, 503; 2016, c. 419; 2019, c. 831.

§ 9.1-302. Breach of procedures.

Evidence gathered through the conduct of an interrogation that violates the provisions of this chapter shall not be admissible in any administrative hearing against a firefighter or emergency medical services personnel.

1987, c. 509, § 2.1-116.9:5; 2001, c. 844; 2015, cc. 502, 503; 2019, cc. 831, 841.

§ 9.1-303. Informal counseling not prohibited.

Nothing in this chapter shall be construed to prohibit the informal counseling of a firefighter or emergency medical services personnel by a supervisor in reference to a minor infraction of policy or procedure that does not result in disciplinary action being taken against the firefighter or emergency medical services personnel.

1987, c. 509, § 2.1-116.9:3; 2001, c. 844; 2015, cc. 502, 503.

§ 9.1-304. Rights nonexclusive.

The rights of firefighters and emergency medical technicians as set forth in this chapter shall not be construed to diminish the rights and privileges of firefighters or emergency medical technicians that are guaranteed to all citizens by the Constitution and laws of the United States and the Commonwealth or limit the granting of broader rights by other law, ordinance or rule.

This section shall not abridge or expand the rights of firefighters or emergency medical technicians to bring civil suits for injuries suffered in the course of their employment as recognized by the courts, nor is it designed to abrogate any common law or statutory limitation on the rights of recovery.

1987, c. 509, § 2.1-116.9:4; 2001, c. 844.

Chapter 4 - LINE OF DUTY ACT

§ 9.1-400. Title of chapter; definitions.

A. This chapter shall be known and designated as the Line of Duty Act.

B. As used in this chapter, unless the context requires a different meaning:

"Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under the will of a deceased person if testate, or as his heirs at law if intestate.

"Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, as a law-enforcement officer of the Commonwealth or any of its political subdivisions, except employees designated pursuant to § 53.1-10 to investigate allegations of criminal behavior affecting the operations of the Department of Corrections, employees designated pursuant to § 66-3 to

investigate allegations of criminal behavior affecting the operations of the Department of Juvenile Justice, and members of the investigations unit of the State Inspector General designated pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town, including a person with a recognized membership status with such fire company or department who is enrolled in a Fire Service Training course offered by the Virginia Department of Fire Programs or any fire company or department training required in pursuit of qualification to become a certified firefighter; a member of any fire company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Authority; any regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28; any employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; any nonfirefighter regional hazardous materials emergency response team member; any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; or any full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

"Disabled person" means any individual who has been determined to be mentally or physically incapacitated so as to prevent the further performance of his duties at the time of his disability where such incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, in any position listed in the definition of deceased person in this section. "Disabled person" does not include any individual who has been determined to be no longer disabled pursuant to subdivision A 2 of § 9.1-404.

"Disabled person" includes any state employee included in the definition of a deceased person who was disabled on or after January 1, 1966.

"Eligible dependent" for purposes of continued health insurance pursuant to § 9.1-401 means the natural or adopted child or children of a deceased person or disabled person or of a deceased or disabled person's eligible spouse, provided that any such natural child is born as the result of a pregnancy that occurred prior to the time of the employee's death or disability and that any such adopted child is (i) adopted prior to the time of the employee's death or disability or (ii) adopted after the employee's death or disability if the adoption is pursuant to a preadoptive agreement entered into prior to the death or disability. Notwithstanding the foregoing, "eligible dependent" shall also include the natural or adopted child or children of a deceased person or disabled person born as the result of a pregnancy or adoption that occurred after the time of the employee's death or disability, but prior to July 1, 2017. Eligibility will continue until the end of the year in which the eligible dependent reaches age 26 or when the eligible dependent ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

"Eligible spouse" for purposes of continued health insurance pursuant to § 9.1-401 means the spouse of a deceased person or a disabled person at the time of the death or disability. Eligibility will continue until the eligible spouse dies, ceases to be married to a disabled person, or in the case of the spouse of a deceased person, dies, remarries on or after July 1, 2017, or otherwise ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

"Employee" means any person who would be covered or whose spouse, dependents, or beneficiaries would be covered under the benefits of this chapter if the person became a disabled person or a deceased person.

"Employer" means (i) the employer of a person who is a covered employee or (ii) in the case of a volunteer who is a member of any fire company or department or rescue squad described in the definition of "deceased person," the county, city, or town that by ordinance or resolution recognized such fire company or department or rescue squad as an integral part of the official safety program of such locality.

"Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to § 9.1-400.1.

"Line of duty" means any action the deceased or disabled person was obligated or authorized to perform by rule, regulation, condition of employment or service, or law.

"LODA Health Benefit Plans" means the separate health benefits plans established pursuant to § 9.1-401.

"Nonparticipating employer" means any employer that is a political subdivision of the Commonwealth that elected to directly fund the cost of benefits provided under this chapter and not participate in the Fund.

"Participating employer" means any employer that is a state agency or is a political subdivision of the Commonwealth that did not make an election to become a nonparticipating employer.

"VRS" means the Virginia Retirement System.

1995, cc. 112, 156, 597, §§ 2.1-133.5, 2.1-133.6; 1996, cc. 66, 174; 1998, c. 712; 2001, cc. 678, 844; 2003, cc. 37, 41, 1005; 2004, c. 30; 2005, cc. 907, 910; 2006, c. 824; 2007, c. 87; 2011, cc. 572, 586; 2012, cc. 374, 458, 573; 2015, cc. 38, 502, 503, 730; 2016, c. 677; 2017, cc. 439, 627; 2018, c. 548; 2020, cc. 207, 559.

§ 9.1-400.1. Line of Duty Death and Health Benefits Trust Fund.

A. There is hereby established a permanent and perpetual fund to be known as the Line of Duty Death and Health Benefits Trust Fund, consisting of such moneys as may be appropriated by the General Assembly, contributions or reimbursements from participating and nonparticipating employers, gifts, bequests, endowments, or grants from the United States government or its agencies or instrumentalities, net income from the investment of moneys held in the Fund, and any other available sources of funds, public and private. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest and income earned from the investment of such moneys shall remain in the Fund and be credited to it. The moneys in the Fund shall be (i) deemed separate and independent trust funds, (ii) segregated and accounted for separately from all other funds of the Commonwealth, and (iii) administered solely in the interests of the persons who are covered under the benefits provided pursuant to this chapter. Deposits to and assets of the Fund shall not be subject to the claims of creditors.

B. The Virginia Retirement System shall invest, reinvest, and manage the assets of the Fund as provided in § 51.1-124.39 and shall be reimbursed from the Fund for such activities as provided in that section.

C. The Fund shall be used to provide the benefits under this chapter related to disabled persons, deceased persons, eligible dependents, and eligible spouses on behalf of participating employers and to pay related administrative costs.

D. Each participating employer shall make annual contributions to the Fund and provide information as determined by VRS. The amount of the contribution for each participating employer shall be determined on a current disbursement basis in accordance with the provisions of this section. For purposes of establishing contribution amounts for participating employers, a member of any fire company or department or rescue squad that has been recognized by an ordinance or a resolution of the governing body of any locality of the Commonwealth as an integral part of the official safety program of such locality shall be considered part of the locality served by the company, department, or rescue squad. If a company, department, or rescue squad serves more than one locality, the affected

localities shall determine the basis and apportionment of the required covered payroll and contributions for each company, department, or rescue squad.

If any participating employer fails to remit contributions or other fees or costs associated with the Fund, VRS shall inform the State Comptroller and the affected participating employer of the delinquent amount. In calculating the delinquent amount, VRS may impose an interest rate of one percent per month of delinquency. The State Comptroller shall forthwith transfer such delinquent amount, plus interest, from any moneys otherwise distributable to such participating employer.

2016, c. 677; 2017, c. 439.

§ 9.1-401. Continued health insurance coverage for disabled persons, eligible spouses, and eligible dependents.

A. Disabled persons, eligible spouses, and eligible dependents shall be afforded continued health insurance coverage as provided in this section, the cost of which shall be paid by the nonparticipating employer to the Department of Human Resource Management or from the Fund on behalf of a participating employer, as applicable. If any disabled person or eligible spouse is receiving the benefits described in this section and would otherwise qualify for the health insurance credit described in Chapter 14 (§ 51.1-1400 et seq.) of Title 51.1, the amount of such credit shall be deposited into the Line of Duty Death and Health Benefits Trust Fund or paid to the nonparticipating employer, as applicable, from the health insurance credit trust fund, in a manner prescribed by VRS.

B. 1. The continued health insurance coverage provided by this section for all disabled persons, eligible spouses, and eligible dependents shall be through separate plans, referred to as the LODA Health Benefits Plans (the Plans), administered by the Department of Human Resource Management. The Plans shall comply with all applicable federal and state laws and shall be modeled upon state employee health benefits program plans. Funding of the Plans' reserves and contingency shall be provided through a line of credit, the amount of which shall be based on an actuarially determined estimate of liabilities. The Department of Human Resource Management shall be reimbursed for health insurance premiums and all reasonable costs incurred and associated, directly and indirectly, in performing the duties pursuant to this section (i) from the Line of Duty Death and Health Benefits Trust Fund for costs related to disabled persons, deceased persons, eligible dependents, and eligible spouses on behalf of participating employers and (ii) from a nonparticipating employer for premiums and costs related to disabled persons, deceased persons, eligible dependents, and eligible spouses for which the nonparticipating employer is responsible. If any nonparticipating employer fails to remit such premiums and costs, the Department of Human Resource Management shall inform the State Comptroller and the affected nonparticipating employer of the delinquent amount. In calculating the delinquent amount, the Department of Human Resource Management may impose an interest rate of one percent per month of delinquency. The State Comptroller shall forthwith transfer such delinquent amount, plus interest, from any moneys otherwise distributable to such nonparticipating employer.

2. In the event that temporary health care insurance coverage is needed for disabled persons, eligible spouses, and eligible dependents during the period of transition into the LODA Health Benefits Plans, the Department of Human Resource Management is authorized to acquire and provide temporary transitional health insurance coverage. The type and source of the transitional health plans shall be within the sole discretion of the Department of Human Resource Management. Transitional coverage for eligible dependents shall comply with the eligibility criteria of the transitional plans until enrollment in the LODA Health Benefits Plan can be completed.

C. 1. a. Except as provided in subdivision 2 and any other law, continued health insurance coverage in any LODA Health Benefits Plans shall not be provided to any person (i) whose coverage under the Plan is based on a deceased person's death or a disabled person's disability occurring on or after July 1, 2017 and (ii) who is eligible for Medicare due to age.

b. Coverage in the LODA Health Benefits Plans shall also cease for any person upon his death.

2. The provisions of subdivision 1 a shall not apply to any disabled person who is eligible for Medicare due to disability under Social Security Disability Insurance or a Railroad Retirement Board Disability Annuity. The Department of Human Resource Management may provide such disabled person coverage under a LODA Health Benefits Plan that is separate from the plan for other persons.

3. Continued health insurance under this section shall also terminate upon the disabled person's return to full duty in any position listed in the definition of deceased person in § 9.1-400. Such disabled person shall promptly notify the participating or nonparticipating employer, VRS, and the Department of Human Resource Management upon his return to work.

4. Such continued health insurance shall be suspended for the Plan year following a calendar year in which the disabled person whose coverage under the Plan is based on a disability occurring on or after July 1, 2017, has earned income in an amount equal to or greater than the salary of the position held by the disabled person at the time of disability, indexed annually based upon the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor. Such suspension shall cease the Plan year following a calendar year in which the disabled person has not earned such amount of income. The disabled person shall notify the participating or nonparticipating employer, VRS, and the Department of Human Resource Management no later than March 1 of the year following any year in which he earns income of such amount, and notify the participating or nonparticipating employer, VRS, and the Department of Human Resource Management when he no longer is earning such amount. Upon request, a disabled person shall provide VRS and the Department of Human Resource Management with documentation of earned income.

1998, c. 712, § 2.1-133.7:1; 2000, c. 616; 2001, c. 844; 2016, c. 677; 2017, c. 439.

§ 9.1-401.1. Supplemental short-term disability benefit for state police officers.

A state police officer who is a participating employee, as defined in § 51.1-1100, and who incurs a work-related injury in the line of duty, shall receive supplemental short-term disability coverage,

pursuant to § 51.1-1121, that provides income replacement for 100 percent of the officer's creditable compensation for the first six months and, pursuant to a certification by the Superintendent of State Police, based on a medical evaluation, that the officer is likely to return to service within another six months, up to one calendar year, that the officer is disabled, without regard to the officer's number of months of state service. Except as provided in this section with regard to the rate of income replacement and the duration of supplemental short-term disability coverage, such state police officers shall be eligible for work-related, supplemental short-term disability benefits upon the same terms and conditions that apply to other participating employees pursuant to Article 4 (§ 51.1-1119 et seq.) of Chapter 11 of Title 51.1. Upon the expiration of the one-calendar-year period, such state police officers shall be eligible for supplemental long-term disability benefits as provided in § 51.1-1123.

2010, c. 654.

§ 9.1-402. Payments to beneficiaries of certain deceased law-enforcement officers, firefighters, etc., and retirees.

