

HOUSE BILL NO. 1545

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Taylor)

A BILL to amend and reenact § 19.2-13 of the Code of Virginia, relating to special conservators of the peace; Dinwiddie Airport and Industrial Authority.

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

**1. That § 19.2-13 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-13. Special conservators of the peace; authority; jurisdiction; registration; liability of employers; penalty; report.**

A. Upon the submission of an application, which shall include the results of the background investigation conducted pursuant to subsection C, from (i) any sheriff or chief of police of any county, city, or town; (ii) any corporation authorized to do business in the Commonwealth; (iii) the owner, proprietor, or authorized custodian of any place within the Commonwealth; or (iv) any museum owned and managed by the Commonwealth, a circuit court judge of any county or city shall appoint special conservators of the peace who shall serve as such for such length of time as the court may designate, but not exceeding four years under any one appointment, during which time the court shall retain jurisdiction over the appointment order, upon a showing by the applicant of a necessity for the security of property or the peace and presentation of evidence that the person or persons to be appointed as a special conservator of the peace possess a valid registration issued by the Department of Criminal Justice Services in accordance with the provisions of subsection C. Upon an application made pursuant to clause (ii), (iii), or (iv), the court shall, prior to entering the order of appointment, transmit a copy of the application to the local attorney for the Commonwealth and the local sheriff or chief of police who may submit to the court a sworn, written statement indicating whether the order of appointment should be granted. However, a judge may deny the appointment for good cause, and shall state the specific reasons for the denial in

27 writing in the order denying the appointment. A judge also may revoke the appointment order for good  
28 cause shown, upon the filing of a sworn petition by the attorney for the Commonwealth, sheriff, or chief  
29 of police for any locality in which the special conservator of the peace is authorized to serve or by the  
30 Department of Criminal Justice Services. Prior to revocation, a hearing shall be set and the special  
31 conservator of the peace shall be given notice and the opportunity to be heard. The judge may temporarily  
32 suspend the appointment pending the hearing for good cause shown. A hearing on the petition shall be  
33 heard by the court as soon as practicable. If the appointment order is suspended or revoked, the clerk of  
34 court shall notify the Department of Criminal Justice Services, the Department of State Police, the  
35 applicable local law-enforcement agencies in all cities and counties where the special conservator of the  
36 peace is authorized to serve, and the employer of the special conservator of the peace.

37         The order of appointment shall provide that a special conservator of the peace may perform only  
38 the duties for which he is qualified by training as established by the Criminal Justice Services Board. The  
39 order of appointment shall provide that such duties shall be exercised only within geographical limitations  
40 specified by the court, which shall be within the confines of the county, city or town that makes application  
41 or on the real property where the corporate applicant is located, or any real property contiguous to such  
42 real property, limited, except as provided in subsection F, to the city or county wherein application has  
43 been made, and only when such special conservator of the peace is engaged in the performance of his  
44 duties as such; however, a court may, in its discretion, specify in the order of appointment additional  
45 jurisdictions in which a special conservator of the peace employed by the Shenandoah Valley Regional  
46 Airport Commission or the Richmond Metropolitan Transportation Authority may exercise his duties. The  
47 order may provide that the special conservator of the peace shall have the authority to make an arrest  
48 outside of such geographical limitations if the arrest results from a close pursuit that was initiated when  
49 the special conservator of the peace was within the confines of the area wherein he has been authorized to  
50 have the powers and authority of a special conservator of the peace; the order shall further delineate a  
51 geographical limitation or distance beyond which the special conservator of the peace may not effectuate  
52 such an arrest that follows from a close pursuit. The order shall require the special conservator of the peace  
53 to comply with the provisions of the United States Constitution and the Constitution of Virginia. The order

54 shall not identify the special conservator of the peace as a law-enforcement officer pursuant to § 9.1-101.  
55 The order may provide, however, that the special conservator of the peace is a "law-enforcement officer"  
56 for the purposes of Article 4 (§ 37.2-808 et seq.) of Chapter 8 of Title 37.2 or Article 16 (§ 16.1-335 et  
57 seq.) of Chapter 11 of Title 16.1, but such designation shall not qualify the special conservator of the peace  
58 as a "qualified law-enforcement officer" or "qualified retired law-enforcement officer" within the meaning  
59 of the federal Law Enforcement Officer Safety Act, 18 U.S.C. § 926(B) et seq., and the order of  
60 appointment shall specifically state this. The order may also provide that a special conservator of the peace  
61 who has completed the minimum training standards established by the Criminal Justice Services Board,  
62 has the authority to affect arrests, using up to the same amount of force as would be allowed to a law-  
63 enforcement officer employed by the Commonwealth or any of its political subdivisions when making a  
64 lawful arrest. The order shall prohibit blue flashing lights, but upon request and for good cause shown  
65 may provide that the special conservator of the peace may use flashing lights and sirens on any vehicle  
66 used by the special conservator of the peace when he is in the performance of his duties. Prior to granting  
67 an application for appointment, the circuit court shall ensure that the applicant has met the registration  
68 requirements established by the Criminal Justice Services Board.