A. The beneficiary of a deceased person whose death occurred on or before December 31, 2005, while in the line of duty as the direct or proximate result of the performance of his duty shall be entitled to receive the sum of $75,000, which shall be paid by the nonparticipating employer or from the Fund on behalf of a participating employer, as applicable, in gratitude for and in recognition of his sacrifice on behalf of the people of the Commonwealth.

B. The beneficiary of a deceased person whose death occurred on or after January 1, 2006, while in the line of duty as the direct or proximate result of the performance of his duty shall be entitled to receive the sum of $100,000, which shall be paid by the nonparticipating employer or from the Fund on behalf of a participating employer, as applicable, in gratitude for and in recognition of his sacrifice on behalf of the people of the Commonwealth.

C. Subject to the provisions of § 27-40.1, 27-40.2, 51.1-813, or 65.2-402, if the deceased person's death (i) arose out of and in the course of his employment or (ii) was within five years from his date of retirement, his beneficiary shall be entitled to receive the sum of $25,000, which shall be paid by the nonparticipating employer or from the Fund on behalf of a participating employer, as applicable.

1995, cc. 156, 597, § 2.1-133.7; 2000, c. 314; 2001, c. 844; 2006, c. 878; 2016, c. 677.

§ 9.1-402.1. Payments for burial expenses.

It is the intent of the General Assembly that expeditious payments for burial expenses be made for deceased persons whose death is determined to be a direct and proximate result of their performance in the line of duty as defined by the Line of Duty Act. Upon the approval of VRS, at the request of the family of a person who may be subject to the line of duty death benefits, payments shall be made to a funeral service provider for burial and transportation costs by the nonparticipating employer or from the Fund on behalf of a participating employer, as applicable. These payments would be advanced from the death benefit that would be due to the beneficiary of the deceased person if it is determined that the person qualifies for line of duty coverage. Expenses advanced under this provision shall not

exceed the coverage amounts outlined in § 65.2-512. In the event a determination is made that the death is not subject to the line of duty benefits, VRS or other Virginia governmental retirement fund of which the deceased is a member will deduct from benefit payments otherwise due to be paid to the beneficiaries of the deceased payments previously paid for burial and related transportation expenses and return such funds to the nonparticipating employer or to the Fund on behalf of a participating employer, as applicable. The Virginia Retirement System shall have the right to file a claim with the Virginia Workers' Compensation Commission against any employer to recover burial and related transportation expenses advanced under this provision.

2012, cc. 90, 576; 2016, c. 677.

§ 9.1-403. Claim for payment; costs.

A. Every beneficiary, disabled person or his spouse, or dependent of a deceased or disabled person shall present his claim to the chief officer, or his designee, of the employer for which the disabled or deceased person last worked on forms to be provided by VRS. Upon receipt of a claim, the chief officer or his designee shall forward the claim to VRS within seven days. The Virginia Retirement System shall determine eligibility for benefits under this chapter. The Virginia Retirement System may request assistance in obtaining information necessary to make an eligibility determination from the Department of State Police. The Department of State Police shall take action to conduct the investigation as expeditiously as possible. The Department of State Police shall be reimbursed from the Fund or the nonparticipating employer, as applicable, for the cost of searching for and obtaining information requested by VRS. The Virginia Retirement System shall be reimbursed for the reasonable costs incurred for making eligibility determinations by nonparticipating employers or from the Fund on behalf of participating employers, as applicable. If any nonparticipating employer fails to reimburse VRS for reasonable costs incurred in making an eligibility determination, VRS shall inform the State Comptroller and the affected nonparticipating employer of the delinquent amount. In calculating the delinquent amount, VRS may impose an interest rate of one percent per month of delinquency. The State Comptroller shall forthwith transfer such delinquent amount, plus interest, from any moneys otherwise distributable to such nonparticipating employer.

B. 1. Within 10 business days of being notified by an employee, or an employee's representative, that such employee is permanently and totally disabled due to a work-related injury suffered in the line of duty, the agency or department employing the employee shall provide him with information about the continued health insurance coverage provided under this chapter and the process for initiating a claim. The employer shall assist in filing a claim, unless such assistance is waived by the employee or the employee's representative.

2. Within 10 business days of having knowledge that a deceased person's surviving spouse, dependents, or beneficiaries may be entitled to benefits under this chapter, the employer for which the deceased person last worked shall provide the surviving spouse, dependents, or beneficiaries, as applicable, with information about the benefits provided under this chapter and the process for ini-

tiating a claim. The employer shall assist in filing a claim, unless such assistance is waived by the surviving spouse, dependents, or beneficiaries.

C. Within 30 days of receiving a claim pursuant to subsection A, an employer may submit to VRS any evidence that could assist in determining the eligibility of a claim. However, when the claim involves a presumption under § 65.2-402 or 65.2-402.1, VRS shall provide an employer additional time to submit evidence as is necessary not to exceed nine months from the date the employer received a claim pursuant to subsection A. Any such evidence submitted by the employer shall be included in the agency record for the claim.

1995, c. 156, § 2.1-133.8; 1998, c. 712; 2001, cc. 427, 844; 2007, c. 90; 2009, cc. 393, 580; 2016, c. 677.

§ 9.1-404. Order of the Virginia Retirement System.

A. 1. The Virginia Retirement System shall make an eligibility determination within 45 days of receiving all necessary information for determining eligibility for a claim filed under § 9.1-403. The Virginia Retirement System may use a medical board pursuant to § 51.1-124.23 in determining eligibility. If benefits under this chapter are due, VRS shall notify the nonparticipating employer, which shall provide the benefits within 15 days of such notice, or VRS shall pay the benefits from the Fund on behalf of the participating employer within 15 days of the determination, as applicable. The payments shall be retroactive to the first date that the disabled person was no longer eligible for health insurance coverage subsidized by his employer.

2. Two years after an individual has been determined to be a disabled person, VRS may require the disabled person to renew the determination through a process established by VRS. If a disabled person refuses to submit to the determination renewal process described in this subdivision, then benefits under this chapter shall cease for the individual, any eligible dependents, and an eligible spouse until the individual complies. If such individual does not comply within six months from the date of the initial request for a renewed determination, then benefits under this chapter shall permanently cease for the individual, any eligible dependents, and an eligible spouse. If VRS issues a renewed determination that an individual is no longer a disabled person, then benefits under this chapter shall permanently cease for the individual, any eligible dependents, and an eligible spouse. If VRS issues a renewed determination that an individual remains a disabled person, then VRS may require the disabled person to renew the determination five years after such renewed determination through a process established by VRS. The Virginia Retirement System may require the disabled person to renew the determination at any time if VRS has information indicating that the person may no longer be disabled.

B. The Virginia Retirement System shall be reimbursed for all reasonable costs incurred and associated, directly and indirectly, in performing the duties pursuant to this chapter (i) from the Line of Duty Death and Health Benefits Trust Fund for costs related to disabled persons, deceased persons, eligible dependents, and eligible spouses on behalf of participating employers and (ii) from a non-

participating employer for premiums and costs related to disabled persons, deceased persons, eligible dependents, and eligible spouses for which the nonparticipating employer is responsible.

C. The Virginia Retirement System may develop policies and procedures necessary to carry out the provisions of this chapter.

1995, cc. 156, 597, § 2.1-133.9; 1998, c. 712; 2001, c. 844; 2016, c. 677; 2017, c. 439.

§ 9.1-405. Appeal from decision of Virginia Retirement System.

Any beneficiary, disabled person or eligible spouse or eligible dependent of a deceased or disabled person aggrieved by the decision of VRS may appeal the decision through a process established by VRS. Any such process may utilize a medical board as described in § 51.1-124.23. An employer may submit information related to the claim and may participate in any informal fact-finding proceeding that is included in such process established by VRS. Upon completion of the appeal process, the final determination issued by VRS shall constitute a case decision as defined in § 2.2-4001. Any beneficiary, disabled person, or eligible spouse or eligible dependent of a deceased or disabled person aggrieved by, and claiming the unlawfulness of, such case decision shall have a right to seek judicial review thereof in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act. The employer shall not have a right to seek such judicial review.

1995, cc. 156, 597, § 2.1-133.10; 1998, c. 712; 2001, c. 844; 2016, c. 677.

§ 9.1-406. Repealed.

Repealed by Acts 2016, c. 677, cl. 2, effective July 1, 2017.

§ 9.1-407. Training.

Any employee entitled to benefits under this chapter shall receive training within 30 days of his employment, and again every two years thereafter, concerning the benefits available to himself or his beneficiary in case of disability or death in the line of duty. The Virginia Retirement System and the Department of Human Resource Management, in consultation with the Secretary of Public Safety and Homeland Security, shall develop training information to be distributed to employers. The employer shall be responsible for providing the training. Such training shall not count toward in-service training requirements for law-enforcement officers pursuant to § 9.1-102 and shall include, but not be limited to, the general rules for intestate succession described in § 64.2-200 that may be applicable to the distribution of benefits provided under § 9.1-402.

2006, c. 535; 2014, cc. 115, 490; 2016, c. 677; 2017, c. 439.

§ 9.1-408. Records of investigation confidential.

A. Evidence and documents obtained by or created by, and the report of investigation prepared by, the Department of State Police, the Virginia Retirement System, or the Department of Human Resource Management in carrying out the provisions of this chapter shall (i) be deemed confidential, (ii) be exempt from disclosure under the Freedom of Information Act (§ 2.2-3700 et seq.), and (iii) not be released in whole or in part by any person to any person except as provided in this chapter. Not-

withstanding the provisions of this section, VRS may release to necessary parties such information, documents, and reports for purposes of administering appeals under this chapter.

B. Notwithstanding subsection A, the Department of State Police and the Department of Accounts shall, upon request, share with the Virginia Retirement System and the Department of Human Resource Management any information, evidence, documents, and reports of investigation related to existing and past claims for benefits provided under this Chapter. Such information, evidence, documents, and reports of investigation shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

2010, c. 568; 2017, c. 439.

Chapter 5 - LAW-ENFORCEMENT OFFICERS PROCEDURAL GUARANTEE ACT

§ 9.1-500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Agency" means the Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia Alcoholic Beverage Control Authority, the Department of Conservation and Recreation, or the Department of Motor Vehicles; or the political subdivision or the campus police department of any public institution of higher education of the Commonwealth employing the law-enforcement officer.

"Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent of the Department of State Police, who, in his official capacity, is (i) authorized by law to make arrests and (ii) a nonprobationary officer of one of the following agencies:

a. The Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the Virginia Port Authority, the Department of Wildlife Resources, the Virginia Alcoholic Beverage Control Authority, the Department of Motor Vehicles, or the Department of Conservation and Recreation;

b. The police department, bureau or force of any political subdivision or the campus police department of any public institution of higher education of the Commonwealth where such department, bureau or force has three or more law-enforcement officers; or

c. Any conservation police officer as defined in § 9.1-101.

For the purposes of this chapter, "law-enforcement officer" shall not include the sheriff's department of any city or county.

1978, c. 19, § 2.1-116.1; 1979, c. 592; 1983, c. 357; 1995, c. 730; 2001, c. 844; 2007, cc. 87, 364; 2015, cc. 38, 730; 2019, c. 489; 2020, c. 958.

§ 9.1-501. Conduct of investigation.

The provisions of this section shall apply whenever an investigation by an agency focuses on matters which could lead to the dismissal, demotion, suspension or transfer for punitive reasons of a law-enforcement officer:

1. Any questioning of the officer shall take place at a reasonable time and place as designated by the investigating officer, preferably when the officer under investigation is on duty and at the office of the command of the investigating officer or at the office of the local precinct or police unit of the officer being investigated, unless matters being investigated are of such a nature that immediate action is required.

2. Prior to the officer being questioned, he shall be informed of (i) the name and rank of the investigating officer and of any individual to be present during the questioning and (ii) the nature of the investigation.

3. When a blood or urine specimen is taken from a law-enforcement officer for the purpose of determining whether the officer has used drugs or alcohol, the specimen shall be divided and placed into two separate containers. One specimen shall be tested while the other is held in a proper manner to preserve the specimen by the facility collecting or testing the specimen. Should the first specimen test positive, the law-enforcement officer shall have the right to require the second specimen be sent to a laboratory of his choice for independent testing in accordance generally with the procedures set forth in §§ 18.2-268.1 through 18.2-268.12. The officer shall notify the chief of his agency in writing of his request within 10 days of being notified of positive specimen results. The laboratory chosen by the officer shall be accredited or certified by one or more of the following: the College of American Pathologists (CAP), the United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA), the American Board of Forensic Toxicology (ABFT), or an accrediting body that requires conformance to forensic-specific requirements and that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement with a scope of accreditation that covers the testing being performed.

1978, c. 19, § 2.1-116.2; 1992, c. 221; 1993, c. 229; 2001, c. 844; 2005, cc. 868, 881; 2019, c. 474.

§ 9.1-502. Notice of charges; response; election to proceed under grievance procedure of local governing body.

A. Before any dismissal, demotion, suspension without pay or transfer for punitive reasons may be imposed, the following rights shall be afforded:

1. The law-enforcement officer shall be notified in writing of all charges, the basis therefor, and the action which may be taken;

2. The law-enforcement officer shall be given an opportunity, within a reasonable time limit after the date of the written notice provided for above, to respond orally and in writing to the charges. The time limit shall be determined by the agency, but in no event shall it be less than five calendar days unless agreed to by the law-enforcement officer;

3. In making his response, the law-enforcement officer may be assisted by counsel at his own expense; and

4. The law-enforcement officer shall be given written notification of his right to initiate a grievance under the grievance procedure established by the local governing body pursuant to §§ 15.2-1506 and 15.2-1507. A copy of the local governing body's grievance procedure shall be provided to the law-enforcement officer upon his request.

B. A law-enforcement officer may proceed under either the local governing body's grievance procedure or the law-enforcement officer's procedural guarantees, but not both.

1978, c. 19, § 2.1-116.4; 1987, c. 461; 2001, c. 844.

§ 9.1-503. Personal assets of officers.

No law-enforcement officer shall be required or requested to disclose any item of his property, income, assets, source of income, debts, or personal or domestic expenditures, including those of any member of his family or household, unless (i) such information is necessary in investigating a possible conflict of interest with respect to the performance of his official duties(ii) such disclosure is required by law, or (iii) such information is related to an investigation. Nothing in this section shall preclude an agency from requiring the law-enforcement officer to disclose any place of off-duty employment and where he may be contacted.

1978, c. 19, § 2.1-116.3; 2001, c. 844.

§ 9.1-504. Hearing; hearing panel recommendations.

A. Whenever a law-enforcement officer is dismissed, demoted, suspended or transferred for punitive reasons, he may, within a reasonable amount of time following such action, as set by the agency, request a hearing. If such request is timely made, a hearing shall be held within a reasonable amount of time set by the agency. However, the hearing shall not be set later than fourteen calendar days following the date of request unless a later date is agreed to by the law-enforcement officer. At the hearing, the law-enforcement officer and his agency shall be afforded the opportunity to present evidence, examine and cross-examine witnesses. The law-enforcement officer shall also be given the opportunity to be represented by counsel at the hearing unless the officer and agency are afforded, by regulation, the right to counsel in a subsequent de novo hearing.

B. The hearing shall be conducted by a panel consisting of one member from within the agency selected by the grievant, one member from within the agency of equal rank of the grievant but no more than two ranks above appointed by the agency head, and a third member from within the agency to be selected by the other two members. In the event that such two members cannot agree upon their selection, the chief judge of the judicial circuit wherein the duty station of the grievant lies shall choose such third member. The hearing panel may, and on the request of either the law-enforcement officer or his agency shall, issue subpoenas requiring the testimony of witnesses who have refused or failed to appear at the hearing. The hearing panel shall rule on the admissibility of the evidence. A record shall be made of the hearing.

C. At the option of the agency, it may, in lieu of complying with the provisions of § 9.1-502, give the law-enforcement officer a statement, in writing, of the charges, the basis therefor, the action which may be taken, and provide a hearing as provided for in this section prior to dismissing, demoting, suspending or transferring for punitive reasons the law-enforcement officer.

D. The recommendations of the hearing panel, and the reasons therefor, shall be in writing and transmitted promptly to the law-enforcement officer or his attorney and to the chief executive officer of the law-enforcement agency. Such recommendations shall be advisory only, but shall be accorded significant weight.

1978, c. 19, §§ 2.1-116.5, 2.1-116.7; 1980, c. 191; 2001, c. 844.

§ 9.1-505. Immediate suspension.

Nothing in this chapter shall prevent the immediate suspension without pay of any law-enforcement officer whose continued presence on the job is deemed to be a substantial and immediate threat to the welfare of his agency or the public, nor shall anything in this chapter prevent the suspension of a law-enforcement officer for refusing to obey a direct order issued in conformance with the agency's written and disseminated regulations. In such a case, the law-enforcement officer shall, upon request, be afforded the rights provided for under this chapter within a reasonable amount of time set by the agency.

1978, c. 19, § 2.1-116.6; 2001, c. 844.

§ 9.1-506. Informal counseling not prohibited.

Nothing in this chapter shall be construed to prohibit the informal counseling of a law-enforcement officer by a supervisor in reference to a minor infraction of policy or procedure which does not result in disciplinary action being taken against the law-enforcement officer.

1978, c. 19, § 2.1-116.8; 2001, c. 844.

§ 9.1-507. Chapter accords minimum rights.

The rights accorded law-enforcement officers in this chapter are minimum rights and all agencies shall adopt grievance procedures that are consistent with this chapter. However, an agency may provide for additional rights of law-enforcement officers in its grievance procedure.

1978, c. 19, § 2.1-116.9; 2001, c. 844.

Chapter 6 - CIVILIAN PROTECTION IN CASES OF POLICE MISCONDUCT

§ 9.1-600. Civilian protection in cases of police misconduct; minimum standards.

A. State, local, and other public law-enforcement agencies, which have ten or more law-enforcement officers, shall have procedures as established in subsection B, allowing citizen submission of complaints regarding the conduct of the law-enforcement agency, law-enforcement officers in the agency, or employees of the agency.

B. Law-enforcement agencies shall ensure, at a minimum, that in the case of all written complaints:

1. The general public has access to the required forms and information concerning the submission of complaints;

2. The law-enforcement agency assists individuals in filing complaints; and

3. Adequate records are maintained of the nature and disposition of such cases.

1993, c. 722, § 2.1-116.9:6; 2001, cc. 153, 844.

Chapter 7 - OVERTIME COMPENSATION FOR LAW-ENFORCEMENT EMPLOYEES AND FIREFIGHTERS, EMERGENCY MEDICAL TECHNICIANS, AND OTHER FIRE PROTECTION EMPLOYEES

§ 9.1-700. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Employer" means any political subdivision of the Commonwealth, including any county, city, town, authority, or special district that employs fire protection employees except any locality with five or fewer paid firefighters that is exempt from overtime rules by 29 U.S.C. § 207 (k).

"Fire protection employee" means any person, other than an employee who is exempt from the overtime provisions of the Fair Labor Standards Act, who is employed by an employer as a paid firefighter, emergency medical services provider, or hazardous materials worker who is (i) trained in fire suppression and has the legal authority and responsibility to engage in fire suppression and is employed by a fire department of an employer or (ii) engaged in the prevention, control, or extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.

"Law-enforcement employee" means any person who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, other than an employee who is exempt from the overtime provisions of the Fair Labor Standards Act, and who is a full-time employee of either (i) a police department or (ii) a sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof.

"Regularly scheduled work hours" means those hours that are recurring and fixed within the work period and for which an employee receives a salary or hourly compensation. "Regularly scheduled work hours" does not include on-call, extra duty assignments or any other nonrecurring and nonfixed hours.

2001, c. 768, § 2.1-116.9:7; 2005, c. 732; 2015, cc. 502, 503; 2016, c. 541.

§ 9.1-701. Overtime compensation rate.

A. Employers shall pay fire protection or law-enforcement employees overtime compensation or leave, as under the Fair Labor Standards Act, 29 U.S.C. § 207 (o), at a rate of not less than one and one-half times the employee's regular rate of pay for all hours of work between the statutory maximum permitted under 29 U.S.C. § 207 (k) and the hours for which an employee receives his salary, or if paid on an hourly basis, the hours for which the employee receives hourly compensation. A fire protection or

law-enforcement employee who is paid on an hourly basis shall have paid leave counted as hours of work in an amount no greater than the numbers of hours counted for other fire protection or law-enforcement employees working the same schedule who are paid on a salaried basis in that jurisdiction.

B. Nothing in this chapter shall be construed to affect the right of any employer to provide overtime compensation to fire protection or law-enforcement employees in an amount that exceeds the amounts required by this section.

C. The provisions of this section pertaining to law-enforcement employees shall only apply to employers of 100 or more law-enforcement employees.

2001, c. 768, § 2.1-116.9:8; 2005, c. 732.

§ 9.1-702. Work period.

Employers may adopt any work period to compute overtime compensation for fire protection or law-enforcement employees between seven and 28 days provided that the work period is recurring and fixed, and is not changed for purposes of denying overtime compensation to such employees to which they may be entitled under subsection A of § 9.1-701. The provisions of this section pertaining to law-enforcement employees shall only apply to employers of 100 or more law-enforcement employees.

2001, c. 768, § 2.1-116.9:9; 2005, c. 732.

§ 9.1-703. Hours of work.

For purposes of computing fire protection or law-enforcement employees' entitlement to overtime compensation, all hours that an employee works or is in a paid status during his regularly scheduled work hours shall be counted as hours of work. The provisions of this section pertaining to law-enforcement employees shall only apply to such employees of an employer of 100 or more law-enforcement employees.

2001, c. 768, § 2.1-116.9:10; 2005, c. 732.

§ 9.1-704. Employee's remedies; award of attorneys' fees and costs.

A. In an action brought under this chapter, an employer who violates the provisions of this chapter shall be liable to the fire protection or law-enforcement employee affected in an amount of double the amount of the unpaid compensation due such employee. However, if the employer can prove that his violation was in good faith, he shall be liable only for the amount of the unpaid compensation plus interest at the rate of eight percent per year, commencing on the date the compensation was due to the employee.

B. Where the fire protection or law-enforcement employee prevails, the court shall award him attorneys' fees and costs to be paid by the employer.

C. The provisions of this section pertaining to law-enforcement employees shall only apply in instances where the employer employs 100 or more law-enforcement employees.

2001, c. 768, § 2.1-116.9:11; 2005, c. 732.

§ 9.1-705. Limitation of actions.

Actions brought under this chapter shall be commenced within two years of the date the unpaid compensation was due, or if the violation is willful, within three years of the date the unpaid compensation was due.

2001, c. 768, § 2.1-116.9:12.

§ 9.1-706. Sovereign immunity.

The immunity of the Commonwealth and of any "agency" as defined in § 8.01-195.2 is hereby preserved.

2001, c. 768, § 2.1-116.9:13.

Chapter 8 - Commonwealth Public Safety Medal of Valor Act

§ 9.1-800. Commonwealth Public Safety Medal of Valor.

There is hereby established the Commonwealth Public Safety Medal of Valor. The Governor may award and present the Commonwealth Public Safety Medal of Valor, of appropriate design with ribbons and appurtenances, to a Virginia public safety officer for performance above and beyond the call of duty involving extraordinary valor in the face of grave danger, at great personal risk. The public safety officer shall have exhibited uncommon valor, which clearly distinguishes the officer as performing above and beyond normal job requirements. The Commonwealth Public Safety Medal of Valor shall be the highest award for valor by a public safety officer conferred by the Commonwealth. The Governor may select no more than three recipients for the Commonwealth Public Safety Medal of Valor award each year, unless the Governor determines that extraordinary circumstances warrant the selection of additional recipients.

2002, c. 150.

§ 9.1-801. Public safety officer defined.

As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a correctional officer employed at a juvenile correctional facility as the term is defined in § 66-25.3; a jail officer; a regional jail or jail farm superintendent; a member of any fire company or department or nonprofit or volunteer emergency medical services agency that has been recognized by an ordinance or resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town; an arson investigator; a member of the Virginia National Guard or the Virginia Defense Force while such a member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Authority; any police agent appointed under the provisions of § 56-353; any regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to § 29.1-200; any commissioned forest warden appointed pursuant to § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power to arrest

pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any nonfirefighter regional hazardous materials emergency response team member; any investigator who is a full-time sworn member of the security division of the Virginia Lottery; any full-time sworn member of the enforcement division of the Department of Motor Vehicles meeting the Department of Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.

2002, c. 150; 2007, c. 87; 2011, cc. 572, 586; 2014, c. 225; 2015, cc. 38, 502, 503, 730.

§§ 9.1-802, 9.1-803. Repealed.

Repealed by Acts 2011, cc. 594 and 681, cl. 2.

Chapter 9 - SEX OFFENDER AND CRIMES AGAINST MINORS REGISTRY ACT

§ 9.1-900. Purpose of the Sex Offender and Crimes Against Minors Registry.

The purpose of the Sex Offender and Crimes Against Minors Registry (Registry) shall be to assist the efforts of law-enforcement agencies and others to protect their communities and families from repeat offenders and to protect children from becoming victims of criminal offenders by helping to prevent such individuals from being allowed to work directly with children.

2003, c. 584; 2020, c. 829.

§ 9.1-901. Persons for whom registration required.

A. Every person convicted on or after July 1, 1994, including a juvenile tried and convicted in the circuit court pursuant to § 16.1-269.1, whether sentenced as an adult or juvenile, of an offense set forth in § 9.1-902 and every juvenile found delinquent of an offense for which registration is required under subsection C of § 9.1-902 shall register, reregister, and verify his registration information as required by this chapter. Every person serving a sentence of confinement on or after July 1, 1994, for a conviction of an offense set forth in § 9.1-902 shall register, reregister, and verify his registration information as required by this chapter. Every person under community supervision as defined by § 53.1-1 or any similar form of supervision under the laws of the United States or any political subdivision thereof, on or after July 1, 1994, resulting from a conviction of an offense set forth in § 9.1-902 shall register, reregister, and verify his registration information as required by this chapter.