69 B. All applications and orders for appointments of special conservators of the peace shall be  
70 submitted on forms developed by the Office of the Executive Secretary of the Supreme Court of Virginia  
71 in consultation with the Department of Criminal Justice Services and shall specify the duties for which  
72 the applicant is qualified. The applications and orders shall specify the geographic limitations consistent  
73 with subsection A.

74 C. No person shall seek appointment as a special conservator of the peace from a circuit court  
75 judge without possessing a valid registration issued by the Department of Criminal Justice Services, except  
76 as provided in this section. Applicants for registration may submit an application on or after January 1,  
77 2004. A temporary registration may be issued in accordance with regulations established by the Criminal  
78 Justice Services Board while awaiting the results of a state and national fingerprint search. However, no  
79 person shall be issued a valid registration or temporary registration until he has (i) complied with, or been  
80 exempted from the compulsory minimum training standards as set forth in this section; (ii) submitted his

81 fingerprints on a form provided by the Department to be used for the conduct of a national criminal records  
82 search and a Virginia criminal history records search; (iii) submitted the results of a background  
83 investigation, performed by any state or local law-enforcement agency, which may, at its discretion,  
84 charge a reasonable fee to the applicant and which shall include a review of the applicant's criminal history  
85 records and may include a review of the applicant's school records, employment records, or interviews  
86 with persons possessing general knowledge of the applicant's character and fitness for such appointment;  
87 and (iv) met all other requirements of this article and Board regulations. No person with a criminal  
88 conviction for a misdemeanor involving (a) moral turpitude, (b) assault and battery, (c) damage to real or  
89 personal property, (d) controlled substances or imitation controlled substances as defined in Article 1 (§  
90 18.2-247 et seq.) of Chapter 7 of Title 18.2, (e) prohibited sexual behavior as described in Article 7 (§  
91 18.2-61 et seq.) of Chapter 4 of Title 18.2, or (f) firearms, or any felony, or who is required to register  
92 with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of  
93 Title 9.1, or who is prohibited from possessing, transporting, or purchasing a firearm shall be eligible for  
94 registration or appointment as a special conservator of the peace. A special conservator of the peace shall  
95 report if he is arrested for, charged with, or convicted of any misdemeanor or felony offense or becomes  
96 ineligible for registration or appointment as a special conservator of the peace pursuant to this subsection  
97 to the Department of Criminal Justice Services and the chief law-enforcement officer of all localities in  
98 which he is authorized to serve within three days of such arrest or of becoming ineligible for registration  
99 or appointment as a special conservator of the peace. Any appointment for a special conservator of the  
100 peace shall be eligible for suspension and revocation after a hearing pursuant to subsection A if the special  
101 conservator of the peace is convicted of any offense listed in this subsection or becomes ineligible for  
102 registration or appointment as a special conservator of the peace pursuant to this subsection. All  
103 appointments for special conservators of the peace shall become void on September 15, 2004, unless they  
104 have obtained a valid registration issued by the Department of Criminal Justice Services.

105 D. Each person registered as or seeking registration as a special conservator of the peace shall be  
106 covered by evidence of a policy of (i) personal injury liability insurance, as defined in § 38.2-117; (ii)  
107 property damage liability insurance, as defined in § 38.2-118; and (iii) miscellaneous casualty insurance,

108 as defined in subsection B of § 38.2-111, which includes professional liability insurance that provides  
109 coverage for any activity within the scope of the duties of a special conservator of the peace as set forth  
110 in this section, in an amount and with coverage for each as fixed by the Board, or self-insurance in an  
111 amount and with coverage as fixed by the Board. Any person who is aggrieved by the misconduct of any  
112 person registered as a special conservator of the peace and recovers a judgment against the registrant,  
113 which is unsatisfied in whole or in part, may bring an action in his own name against the insurance policy  
114 of the registrant.

115 E. Effective July 1, 2015, all persons currently appointed or seeking appointment or reappointment  
116 as a special conservator of the peace are required to register with the Department of Criminal Justice  
117 Services, regardless of any other standing the person may have as a law-enforcement officer or other  
118 position requiring registration or licensure by the Department. The employer of any special conservator  
119 of the peace shall notify the circuit court, the Department of Criminal Justice Services, the Department of  
120 State Police, and the chief law-enforcement officer of all localities in which the special conservator of the  
121 peace is authorized to serve within 30 days after the date such individual has left employment and all  
122 powers of the special conservator of the peace shall be void. Failure to provide such notification shall be  
123 punishable by a fine of \$250 plus an additional \$50 per day for each day such notice is not provided.