B. Every person found not guilty by reason of insanity on or after July 1, 2007, of an offense set forth in § 9.1-902 shall register, reregister, and verify his registration information as required by this chapter. Every person in the custody of the Commissioner of Behavioral Health and Developmental Services, or on conditional release on or after July 1, 2007, because of a finding of not guilty by reason of insanity of an offense set forth in § 9.1-902 shall register, reregister, and verify his registration information as required by this chapter.

C. Unless a specific effective date is otherwise provided, all provisions of the Sex Offender and Crimes Against Minors Registry Act shall apply retroactively. This subsection is declaratory of existing law.

2003, c. 584; 2005, c. 586; 2007, cc. 718, 744; 2009, cc. 813, 840; 2020, c. 829.

§ 9.1-902. Offenses requiring registration.

A. For purposes of this chapter:

"Murder" means a violation of, attempted violation of, or conspiracy to violate § 18.2-31 or 18.2-32 where the victim is (i) under 15 years of age or (ii) where the victim is at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section or a violation of former § 18.1-21 where the victim is (a) under 15 years of age or (b) at least 15 years of age but under 18 years of age and the murder is related to an offense listed in this section.

"Offense for which registration is required" includes:

1. Any Tier I, Tier II, or Tier III offense;

2. Murder;

3. Any offense similar to a Tier I, Tier II, or Tier III offense under the laws of any foreign country or any political subdivision thereof or the United States or any political subdivision thereof; and

4. Any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

"Tier I offense" means (i) any homicide in conjunction with a violation of, attempted violation of, or conspiracy to violate clause (i) of § 18.2-371 or § 18.2-371.1, when the offenses arise out of the same incident, or (ii) any violation of, attempted violation of, or conspiracy to violate:

1. § 18.2-63 unless registration is required pursuant to subdivision 1 of the definition of Tier III offense; former § 18.2-67.2:1; § 18.2-90 with the intent to commit rape; former § 18.1-88 with the intent to commit rape; any felony violation of § 18.2-346; any violation of subdivision (4) of § 18.2-355; any violation of subsection C of § 18.2-357.1; subsection B of § 18.2-374.1:1; former subsection D of § 18.2-374.1:1 as it was in effect from July 1, 1994, through June 30, 2007; former clause (iv) of subsection B of § 18.2-374.3 as it was in effect on June 30, 2007; subsection B of § 18.2-374.3; or a third or subsequent conviction of § 18.2-67.4, § 18.2-67.4:2, subsection C of § 18.2-67.5, § 18.2-386.1, or, if the offense was committed on or after July 1, 2020, § 18.2-386.2.

If the offense was committed on or after July 1, 2006, § 18.2-91 with the intent to commit any felony offense listed in this section; subsection A of § 18.2-374.1:1; or a felony under § 18.2-67.5:1.

2. Where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection A of § 18.2-47, clause (i) of § 18.2-48, § 18.2-67.4, subsection C of § 18.2-67.5, § 18.2-361, § 18.2-366, or a felony violation of former § 18.1-191.

3. § 18.2-370.6.

4. If the offense was committed on or after July 1, 2016, and where the perpetrator is 18 years of age or older and the victim is under the age of 13, any violation of § 18.2-51.2.

5. If the offense was committed on or after July 1, 2016, any violation of § 18.2-356 punishable as a Class 3 felony or any violation of § 18.2-357 punishable as a Class 3 felony.

6. If the offense was committed on or after July 1, 2019, any felony violation of § 18.2-348 or 18.2-349.

"Tier II offense" means any violation of, attempted violation of, or conspiracy to violate § 18.2-64.1, subsection C of § 18.2-374.1:1, or subsection C, D, or E of § 18.2-374.3.

"Tier III offense" means a violation of, attempted violation of, or conspiracy to violate:

1. Clause (ii) and (iii) of § 18.2-48, former § 18.1-38 with the intent to defile or, for the purpose of concubinage or prostitution, a felony violation of subdivision (2) or (3) of former § 18.1-39 that involves assisting or aiding in such an abduction, § 18.2-61, former § 18.1-44 when such act is accomplished against the complaining witness's will, by force, or through the use of the complaining witness's mental incapacity or physical helplessness, or if the victim is under 13 years of age, subsection A of § 18.2-63 where the perpetrator is more than five years older than the victim, § 18.2-67.1, § 18.2-67.2, § 18.2-67.3, former § 18.1-215 when the complaining witness is under 13 years of age, § 18.2-67.4 where the perpetrator is 18 years of age or older and the victim is under the age of six, subsections A and B of § 18.2-67.5, § 18.2-370, subdivision (1), (2), or (4) of former § 18.1-213, former § 18.1-214, § 18.2-370.1, or § 18.2-374.1;

2. § 18.2-63, § 18.2-64.1, former § 18.2-67.2:1, § 18.2-90 with the intent to commit rape or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection A of § 18.2-47, § 18.2-67.4, subsection C of § 18.2-67.5, clause (i) of § 18.2-48, § 18.2-361, § 18.2-366, or subsection C of § 18.2-374.1:1. An offense listed under this subdivision shall be deemed a Tier III offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that person had been at liberty between such convictions or adjudications;

3. If the offense was committed on or after July 1, 2006, § 18.2-91 with the intent to commit any felony offense listed in this section. An offense listed under this subdivision shall be deemed a Tier III offense only if the person has been convicted or adjudicated delinquent of any two or more such offenses, provided that the person had been at liberty between such convictions or adjudications; or

4. Chapter 117 (18 U.S.C. § 2421 et seq.) of Title 18 of the United States Code or sex trafficking (as described in § 1591 of Title 18, U.S.C.).

B. "Tier I offense" as defined in this section, "Tier II offense" as defined in this section, "Tier III offense" as defined in this section, and "murder" as defined in this section includes any similar offense under the laws of any foreign country or any political subdivision thereof or the United States or any political subdivision thereof.

C. 1. Any offense under the laws of any foreign country or any political subdivision thereof or the United States or any political subdivision thereof that is similar to (i) any Tier I, II, or III offense or (ii)

murder as defined in this section shall require registration and reregistration in accordance with this chapter in a manner consistent with the registration and reregistration obligations imposed by the similar offense listed or defined in this section, unless such offense requires more stringent registration and reregistration obligations under the laws of the jurisdiction where the offender was convicted. In instances where more stringent registration and reregistration obligations are required under the laws of the jurisdiction where the offender was convicted, the offender shall register and reregister as required by this chapter in a manner most similar with the registration obligations imposed under the laws of the jurisdiction where the offender was convicted.

2. Any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted shall require registration and reregistration in accordance with this chapter in the manner most similar with the registration and reregistration obligations imposed under the laws of the jurisdiction where the offender was convicted unless such offense is similar to (i) any Tier I, II, or III offense or (ii) murder as defined in this section and the registration and reregistration obligations imposed by the similar offense listed or defined in this section are more stringent than those registration and reregistration obligations imposed under the laws of the jurisdiction where the offender was convicted. In instances where the similar offense listed or defined in this section imposes more stringent registration and reregistration obligations, the offender shall register and reregister as required by this chapter in a manner consistent with the registration and reregistration obligations imposed by the similar offense listed or defined in this section.

D. Juveniles adjudicated delinquent shall not be required to register; however, where the offender is a juvenile over the age of 13 at the time of the offense who is tried as a juvenile and is adjudicated delinquent on or after July 1, 2005, of any offense for which registration is required, the court may, in its discretion and upon motion of the attorney for the Commonwealth, find that the circumstances of the offense require offender registration. In making its determination, the court shall consider all of the following factors that are relevant to the case: (i) the degree to which the delinquent act was committed with the use of force, threat, or intimidation, (ii) the age and maturity of the complaining witness, (iii) the age and maturity of the offender, (iv) the difference in the ages of the complaining witness and the offender, (v) the nature of the relationship between the complaining witness and the offender, (vi) the offender's prior criminal history, and (vii) any other aggravating or mitigating factors relevant to the case. The attorney for the Commonwealth may file such a motion at any time during which the offender is within the jurisdiction of the court for the offense that is the basis for such motion. Prior to any hearing on such motion, the court shall appoint a qualified and competent attorney-at-law to represent the offender unless an attorney has been retained and appears on behalf of the offender or counsel has already been appointed.

E. Prior to entering judgment of conviction of an offense for which registration is required if the victim of the offense was a minor, physically helpless, or mentally incapacitated, when the indictment, warrant, or information does not allege that the victim of the offense was a minor, physically helpless, or mentally incapacitated, the court shall determine by a preponderance of the evidence whether the

victim of the offense was a minor, physically helpless, or mentally incapacitated, as defined in § 18.2-67.10, and shall also determine the age of the victim at the time of the offense if it determines the victim to be a minor. When such a determination is required, the court shall advise the defendant of its determination and of the defendant's right to make a motion to withdraw a plea of guilty or nolo contendere pursuant to § 19.2-296. If the court grants the defendant's motion to withdraw his plea of guilty or of nolo contendere, his case shall be heard by another judge, unless the parties agree otherwise. Failure to make such determination or so advise the defendant does not otherwise invalidate the underlying conviction.

2003, cc. 584, 732; 2004, cc. 414, 444; 2005, cc. 586, 603, 631; 2006, cc. 857, 875, 914, 931; 2007, cc. 463, 718, 759, 823; 2008, cc. 592, 747, 772, 877; 2010, c. 858; 2012, c. 243; 2013, cc. 750, 781; 2014, cc. 546, 649, 706; 2015, cc. 690, 691; 2016, c. 586; 2019, c. 617; 2020, cc. 389, 826, 829.

§ 9.1-903. Registration and reregistration procedures.

A. Every person convicted, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as an adult or juvenile, of an offense for which registration is required and every juvenile found delinquent of an offense for which registration is required under subsection C of § 9.1-902 shall be required upon conviction to register, reregister, and verify his registration information with the Department of State Police. The court shall order the person to provide to the local law-enforcement agency of the county or city where he physically resides all information required by the State Police for inclusion in the Registry. The court shall immediately remand the person to the custody of the local law-enforcement agency for the purpose of obtaining the person's fingerprints and photographs of a type and kind specified by the State Police for inclusion in the Registry. Upon conviction, the local law-enforcement agency shall forthwith forward to the State Police all the necessary registration information.

B. Every person required to register shall register in person within three days of his release from confinement in a state, local or juvenile correctional facility, in a state civil commitment program for sexually violent predators or, if a sentence of confinement is not imposed, within three days of suspension of the sentence or in the case of a juvenile of disposition. A person required to register shall register, and as part of the registration shall submit to be photographed, submit to have a sample of his blood, saliva, or tissue taken for DNA (deoxyribonucleic acid) analysis and submission to the DNA databank to determine identification characteristics specific to the person, provide electronic mail address information, any instant message, chat or other Internet communication name or identity information that the person uses or intends to use, submit to have his fingerprints and palm prints taken, provide information regarding his place of employment, and provide motor vehicle, watercraft and aircraft registration information for all motor vehicles, watercraft and aircraft owned by him. The local law-enforcement agency shall obtain from the person who presents himself for registration or reregistration one set of fingerprints, electronic mail address information, any instant message, chat or other Internet communication name or identity information that the person uses or intends to use, one set of palm prints, place of employment information, motor vehicle, watercraft and aircraft registration information for all

motor vehicles, watercraft and aircraft owned by the registrant, proof of residency and a photograph of a type and kind specified by the State Police for inclusion in the Registry and advise the person of his duties regarding reregistration and verification of his registration information. The local law-enforcement agency shall obtain from the person who presents himself for registration a sample of his blood, saliva or tissue taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. If a sample has been previously taken from the person, as indicated by the Local Inmate Data System (LIDS), no additional sample shall be taken. The local law-enforcement agency shall forthwith forward to the State Police all necessary registration information.

C. To establish proof of residence in Virginia, a person who has a permanent physical address shall present one photo-identification form issued by a governmental agency of the Commonwealth which contains the person's complete name, gender, date of birth and complete physical address. The local law-enforcement agency shall forthwith forward to the State Police a copy of the identification presented by the person required to register.

D. Any person required to register shall also reregister in person with the local law-enforcement agency following any change of name or any change of residence, whether within or without the Commonwealth. The person shall register in person with the local law-enforcement agency within three days following his change of name. If his new residence is within the Commonwealth, the person shall register in person with the local law-enforcement agency where his new residence is located within three days following his change in residence. If the new residence is located outside of the Commonwealth, the person shall register in person with the local law-enforcement agency where he previously registered within 10 days prior to his change of residence. If a probation or parole officer becomes aware of a change of name or residence for any of his probationers or parolees required to register, the probation or parole officer shall notify the State Police forthwith of learning of the change. Whenever a person subject to registration changes residence to another state, the State Police shall notify the designated law-enforcement agency of that state.

E. Any person required to register shall reregister in person with the local law-enforcement agency where his residence is located within three days following any change of the place of employment, whether within or without the Commonwealth. If a probation or parole officer becomes aware of a change of the place of employment for any of his probationers or parolees required to register, the probation or parole officer shall notify the State Police forthwith upon learning of the change of the person's place of employment. Whenever a person subject to registration changes his place of employment to another state, the State Police shall notify the designated law-enforcement agency of that state.

F. Any person required to register shall reregister in person with the local law-enforcement agency where his residence is located within three days following any change of owned motor vehicle, watercraft and aircraft registration information, whether within or without the Commonwealth. If a probation or parole officer becomes aware of a change of owned motor vehicle, watercraft and aircraft registration information for any of his probationers or parolees required to register, the probation or parole

officer shall notify the State Police forthwith upon learning of the change of the person's owned motor vehicle, watercraft and aircraft registration information. Whenever a person required to register changes his owned motor vehicle, watercraft and aircraft registration information to another state, the State Police shall notify the designated law-enforcement agency of that state.

G. Any person required to register shall reregister either in person or electronically with the local law-enforcement agency where his residence is located within 30 minutes following any change of the electronic mail address information, any instant message, chat or other Internet communication name or identity information that the person uses or intends to use, whether within or without the Commonwealth. If a probation or parole officer becomes aware of a change of the electronic mail address information, any instant message, chat or other Internet communication name or identity information for any of his probationers or parolees required to register, the probation or parole officer shall notify the State Police forthwith upon learning of the change.

H. Every person required to register shall submit to be photographed by a local law-enforcement agency every two years, during such person's required verification month and time interval pursuant to subsection B of § 9.1-904, commencing with the date of initial verification. The local law-enforcement agency shall forthwith forward the photograph of a type and kind specified by the State Police to the State Police. Where practical, the local law-enforcement agency may electronically transfer a digital photograph containing the required information to the Registry.

I. Upon registration and every two years thereafter during such person's required verification month and time interval pursuant to subsection B of § 9.1-904, every person required to register shall be required to execute a consent form consistent with applicable law that authorizes a business or organization that offers electronic communications or remote computer services to provide to the Department of State Police any information pertaining to that person necessary to determine the veracity of his electronic identity information in the Registry.

J. The registration shall be maintained in the Registry and shall include the person's name, any former name if he has lawfully changed his name during the period for which he is required to register, all aliases that he has used or under which he may have been known, the date and locality of the conviction for which registration is required, his fingerprints and a photograph of a type and kind specified by the State Police, his date of birth, social security number, current physical and mailing address and a description of the offense or offenses for which he was convicted. The registration shall also include the locality of the conviction and a description of the offense or offenses for previous convictions for the offenses set forth in § 9.1-902.

K. The local law-enforcement agency shall forthwith forward to the State Police all necessary registration or reregistration information received by it. Upon receipt of registration or reregistration information the State Police shall forthwith notify the chief law-enforcement officer of the locality listed as the person's address on the registration and reregistration.

L. If a person required to register does not have a legal residence, such person shall designate a location that can be located with reasonable specificity where he resides or habitually locates himself. For the purposes of this section, "residence" shall include such a designated location. If the person wishes to change such designated location, he shall do it pursuant to the terms of this section.

2003, c. 584; 2004, c. 834; 2005, c. 586; 2006, cc. 857, 914; 2007, cc. 718, 759, 823; 2008, c. 220; 2010, c. 843; 2014, c. 677; 2020, c. 829.

§ 9.1-904. Periodic verification.

A. For purposes of this chapter, "verify his registration information" means that the person required to register has notified the State Police; confirmed his current physical and mailing address and electronic mail address information and any instant message, chat, or other Internet communication name or identity information that he uses or intends to use; and provided such other information, including identifying information, that the State Police may require.

B. Any person required to register shall verify his registration information with the State Police, during such person's required verification month and time interval, commencing with the date of initial registration, as follows:

1. Any person convicted of a Tier III offense or murder, four times each year at three-month intervals, including the person's birth month; and

2. Any person convicted of a violation of § 18.2-472.1, in which such person was included on the Registry for a conviction of a Tier III offense or murder, every month.

C. The State Police shall make available to the person an address verification form to be used for verification of his registration information. The form shall contain in bold print a statement indicating that failure to comply with the verification required is punishable as provided in § 18.2-472.1. Copies of all forms to be used for verification and guidelines for submitting such forms, including month and time verification intervals, shall be available through distribution by the State Police, from local law-enforcement agencies, and in a format capable of being downloaded and printed from a website maintained by the State Police.

D. Persons required to register with last names beginning with A through L shall verify their registration information with the State Police from the first to the fifteenth of such person's verification months pursuant to subsection B, and persons required to register with last names beginning with M through Z shall verify their registration information with the State Police from the sixteenth to the last day of the month during such person's verification months pursuant to subsection B. The last name shall be the last name in the person's name pursuant to § 9.1-903 as it appears in the Registry.

E. For the period of July 1, 2020, to July 1, 2021, any person required to verify his registration information shall continue to verify his resignation information with the State Police on such person's verification schedule in place prior to July 1, 2020, until such person has verified his registration

information pursuant to the new verification schedule provided in subsection B, at which time such person shall continue to verify his registration information pursuant to the new verification schedule.

2003, c. 584; 2006, cc. 857, 914; 2007, cc. 759, 823; 2019, cc. 613, 614; 2020, c. 829.

§ 9.1-905. New residents and nonresident offenders; registration required.

A. All persons required to register shall register within three days of establishing a residence in the Commonwealth.

B. Nonresident offenders entering the Commonwealth for an extended visit, for employment, to carry on a vocation, or as a student attending school who are required to register in their state of residence or who would be required to register if a resident of the Commonwealth shall, within three days of entering the Commonwealth for an extended visit, accepting employment or enrolling in school in the Commonwealth, be required to register and reregister in person with the local law-enforcement agency.

C. To document employment or school attendance in Virginia a person shall present proof of enrollment as a student or suitable proof of temporary employment in the Commonwealth and one photo-identification form issued by a governmental agency of the person's state of residence which contains the person's complete name, gender, date of birth and complete address.

D. For purposes of this section:

"Employment" and "carry on a vocation" include employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

"Extended visit" means a period of visitation for any purpose in the Commonwealth of 30 days or more.

"Student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.

2003, c. 584; 2005, c. 603; 2006, cc. 857, 914.

§ 9.1-906. Enrollment or employment at institution of higher education; information required.

A. Persons required to register, reregister, or verify their registration information who are enrolled in or employed at institutions of higher education shall, in addition to other registration requirements, indicate on their registration, reregistration, and verification form the name and location of the institution attended by or employing the registrant whether such institution is within or without the Commonwealth. In addition, persons required to register, reregister, or verify their registration information shall notify the local law-enforcement agency in person within three days of any change in their enrollment or employment status with an institution of higher education. The local law-enforcement agency

shall forthwith forward to the State Police all necessary registration or reregistration information received by it.

B. Upon receipt of a registration, reregistration, or verification of registration information indicating enrollment or employment with an institution of higher education or notification of a change in status, the State Police shall notify the chief law-enforcement officer of the institution's law-enforcement agency or, if there is no institutional law-enforcement agency, the local law-enforcement agency serving that institution, of the registration, reregistration, verification of registration information, or change in status. The law-enforcement agency receiving notification under this section shall make such information available upon request.

C. For purposes of this section:

"Employment" includes full- or part-time, temporary or permanent or contractual employment at an institution of higher education either with or without compensation.

"Enrollment" includes both full- and part-time.

"Institution of higher education" means any postsecondary school, trade or professional institution, or institution of higher education.

2003, c. 584; 2006, cc. 857, 914; 2020, c. 829.

§ 9.1-907. Procedures upon a failure to register, reregister, or verify registration information.

A. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register, reregister, or verify his registration information, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person last registered, reregistered, or verified his registration information or, if the person failed to comply with the duty to register, in the jurisdiction in which the person was last convicted of an offense for which registration or reregistration is required or if the person was convicted of an offense requiring registration outside the Commonwealth, in the jurisdiction in which the person resides. The State Police shall forward to the jurisdiction an affidavit signed by a custodian of the records that such person failed to comply with the duty to register, reregister, or verify his registration information. If such affidavit is admitted into evidence, it shall constitute prima facie evidence of the failure to comply with the duty to register, reregister, or verify his registration information in any trial or hearing for the violation of § 18.2-472.1, provided that in a trial or hearing other than a preliminary hearing, the requirements of subsection G of § 18.2-472.1 have been satisfied and the accused has not objected to the admission of the affidavit pursuant to subsection H of § 18.2-472.1. The State Police shall also promptly notify the local law-enforcement agency of the jurisdiction of the person's last known residence as shown in the records of the State Police.

B. Nothing in this section shall prohibit a law-enforcement officer employed by a sheriff's office or police department of a locality from enforcing the provisions of this chapter, including obtaining a

warrant, or assisting in obtaining an indictment for a violation of § 18.2-472.1. The local law-enforcement agency shall notify the State Police forthwith of such actions taken pursuant to this chapter or under the authority granted pursuant to this section.

C. The State Police shall physically verify or cause to be physically verified the registration information within 30 days of the initial registration and semiannually each year thereafter and within 30 days of a change of address of those persons who are not under the control of the Department of Corrections or community supervision as defined by § 53.1-1, who are required to register pursuant to this chapter. Whenever it appears that a person has provided false registration information, the State Police shall promptly investigate and, if there is probable cause to believe that a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person last registered, reregistered, or verified his registration information. The State Police shall forward to the jurisdiction an affidavit signed by a custodian of the records that such person failed to comply with the provisions of this chapter. If such affidavit is admitted into evidence, it shall constitute prima facie evidence of the failure to comply with the provisions of this chapter in any trial or hearing for the violation of § 18.2-472.1, provided that in a trial or hearing other than a preliminary hearing, the requirements of subsection G of § 18.2-472.1 have been satisfied and the accused has not objected to the admission of the affidavit pursuant to subsection H of § 18.2-472.1. The State Police shall also promptly notify the local law-enforcement agency of the jurisdiction of the person's last known residence as shown in the records of the State Police.

D. The Department of Corrections or community supervision as defined by § 53.1-1 shall physically verify or cause to be physically verified by the State Police the registration information within 30 days of the original registration and semiannually each year thereafter and within 30 days of a change of address of all persons who are under the control of the Department of Corrections or community supervision, and those who are under supervision pursuant to § 37.2-919, who are required to register pursuant to this chapter. The Department of Corrections or community supervision, upon request, shall provide the State Police the verification information, in an electronic format approved by the State Police, regarding persons under their control who are required to register pursuant to the chapter. Whenever it appears that a person has provided false registration information, the Department of Corrections or community supervision shall promptly notify the State Police, who shall investigate and, if there is probable cause to believe that a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person last registered, reregistered, or verified his registration information. The State Police shall forward to the jurisdiction an affidavit signed by a custodian of the records that such person failed to comply with the provisions of this chapter. If such affidavit is admitted into evidence, it shall constitute prima facie evidence of the failure to comply with the provisions of this chapter in any trial or hearing for the violation of § 18.2-472.1, provided that in a trial or hearing other than a preliminary hearing, the requirements of subsection G of § 18.2-472.1 have been satisfied and the accused has not objected to the admission of the affidavit pursuant to subsection H of § 18.2-472.1. The State Police shall also promptly notify the

local law-enforcement agency of the jurisdiction of the person's last known residence as shown in the records of the State Police.

2003, c. 584; 2005, c. 603; 2006, cc. 857, 914; 2007, c. 718; 2009, Sp. Sess. I, cc. 1, 4; 2010, c. 858; 2015, cc. 81, 598; 2020, c. 829.

§ 9.1-908. Duration of registration requirement.

Any person required to register, reregister, or verify his registration information shall be required to register until the duty to register, reregister, or verify his registration information is terminated by a court order as set forth in § 9.1-910, except that any person who has been convicted of (i) any Tier III offense, (ii) murder or (iii) former § 18.2-67.2:1 shall have a continuing duty to reregister or verify his registration information for life.

Any period of confinement in a federal, state, or local correctional facility, hospital, or any other institution or facility during the otherwise applicable period shall toll the registration or verification period and the duty to reregister or verify his registration information shall be extended. Persons confined in a federal, state, or local correctional facility shall not be required to reregister or verify his registration information until released from custody. Persons civilly committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 shall not be required to reregister or verify his registration information until released from custody. Persons confined in a federal, state, or local correctional facility or civilly committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 shall notify the Registry within three days following any change of name.

2003, c. 584; 2005, c. 631; 2006, cc. 857, 914; 2007, c. 718; 2008, c. 877; 2010, c. 858; 2014, c. 677; 2020, c. 829.

§ 9.1-909. Relief from registration, reregistration, or verification.