124 F. When the application is made by any sheriff or chief of police, the circuit court shall specify in  
125 the order of appointment the name of the applicant authorized under subsection A and the geographic  
126 jurisdiction of the special conservator of the peace. Such appointments shall be limited to the city or county  
127 wherein application has been made. When the application is made by any corporation authorized to do  
128 business in the Commonwealth, any owner, proprietor, or authorized custodian of any place within the  
129 Commonwealth, or any museum owned and managed by the Commonwealth, the circuit court shall  
130 specify in the order of appointment the name of the applicant authorized under subsection A and the  
131 specific real property where the special conservator of the peace is authorized to serve. Such appointments  
132 shall be limited to the specific real property within the county, city, or town wherein application has been  
133 made. In the case of a corporation or other business, the court appointment may also include, for good  
134 cause shown, any real property owned or leased by the corporation or business, including any subsidiaries,

135 in other specifically named cities and counties, but shall provide that the powers of the special conservator  
136 of the peace do not extend beyond the boundaries of such real property. The clerk of the appointing circuit  
137 court shall transmit to the Department of State Police, the clerk of the circuit court of each locality where  
138 the special conservator of the peace is authorized to serve, and the sheriff or chief of police of each such  
139 locality a copy of the order of appointment that shall specify the following information: the person's  
140 complete name, address, date of birth, social security number, gender, race, height, weight, color of hair,  
141 color of eyes, firearm authority or limitation as set forth in subsection G, date of the order, and other  
142 information as may be required by the Department of State Police. The Department of State Police shall  
143 enter the person's name and other information into the Virginia Criminal Information Network established  
144 and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. The Department of  
145 State Police may charge a fee not to exceed \$10 to cover its costs associated with processing these orders.  
146 Each special conservator of the peace so appointed on application shall present his credentials to the chief  
147 of police or sheriff or his designee of all jurisdictions where he has conservator powers. If his powers are  
148 limited to certain areas of real property owned or leased by a corporation or business, he shall also provide  
149 notice of the exact physical addresses of those areas. Each special conservator shall provide to the circuit  
150 court a temporary registration letter issued by the Department of Criminal Justice Services to include the  
151 results of the background check prior to seeking an appointment by the circuit court. Once the applicant  
152 receives the appointment from the circuit court the applicant shall file the appointment order and a copy  
153 of the application with the Department of Criminal Justice Services in order to receive his special  
154 conservator of the peace registration document. If the court appointment includes any real property owned  
155 or leased by the corporation or business in other specifically named cities and counties not within the city  
156 or county wherein application has been made, the clerk of the appointing court shall transmit a copy of  
157 the order of appointment to (i) the clerk of the circuit court for each jurisdiction where the special  
158 conservator of the peace is authorized to serve and (ii) the sheriff or chief of police of each jurisdiction  
159 where the special conservator of the peace is authorized to serve.

160 If any such special conservator of the peace is the employee, agent or servant of another, his  
161 appointment as special conservator of the peace shall not relieve his employer, principal or master from

162 civil liability to another arising out of any wrongful action or conduct committed by such special  
163 conservator of the peace while within the scope of his employment.

164 Effective July 1, 2002, no person employed by a local school board as a school security officer, as  
165 defined in § 9.1-101, shall be eligible for appointment as a conservator for purposes of maintaining safety  
166 in a public school in the Commonwealth. All appointments of special conservators of the peace granted  
167 to school security officers as defined in § 9.1-101 prior to July 1, 2002 are void.

168 G. The court may limit or prohibit the carrying of weapons by any special conservator of the peace  
169 initially appointed on or after July 1, 1996, while the appointee is within the scope of his employment as  
170 such.

171 H. The governing body of any locality or the sheriff of a county where no police department has  
172 been established may enter into mutual aid agreements with any entity employing special conservators of  
173 the peace that is located in such locality for the use of their joint forces and their equipment and materials  
174 to maintain peace and good order. Any law-enforcement officer or special conservator of the peace, while  
175 performing his duty under any such agreement, shall have the same authority as lawfully conferred on him  
176 within his own jurisdiction.

177 I. No special conservator of the peace shall display or use the word "police" on any uniform, badge,  
178 credential, or vehicle in the performance of his duties as a special conservator of the peace. Other than  
179 special conservators of the peace employed by a state agency, no special conservator of the peace shall  
180 use the seal of the Commonwealth on any uniform, badge, credential, or vehicle in the performance of his  
181 duties. However, upon request and for good cause shown, the order of appointment may provide that a  
182 special conservator of the peace who (i) meets all requirements, including the minimum compulsory  
183 training requirements, for law-enforcement officers set forth in Chapter 1 (§ 9.1-100 et seq.) of Title 9.1  
184 and (ii) is employed by the Shenandoah Valley Regional Airport Commission~~or~~, the Richmond  
185 Metropolitan Transportation Authority, or the Dinwiddie Airport and Industrial Authority may use the  
186 word "police" on any badge, uniform, or vehicle in the performance of his duties or the seal of the  
187 Commonwealth on any badge or credential in the performance of his duties.

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