A. Upon expiration of three years from the date upon which the duty to register as a Tier III offender or murderer is imposed, the person required to register may petition the court in which he was convicted or, if the conviction occurred outside of the Commonwealth, the circuit court in the jurisdiction where he currently resides, for relief from the requirement to verify his registration information four times each year at three-month intervals. After five years from the date of his last conviction for a violation of § 18.2-472.1, a Tier III offender or murderer may petition for relief from the requirement to verify his registration information every month. A person who is required to register may similarly petition the circuit court for relief from the requirement to verify his registration twice each year after five years from the date of his last conviction for a violation of § 18.2-472.1. The court shall hold a hearing on the petition, on notice to the attorney for the Commonwealth, to determine whether the person suffers from a mental abnormality or a personality disorder that makes the person a menace to the health and safety of others or significantly impairs his ability to control his sexual behavior. Prior to the hearing the court shall order a comprehensive assessment of the applicant by a panel of three certified sex offender treatment providers as defined in § 54.1-3600. A report of the assessment shall be filed with the court prior to the hearing. The costs of the assessment shall be taxed as costs of the proceeding.

If, after consideration of the report and such other evidence as may be presented at the hearing, the court finds by clear and convincing evidence that the person does not suffer from a mental abnormality or a personality disorder that makes the person a menace to the health and safety of others or significantly impairs his ability to control his sexual behavior, the petition shall be granted and the duty to verify his registration information more frequently than once a year shall be terminated. The court shall promptly notify the State Police upon entry of an order granting the petition. The person shall, however, be under a continuing duty to register annually for life. If the petition is denied, the duty to verify his registration information with the same frequency as before shall continue. An appeal from the denial of a petition shall lie to the Supreme Court.

A petition for relief pursuant to this subsection may not be filed within three years from the date on which any previous petition for such relief was denied.

B. The duly appointed guardian of a person convicted of an offense requiring registration, reregistration, or verification of his registration information as either a Tier I, Tier II, or Tier III offender or murderer, who due to a physical condition is incapable of (i) reoffending and (ii) reregistering or verifying his registration information, may petition the court in which the person was convicted for relief from the requirement to reregister or verify his registration information. The court shall hold a hearing on the petition, on notice to the attorney for the Commonwealth, to determine whether the person suffers from a physical condition that makes the person (i) no longer a menace to the health and safety of others and (ii) incapable of reregistering or verifying his registration information. Prior to the hearing the court shall order a comprehensive assessment of the applicant by at least two licensed physicians other than the person's primary care physician. A report of the assessment shall be filed with the court prior to the hearing. The costs of the assessment shall be taxed as costs of the proceeding.

If, after consideration of the report and such other evidence as may be presented at the hearing, the court finds by clear and convincing evidence that due to his physical condition the person (i) no longer poses a menace to the health and safety of others and (ii) is incapable of reregistering or verifying his registration information, the petition shall be granted and the duty to reregister or verify his registration information shall be terminated. However, for a person whose duty to reregister or verify his registration information was terminated under this subsection, the Department of State Police shall, annually for Tier I or Tier II offenders and quarterly for persons convicted of Tier III offenses and murder, verify and report to the attorney for the Commonwealth in the jurisdiction in which the person resides that the person continues to suffer from the physical condition that resulted in such termination.

The court shall promptly notify the State Police upon entry of an order granting the petition to terminate the duty to reregister.

If the petition is denied, the duty to reregister shall continue. An appeal from the denial of a petition shall be to the Virginia Supreme Court.

A petition for relief pursuant to this subsection may not be filed within three years from the date on which any previous petition for such relief was denied.

If, at any time, the person's physical condition changes so that he is capable of reoffending, reregistering, or verifying his registration information, the attorney for the Commonwealth shall file a petition with the circuit court in the jurisdiction where the person resides and the court shall hold a hearing on the petition, with notice to the person and his guardian, to determine whether the person still suffers from a physical condition that makes the person (i) no longer a menace to the health and safety of others and (ii) incapable of reregistering or verifying his registration information. If the petition is granted, the duty to reregister shall commence from the date of the court's order. An appeal from the denial or granting of a petition shall be to the Virginia Supreme Court. Prior to the hearing the court shall order a comprehensive assessment of the applicant by at least two licensed physicians other than the person's primary care physician. A report of the assessment shall be filed with the court prior to the hearing. The costs of the assessment shall be taxed as costs of the proceeding.

2003, c. 584; 2006, cc. 857, 914; 2020, c. 829.

§ 9.1-910. Removal of name and information from Registry.

A. Any person required to register, other than a person who has been convicted of any (i) Tier III offense, (ii) two or more offenses for which registration is required, (iii) a violation of former § 18.2-67.2:1, or (iv) murder, may petition the circuit court in which he was convicted or the circuit court in the jurisdiction where he then resides for removal of his name and all identifying information from the Registry. A person who is required to register for a single Tier I offense may petition the court no earlier than 15 years from the later of the date of initial registration or the date of his last conviction for (a) a violation of § 18.2-472.1 or (b) any felony. A person who is required to register for a single Tier II offense may petition the court no earlier than 25 years from the later of the date of initial registration or the date of his last conviction for (1) a violation of § 18.2-472.1 or (2) any felony.

B. A petition may not be filed until all court ordered treatment, counseling, and restitution has been completed. The court shall obtain a copy of the petitioner's complete criminal history and registration, reregistration, and verification of registration information history from the Registry and then hold a hearing on the petition at which the applicant and any interested persons may present witnesses and other evidence. The Commonwealth shall be made a party to any action under this section. If, after such hearing, the court is satisfied that such person no longer poses a risk to public safety, the court shall grant the petition. In the event the petition is not granted, the person shall wait at least 24 months from the date of the denial to file a new petition for removal from the Registry.

C. The State Police shall remove from the Registry the name of any person and all identifying information upon receipt of an order granting a petition pursuant to subsection B.

2003, c. 584; 2005, c. 631; 2006, cc. 857, 914; 2007, c. 718; 2008, c. 877; 2018, c. 68; 2020, c. 829.

§ 9.1-911. Registry maintenance.

The Registry shall include conviction data received from the courts, including the disposition records for juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, on convictions for offenses for which registration is required and registrations, reregistrations, and verifications of

registration information received from persons required to do so. The Registry shall also include a separate indication that a person has been convicted of a Tier III offense. The State Police shall forthwith transmit the appropriate information as required by the Federal Bureau of Investigation for inclusion in the National Sex Offender Registry.

2003, c. 584; 2020, c. 829.

§ 9.1-912. Registry access and dissemination; fees.

A. Except as provided in § 9.1-913 and subsection B or C of this section, Registry information shall be disseminated upon request made directly to the State Police or to the State Police through a local law-enforcement agency. Such information may be disclosed to any person requesting information on a specific individual in accordance with subsection B. The State Police shall make Registry information available, upon request, to criminal justice agencies including local law-enforcement agencies through the Virginia Criminal Information Network (VCIN). Registry information provided under this section shall be used for the purposes of the administration of criminal justice, for the screening of current or prospective employees or volunteers or otherwise for the protection of the public in general and children in particular. The Superintendent of State Police may by regulation establish a fee not to exceed $15 for responding to requests for information from the Registry. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the Registry.

B. Information regarding a specific person shall be disseminated upon receipt of an official request form that may be submitted directly to the State Police or to the State Police through a local law-enforcement agency. The official request form shall include a statement of the reason for the request; the name and address of the person requesting the information; the name, address and, if known, the social security number of the person about whom information is sought; and such other information as the State Police may require to ensure reliable identification.

C. Registry information regarding all registered offender's electronic mail address information, any instant message, chat or other Internet communication name or identity information may be electronically transmitted by the Department of State Police to a business or organization that offers electronic communication or remote computing services for the purpose of prescreening users or for comparison with information held by the requesting business or organization. In order to obtain the information from the Department of State Police, the requesting business or organization that offers electronic communication or remote computing services shall agree to notify the Department of State Police forthwith when a comparison indicates that any such registered offender's electronic mail address information, any instant message, chat or other Internet communication name or identity information is being used on their system. The requesting business or organization shall also agree that the information will not be further disseminated.

2003, c. 584; 2007, cc. 759, 823; 2020, c. 829.

§ 9.1-913. Public dissemination by means of the Internet.

The State Police shall develop and maintain a system for making certain Registry information on persons convicted of an offense for which registration is required publicly available by means of the Internet. The information to be made available shall include the offender's name; all aliases that he has used or under which he may have been known; the date and locality of the conviction and a brief description of the offense; his age, current address, and photograph; his current work address; the name of any institution of higher education at which he is currently enrolled; and such other information as the State Police may from time to time determine is necessary to preserve public safety, including but not limited to the fact that an individual is wanted for failing to register, reregister, or verify his registration information. The system shall be secure and not capable of being altered except by the State Police. The system shall be updated each business day with newly received registrations, reregistrations and verifications of registration information. The State Police shall remove all information that it knows to be inaccurate from the Internet system.

2003, c. 584; 2005, c. 603; 2006, cc. 857, 914; 2016, c. 335; 2020, c. 829.

§ 9.1-914. (Effective until July 1, 2021) Automatic notification of registration to certain entities; electronic notification to requesting persons.

Any school, day-care service and child-minding service, state-regulated or state-licensed child day center, child day program, children's residential facility, family day home, assisted living facility or foster home as defined in § 63.2-100, nursing home or certified nursing facility as defined in § 32.1-123, association of a common interest community as defined in § 54.1-2345, and institution of higher education may request from the State Police and, upon compliance with the requirements therefor established by the State Police, shall be eligible to receive from the State Police electronic notice of the registration, reregistration, or verification of registration information of any offender and if such entities do not have the capability of receiving such electronic notice, the entity may register with the State Police to receive written notification of offender registration, reregistration, or verification of registration information. Within three business days of receipt by the State Police of registration, reregistration, or verification of registration information, the State Police shall electronically or in writing notify an entity listed above that has requested such notification, has complied with the requirements established by the State Police and is located in the same or a contiguous zip code area as the address of the offender as shown on the registration.

The Virginia Council for Private Education shall annually provide the State Police, in an electronic format approved by the State Police, with the location of every private school in the Commonwealth that is accredited through one of the approved accrediting agencies of the Council, and an electronic mail address for each school if available, for purposes of receiving notice under this section.

Any person may request from the State Police and, upon compliance with the requirements therefor established by the State Police, shall be eligible to receive from the State Police electronic notice of the registration, reregistration, or verification of registration information of any offender. Within three business days of receipt by the State Police of registration, reregistration, or verification of registration information, the State Police shall electronically notify a person who has requested such notification,

has complied with the requirements established by the State Police and is located in the same or a contiguous zip code area as the address of the offender as shown on the registration.

The State Police shall establish reasonable guidelines governing the automatic dissemination of Registry information, which may include the payment of a fee, whether a one-time fee or a regular assessment, to maintain the electronic access. The fee, if any, shall defray the costs of establishing and maintaining the electronic notification system and notice by mail.

For the purposes of this section:

"Child-minding service" means provision of temporary custodial care or supervisory services for the minor child of another;

"Day-care service" means provision of supplementary care and protection during a part of the day for the minor child of another; and

"School" means any public, religious or private educational institution, including any preschool, elementary school, secondary school, post-secondary school, trade or professional institution, or institution of higher education.

2003, c. 584; 2005, c. 928; 2006, cc. 857, 914; 2007, cc. 119, 164; 2016, c. 424; 2020, c. 829.

§ 9.1-914. (Effective July 1, 2021) Automatic notification of registration to certain entities; electronic notification to requesting persons.

Any school or day-care service and child-minding service; state-regulated or state-licensed child day center, child day program, or family day home as those terms are defined in § 22.1-289.02; assisted living facility, children's residential facility, or foster home as those terms are defined in § 63.2-100; nursing home or certified nursing facility as those terms are defined in § 32.1-123; association of a common interest community as defined in § 54.1-2345; and institution of higher education may request from the State Police and, upon compliance with the requirements therefor established by the State Police, shall be eligible to receive from the State Police electronic notice of the registration, reregistration, or verification of registration information of any offender and if such entities do not have the capability of receiving such electronic notice, the entity may register with the State Police to receive written notification of offender registration, reregistration, or verification of registration information. Within three business days of receipt by the State Police of registration, reregistration, or verification of registration information, the State Police shall electronically or in writing notify an entity listed above that has requested such notification, has complied with the requirements established by the State Police and is located in the same or a contiguous zip code area as the address of the offender as shown on the registration.

The Virginia Council for Private Education shall annually provide the State Police, in an electronic format approved by the State Police, with the location of every private school in the Commonwealth that is accredited through one of the approved accrediting agencies of the Council, and an electronic mail address for each school if available, for purposes of receiving notice under this section.

Any person may request from the State Police and, upon compliance with the requirements therefor established by the State Police, shall be eligible to receive from the State Police electronic notice of the registration, reregistration, or verification of registration information of any offender. Within three business days of receipt by the State Police of registration, reregistration, or verification of registration information, the State Police shall electronically notify a person who has requested such notification, has complied with the requirements established by the State Police and is located in the same or a contiguous zip code area as the address of the offender as shown on the registration.

The State Police shall establish reasonable guidelines governing the automatic dissemination of Registry information, which may include the payment of a fee, whether a one-time fee or a regular assessment, to maintain the electronic access. The fee, if any, shall defray the costs of establishing and maintaining the electronic notification system and notice by mail.

For the purposes of this section:

"Child-minding service" means provision of temporary custodial care or supervisory services for the minor child of another;

"Day-care service" means provision of supplementary care and protection during a part of the day for the minor child of another; and

"School" means any public, religious or private educational institution, including any preschool, elementary school, secondary school, post-secondary school, trade or professional institution, or institution of higher education.

2003, c. 584; 2005, c. 928; 2006, cc. 857, 914; 2007, cc. 119, 164; 2016, c. 424; 2020, cc. 829, 860, 861.

§ 9.1-915. Regulations.

The Superintendent of State Police shall promulgate regulations and develop forms to implement and enforce this chapter; including the operation and maintenance of the Registry and the removal of records on persons who are deceased, whose convictions have been reversed or who have been pardoned, and those for whom an order of removal or relief from frequent registration has been entered. Such regulations and forms shall not be subject to the provisions of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act.

2003, c. 584.

§ 9.1-916. Requests for Registry data by Virginia Criminal Sentencing Commission; confidentiality.

Upon request of the Virginia Criminal Sentencing Commission, the Department of State Police shall provide the Commission with Registry data in an electronic format. The Commission may use the data for research, evaluative or statistical purposes only and shall ensure the confidentiality and security of the data.

2003, c. 391.

§ 9.1-917. Limitation on liability.

No liability shall be imposed upon any law-enforcement official who disseminates information or fails to disseminate information in good faith compliance with the requirements of this chapter, but this provision shall not be construed to grant immunity for gross negligence or willful misconduct.

2003, c. 584.

§ 9.1-918. Misuse of registry or supplement information; penalty.

Use of registry information or information from the Supplement to the Registry established pursuant to § 9.1-923 for purposes not authorized by this chapter is prohibited, the unlawful use of the information contained in or derived from the Registry or Supplement for purposes of intimidating or harassing another is prohibited, and a willful violation of this chapter is a Class 1 misdemeanor. For purposes of this section, absent other aggravating circumstances, the mere republication or reasonable distribution of material contained on or derived from the publicly available Internet offender database shall not be deemed intimidation or harassment.

2003, c. 584; 2006, cc. 857, 914; 2015, cc. 594, 603; 2020, c. 829.

§ 9.1-919. Notice of penalty on forms and documents.

The Virginia Criminal Information Network and any form or document used by the Department of State Police to disseminate information from the Registry shall provide notice that any unauthorized use of the information with the intent to harass or intimidate another is a crime punishable as a Class 1 misdemeanor.

2003, c. 391.

§ 9.1-920. Liberal construction.

This chapter, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof.

2003, c. 584; 2015, c. 709.

§ 9.1-921. Exemption of information systems from provisions related to the Virginia Information Technologies Agency.

The provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 shall not apply to the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, operated by the Department of State Police or to information technology as defined in § 2.2-2006 operated by the Department of Juvenile Justice, Department of Corrections or the Virginia Compensation Board that interact, furnish, update, contain or exchange information with the Sex Offender and Crimes Against Minors Registry.

2006, cc. 857, 914.

§ 9.1-922. Use of Registry data by Statewide Automated Victim Notification (SAVIN) system; confidentiality.

Upon request of the Compensation Board, the Department of State Police shall provide the Statewide Automated Victim Notification (SAVIN) system with Registry data in an electronic format. The Board or

its contractor may use the data for verification of registrant status and notification of victims and law enforcement regarding changes in status of persons on the Registry and shall ensure the confidentiality and security of the data.

2008, cc. 76, 338.

§ 9.1-923. Supplement to the Sex Offender and Crimes Against Minors Registry established.

A. The Superintendent of State Police shall establish a Supplement to the Registry of information composed of persons who were convicted of an offense listed in subsection B on or after July 1, 1980, and before July 1, 1994, but whose names are not on the Registry. Access to the Supplement to the Registry shall be made available to the public on the website of the Department of State Police and shall contain the following information for each person: name, year of birth, the date of the conviction, the jurisdiction in which the conviction occurred, the person's age on the date of the conviction, the offense of which he was convicted, and the Code of Virginia section of the conviction.

B. Information on the following offenses where the conviction occurred on or after July 1, 1980, and before July 1, 1994, shall be listed in the Supplement: clause (i) of § 18.2-48 if the victim was a minor; clauses (ii) and (iii) of § 18.2-48; § 18.2-61; § 18.2-63 if the victim was under 13 years of age; subsection A of § 18.2-63 if the offender was more than five years older than the victim; §§ 18.2-67.1, 18.2-67.2, and 18.2-67.3; § 18.2-67.4 if the victim was a minor; subsections A and B of § 18.2-67.5; subsection C of § 18.2-67.5 if the victim was a minor; § 18.2-361 if the victim was a minor; and §§ 18.2-370, 18.2-370.1, and 18.2-374.1.

C. Persons whose names and conviction information appear on the Supplement are not subject to the registration requirements of this chapter and are not considered persons for whom registration is required unless they are required to register pursuant to other provisions of this chapter.

D. A person whose name and conviction information appear on the Supplement may, regardless of the date of conviction, petition the circuit court in which he was convicted or the circuit court where he then resides for removal of his name and conviction information from the Supplement if the offense he was convicted of would qualify for removal from the Registry under § 9.1-910. A petition may not be filed until all court ordered treatment, counseling, and restitution has been completed. The court shall obtain a copy of the petitioner's complete criminal history and then hold a hearing on the petition at which the applicant and any interested persons may present witnesses and other evidence. The Commonwealth shall be made a party to any action under this subsection. If after such a hearing, the court is satisfied that such person does not pose a risk to public safety, the court shall grant the petition. In the event the petition is not granted, the person shall wait at least 24 months from the date of denial to file a new petition for removal from the Supplement. The State Police shall remove from the Supplement the name and conviction information upon receipt of an order granting a petition pursuant to this subsection.

E. The Superintendent of State Police shall complete the Supplement to the Registry prior to January 1, 2016.

2015, cc. 594, 603.

Chapter 10 - RETIRED LAW ENFORCEMENT IDENTIFICATION

§ 9.1-1000. Retired law-enforcement officers; photo identification cards.

Upon the retirement of a law-enforcement officer, as defined in § 9.1-101, the employing department or agency shall, upon request of the retiree, issue the individual a photo identification card indicating that such individual is a retired law-enforcement officer of that department or agency. Upon request, such a card shall also be issued to any law-enforcement officer who retired before July 1, 2004.

2004, c. 419.

Chapter 11 - DEPARTMENT OF FORENSIC SCIENCE

Article 1 - GENERAL PROVISIONS

§ 9.1-1100. Department of Forensic Science created; Director.

There is hereby created in the executive branch of state government, a Department of Forensic Science (the Department), which formerly existed as a division within the Department of Criminal Justice Services. The Department shall be headed by a Director appointed by the Governor, subject to confirmation by the General Assembly if in session when such appointment is made, and if not in session, then at its next succeeding session. In making his appointment, the Governor shall choose a candidate meeting the qualifications recommended by the Forensic Science Board created pursuant to § 9.1-1109. The Director shall serve for a term of six years, or until his successor shall be appointed and qualified. Any vacancy shall be filled for the unexpired term in the same manner as the original appointment.

The Director, under the direction and control of the Governor, shall exercise the powers and perform the duties conferred or imposed upon him by law and perform such other duties required by the Governor or requested by the Forensic Science Board created pursuant to § 9.1-1109.

2005, cc. 868, 881.

§ 9.1-1100.1. Certified mail; subsequent mail or notices may be sent by regular mail.

Whenever in this chapter the Board or the Department is required to send any mail or notice by certified mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the Board or the Department may be sent by regular mail.

2011, c. 566.

§ 9.1-1101. Powers and duties of the Department.

A. It shall be the responsibility of the Department to provide forensic laboratory services upon request of the Superintendent of State Police; the Chief Medical Examiner, the Assistant Chief Medical Examiners, and local medical examiners; any attorney for the Commonwealth; any chief of police, sheriff, or sergeant responsible for law enforcement in the jurisdiction served by him; any local fire department; the head of any private police department that has been designated as a criminal justice agency by

the Department of Criminal Justice Services as defined by § 9.1-101; or any state agency in any criminal matter. The Department shall provide such services to any federal investigatory agency within available resources.

B. The Department shall:

1. Provide forensic laboratory services to all law-enforcement agencies throughout the Commonwealth and provide laboratory services, research, and scientific investigations for agencies of the Commonwealth as needed;

2. Establish and maintain a DNA testing program in accordance with Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 to determine identification characteristics specific to an individual; and

3. Test the accuracy of equipment used to test the blood alcohol content of breath at least once every six months. Only equipment found to be accurate shall be used to test the blood alcohol content of breath.

C. The Department shall have the power and duty to:

1. Receive, administer, and expend all funds and other assistance available for carrying out the purposes of this chapter;

2. 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; and

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

D. The Director may appoint and employ a deputy director and such other personnel as are needed to carry out the duties and responsibilities conferred by this chapter.

2005, cc. 868, 881; 2006, cc. 327, 551; 2009, Sp. Sess. I, cc. 1, 4; 2011, c. 638.

§ 9.1-1101.1. Purchase of forensic laboratory services.

A. Notwithstanding any other provision of law, the Department may make and enter into contracts or agreements for forensic laboratory services with any laboratory located in the Commonwealth that is operated by an institution of higher education located in the Commonwealth or a corporate entity that is wholly owned by an institution of higher education located in the Commonwealth, which institution offers a program leading to the Doctor of Pharmacy degree and is accredited by the Accreditation Council for Pharmacy Education and the Southern Association of Colleges and Schools. No such contract or agreement for forensic laboratory services shall be made or entered into with any other laboratory, except as provided in subsection B.

B. The Department may request, and the Director of the Division of Purchases and Supply of the Department of General Services may grant, an exemption from the provisions of subsection A if (i) a

laboratory described in subsection A does not meet the reasonable requirements of the Department; (ii) a laboratory described in subsection A cannot provide the forensic laboratory services required by the Department; (iii) forensic laboratory services identical to those provided by the laboratory described in subsection A can be obtained at a cost that is at least 10 percent less than the cost of obtaining such forensic laboratory services from the laboratory described in subsection A, as evidenced by a verified request for pricing; or (iv) in cases in which the Department has issued a Request for Proposals, a proposal submitted by a laboratory other than a laboratory described in subsection A has received a ranking that is at least 10 percent higher than the ranking of any laboratory described in subsection A. In any case in which an exemption is granted pursuant to this subsection, the Director of the Division of Purchases and Supply of the Department of General Services shall submit a written justification for the exception to the Directors of the Department of Forensic Science and the Department of General Services.

2019, cc. 478, 479.

§ 9.1-1101.2. Possession or transfer of unlawful items by Department employees while engaged in the performance of official duties.

Whenever the possession or transfer of any item or material is prohibited by law, such prohibition shall not apply to any Department employee who possesses or transfers such prohibited item or material while engaged in the performance of his official duties.

2019, c. 507.

§ 9.1-1102. Department to be isolated; security and protection of evidence.

A. The Department and its facilities shall be located so as to ensure the protection of evidence.

B. The Department shall provide for security and protection of evidence, official samples, and all other samples submitted to the Department for analysis or examination.

C. The Department shall ensure that its services are performed by skilled professionals who are qualified to testify in court regarding such services.

2005, cc. 868, 881.

§ 9.1-1103. Forensic Science Academy.

The Forensic Science Academy, formerly within the Division of Forensic Science, shall be transferred to the Department, and shall provide advanced training to law-enforcement agencies in the location, collection, and preservation of evidence.

2005, cc. 868, 881.

§ 9.1-1104. Rights of accused person or his attorney to results of investigation or to investigation.

Upon the request of any person accused of a crime or upon the request of an accused person's attorney, the Department or the Division of Consolidated Laboratory Services shall furnish to the accused or his attorney the results of any investigation that has been conducted by it and that is related in any way to a crime for which the person is accused. In any case in which an attorney of record for a person

accused of violation of any criminal law of the Commonwealth, or the accused, may desire a scientific investigation, he shall, by motion filed before the court in which the charge is pending, certify that in good faith he believes that a scientific investigation may be relevant to the criminal charge. The motion shall be heard ex parte as soon as practicable, and the court shall, after a hearing upon the motion and being satisfied as to the correctness of the certification, order that the same be performed by the Department or the Division of Consolidated Laboratory Services and shall prescribe in its order the method of custody, transfer, and return of evidence submitted for scientific investigation. Upon the request of the attorney for the Commonwealth of the jurisdiction in which the charge is pending, he shall be furnished the results of the scientific investigation.

2005, cc. 868, 881.

§ 9.1-1105. Reexamination by independent experts.

Independent experts employed by (i) an attorney of record for a person accused of violation of any criminal law of the Commonwealth or (ii) the accused, for the purpose of reexamination of materials previously examined in any laboratory of the Department, shall conduct their analyses or examinations independently of the facilities, equipment, or supplies of the Department.

2005, cc. 868, 881.

§ 9.1-1106. Disposal of certain hazardous materials.

Any material that is seized in any criminal investigation and that is deemed to be hazardous to health and safety, may be disposed of upon written application of the Department to the attorney for the Commonwealth in the city or county where the material is seized or where any criminal prosecution in which the material is proposed to be evidence is pending. Upon receipt thereof, the attorney for the Commonwealth shall file the application in the circuit court of such county or city. A sworn analysis report signed by a person designated by the Director of the Department shall accompany the application for disposal and shall clearly identify and designate the material to be disposed of. The application shall state the nature of the hazardous materials, the quantity thereof, the location where seized, the person from whom the materials were seized, and the manner whereby the materials shall be destroyed.

When the ownership of the hazardous material is known, notice shall be given to the owner at least three days prior to any hearing relating to the destruction, and, if any criminal charge is pending in any court as a result of the seizure, the notice shall be given to the accused if other than the owner.

Upon receipt of the analysis report and the application, the court may order the destruction of all, or a part of, the material. However, a sufficient and representative quantity of the material shall be retained to permit an independent analysis when a criminal prosecution may result from the seizure. A return under oath, reporting the time, place, and manner of destruction, shall be made to the courts. Copies of the analysis report, application, order, and return shall be made a part of the record of any criminal prosecution. The sworn analysis report shall be admissible as evidence to the same extent as the disposed-of material would have been admissible.

2005, cc. 868, 881.

§ 9.1-1107. Disposal of certain other property after analysis.

Personal property, including drugs, not disposed of under § 9.1-1106, that has been submitted to the Department for analysis or examination and that has not been reclaimed by the agency submitting the property for analysis or examination, may be disposed of by the Department in accordance with this section if, after the expiration of 120 days after the receipt by the Department of the property, the Director notifies the circuit court of the county or city from which the property was taken, in writing, that the analysis or examination has been completed, and a report submitted to the agency that the property has not been reclaimed by the agency submitting it and that the Department proposes to dispose of the property. The notice shall state the nature of the property, the quantity thereof, the location where seized, the name of the accused, if known, and the proposed method of disposing of the property.

When the ownership of the property is known, a copy of the notice shall be sent simultaneously with the notice to the court to the owner, or, if any criminal charge is pending in any court relating to the property, the copy shall be sent to the accused at his last known address. Notice shall be by certified mail. The court, within 30 days after receipt of the notice, may direct that the property be disposed of by the Department, by an alternative method designed to preserve the property, at the expense of the agency submitting the property to the Department. If the court does not so direct within the 30-day period, then the Department may dispose of the property by the method set out in the notice. Copies of the analysis report and notice shall be made a part of the record of any criminal prosecution. The report, if sworn to, shall be admissible as evidence to the same extent as the disposed-of property would have been admissible.

2005, cc. 868, 881.

§ 9.1-1108. Disposal of property held by Department for more than 15 years.

Notwithstanding the provisions of §§ 9.1-1106 and 9.1-1107, the Department may file an application in the Circuit Court of the City of Richmond seeking an order authorizing the disposal of all personal property, including drugs, received by the Department more than 15 years prior to the filing of the application. The application, under oath, shall list each item of property, the date of submission to the Department, the agency or individual submitting the property, any previous court orders entered regarding the storage of the property, and the proposed method of disposal. The application shall also state that written notice by first-class mail was given to each agency or individual submitting property listed at least 30 days prior to the application, and that no agency or individual objected to the disposal. A return, under oath, reporting the time, place, and manner of disposal, shall be made to the court.

2005, cc. 868, 881.

Article 2 - FORENSIC SCIENCE BOARD

§ 9.1-1109. Forensic Science Board; membership.

A. The Forensic Science Board (the Board) is established as a policy board within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall consist of 15 members as follows:

1. The Superintendent of the State Police or his designee;

2. The Director of the Department of Criminal Justice Services or his designee;

3. The Chief Medical Examiner or his designee;

4. The Executive Director of the Virginia Board of Pharmacy or his designee;

5. The Attorney General, or his designee;

6. The Executive Secretary of the Supreme Court of Virginia or his designee;

7. The Chairman of the Virginia State Crime Commission or his designee;

8. The Director of the Virginia Division of Consolidated Laboratory Services or his designee;

9. The Chairman of the Senate Committee for Courts of Justice or his designee;

10. The Chairman of the House Committee for Courts of Justice or his designee;

11. Two members of the Scientific Advisory Committee, chosen by the chairman of that committee; and

12. Three members, appointed by the Governor, from among the citizens of the Commonwealth as follows:

a. A member of law enforcement;

b. A member of the Virginia Commonwealth's Attorneys Association; and

c. A member who is a criminal defense attorney having specialized knowledge in the area of forensic sciences.

B. The legislative members shall serve for terms coincident with their terms of office. The members appointed by the Governor shall serve for terms of four years, provided that no member shall serve beyond the time when he holds the office or employment by reason of which he was initially eligible for appointment. Any vacancy on the Board shall be filled in the same manner as the original appointment, but for the unexpired term.

C. Notwithstanding any provision of any statute, ordinance, local law, or charter provision to the contrary, membership on the Board shall not disqualify any member from holding any other public office or employment, or cause the forfeiture thereof.

D. The Board shall elect its chairman and vice-chairman. A majority of the members shall constitute a quorum. Members shall be paid reasonable and necessary expenses incurred in the performance of their duties. Legislative members shall receive compensation as provided in § 30-19.12 and non-

legislative citizen members shall receive compensation for their services as provided in §§ 2.2-2813 and 2.2-2825.

E. The Board shall hold no less than four regular meetings a year. Subject to the requirements of this subsection, the chairman of the Board shall fix the times and places of meetings, either on his own motion or upon written request of any five members of the Board.

2005, cc. 868, 881; 2009, c. 323; 2016, c. 199.

§ 9.1-1110. Functions of Forensic Science Board.

A. The Board 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 (i) this chapter or (ii) §§ 18.2-268.6, 18.2-268.9, 19.2-188.1, and 19.2-310.5 and for any provisions of the Code as they relate to the responsibilities of the Department. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information or DNA identification shall be submitted for review and comment to any board, commission, or committee or other body that 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. Develop and establish program and fiscal standards and goals governing the operations of the Department;

3. Ensure the development of long-range programs and plans for the incorporation of new technologies as they become available;

4. Review and comment on all budgets and requests for appropriations for the Department prior to their submission to the Governor and on all applications for federal funds;

5. Monitor the activities of the Department and its effectiveness in implementing the standards and goals of the Board;

6. Advise the Governor, Director, and General Assembly on matters relating to the Department and forensic science in general;

7. Review, amend, and approve recommendations of the Scientific Advisory Committee;

8. Monitor the receipt, administration, and expenditure of all funds and other assistance available for carrying out the purposes of this chapter;

9. Approve Department applications for grants from the United States government or any other source in carrying out the purposes of this chapter and approve of acceptance of 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. With regard to any grants of money from a governmental or public agency, the Board may delegate or assign the duties under this subdivision to the chairman of the Board who may, with the concurrence of the vice-

chairman and in consultation with the Director, make such determinations. Any grants or donations received pursuant to this section shall be detailed in the annual report of the Board. The 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;

10. Monitor all contracts and agreements necessary or incidental to the performance of the duties of the Department 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; and

11. Recommend actions to foster and promote coordination and cooperation between the Department and the user programs that are served.

B. By November 1 of each year, the Board shall review and make recommendations to the Chairmen of the House Committee on Appropriations, the Senate Committee on Finance, and the Crime Commission concerning:

1. New major programs and plans for the activities of the Department and elimination of programs no longer needed;

2. Policy and priorities in response to agency needs;

3. General fiscal year operational budget and any major changes in appropriated funds;

4. Actions to foster and promote coordination and cooperation between the Department and the user programs which are served;

5. Rules and regulations necessary to carry out the purposes and intent of this chapter; and

6. Any recommendations submitted to the Board or the Director by the Scientific Advisory Committee.

2005, cc. 868, 881; 2006, cc. 327, 551.

§ 9.1-1111. Scientific Advisory Committee; membership.

The Scientific Advisory Committee is hereby established as an advisory board within the meaning of § 2.2-2100, in the executive branch of state government. The Scientific Advisory Committee (the Committee) shall consist of 13 members, consisting of the Director of the Department, and 12 members appointed by the Governor as follows: a director of a private or federal forensic laboratory located in the Commonwealth; a forensic scientist or any other person, with an advanced degree, who has received substantial education, training, or experience in the subject of laboratory standards or quality assurance regulation and monitoring; a forensic scientist with an advanced degree who has received substantial education, training, or experience in the discipline of molecular biology; a forensic scientist with an advanced degree and having experience in the discipline of population genetics; a scientist with an advanced degree and having experience in the discipline of forensic chemistry; a scientist with an advanced degree and having experience in the discipline of forensic biology; a forensic

scientist or any other person, with an advanced degree who has received substantial education, training, or experience in the discipline of trace evidence; a scientist with a doctoral degree and having experience in the discipline of forensic toxicology, who is certified by the American Board of Forensic Toxicologists; a member of the Board of the International Association for Identification when initially appointed; a member of the Board of the Association of Firearms and Toolmark Examiners when initially appointed; a member of the International Association for Chemical Testing; and a member of the American Society of Crime Laboratory Directors.

Members of the Committee initially appointed shall serve the following terms: four members shall serve a term of one year, four members shall serve a term of two years, and four members shall serve a term of four years. Thereafter, all appointments shall be for a term of four years. A vacancy other than by expiration of term shall be filled by the Governor for the unexpired term.

Members of the Committee shall be paid reasonable and necessary expenses incurred in the performance of their duties, and shall receive compensation for their services as provided in §§ 2.2-2813 and 2.2-2825.

2005, cc. 868, 881; 2014, cc. 102, 253.

§ 9.1-1112. Meetings and chairman.

The Committee shall meet twice a year in the City of Richmond and at such other times and places as it determines or as directed by the Governor or the Forensic Science Board. A chairman shall be elected from among the members appointed by the Governor. Staff to the Committee shall be provided by the Department of Forensic Science.

2005, cc. 868, 881.

§ 9.1-1113. Functions of the Scientific Advisory Committee.

A. The Committee may review laboratory operations of the Department and make recommendations concerning the quality and timeliness of services furnished to user agencies.

B. The Committee shall review and make recommendations as necessary to the Director of the Department and the Forensic Science Board concerning:

1. New scientific programs, protocols, and methods of testing;

2. Plans for the implementation of new programs, sustaining existing programs and improving upon them where possible, and the elimination of programs no longer needed;

3. Protocols for testing and examination methods, and guidelines for the presentation of results in court; and

4. Qualification standards for the various scientists of the Department, including the Director.

C. Upon request of the Director of the Department, the Forensic Science Board, or the Governor, the Committee shall review analytical work, reports, and conclusions of scientists employed by the Department. The Committee shall recommend to the Forensic Science Board a review process for the

Department to use in instances where there has been an allegation of misidentification or other testing error made by the Department during its examination of evidence.

2005, cc. 868, 881.

Chapter 12 - STATEWIDE COMMUNICATIONS INTEROPERABILITY [Repealed]

§ 9.1-1200. Repealed.

Repealed by Acts 2011, cc, 780 and 858, cl. 2, effective April 6, 2011.

Chapter 13 - DOMESTIC AND SEXUAL ASSAULT POLICIES

§ 9.1-1300. Domestic violence policies and procedures for law-enforcement agencies in the Commonwealth.

The Virginia Department of State Police and the police and sheriff's departments of every political subdivision in the Commonwealth shall establish an arrest policy and procedures for domestic violence and family abuse cases. Any local police or sheriff's department is authorized to adopt an arrest policy that prescribes additional requirements under this section. Any policies and procedures established under this section shall at a minimum provide guidance to law-enforcement officers on the following:

1. The department's arrest policy;

2. The standards for determining who is the predominant physical aggressor pursuant to § 19.2-81.3;

3. The standards for completion of a required incident report to be filed with the department including the existence of any special circumstances which would dictate a course of action other than arrest;

4. The department's policy on providing transportation to an allegedly abused person;

5. The legal and community resources available to allegedly abused persons in the department's jurisdiction;

6. The department's policy on domestic violence incidents involving law-enforcement officers; and

7. The department's policy on the handling of cases involving repeat offenders of family abuse or domestic violence.

2008, cc. 600, 771.

§ 9.1-1301. Sexual assault policies for law-enforcement agencies in the Commonwealth; memoranda of understanding with institutions of higher education.

A. The Virginia Department of State Police and the police and sheriff's departments of every political subdivision in the Commonwealth and every campus police department shall establish written policies and procedures regarding a law-enforcement officer's response to an alleged criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2. Such policies shall, at a minimum, provide guidance as to the department's policy on (i) training; (ii) compliance with §§ 19.2-9.1 and 19.2-165.1; (iii) transportation of alleged sexual assault victims; and (iv) the provision of information on legal and community resources available to alleged victims of sexual assault.

B. The primary law-enforcement agency of each locality that contains a public institution of higher education or nonprofit private institution of higher education shall cooperate in establishing a written memorandum of understanding with any such institution of higher education, if requested, to address the prevention of and response to criminal sexual assault as set forth in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2.

2008, cc. 600, 771; 2016, c. 481.