

HOUSE BILL NO. 1452

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations

on February 20, 2023)

(Patron Prior to Substitute--Delegate Orrock)

A BILL to amend and reenact § 9.1-101, as it is currently effective and as it may become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-320.1, relating to appointment of sworn unit investigators to Medicaid Fraud Control Unit.

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-101, as it is currently effective and as it may become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-320.1 as follows:

§ 9.1-101. (For contingent expiration date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)

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.

27 "Criminal history record information" means records and data collected by criminal justice
28 agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions,
29 indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall
30 not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title
31 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional
32 status information.

33 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof
34 which as its principal function performs the administration of criminal justice and any other agency or
35 subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the
36 purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within
37 the context of its criminal justice activities, employs special conservators of the peace appointed under
38 Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires
39 its officers or special conservators to meet compulsory training standards established by the Criminal
40 Justice Services Board and submits reports of compliance with the training standards and (b) the private
41 corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent
42 that the private corporation or agency so designated as a criminal justice agency performs criminal justice
43 activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted
44 under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually
45 Violent Predators Act (§ 37.2-900 et seq.).

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

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

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

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

51 "Criminal justice information system" means a system including the equipment, facilities,
52 procedures, agreements, and organizations thereof, for the collection, processing, preservation, or

53 dissemination of criminal history record information. The operations of the system may be performed
54 manually or by using electronic computers or other automated data processing equipment.

55 "Department" means the Department of Criminal Justice Services.

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

59 "Law-enforcement officer" means any full-time or part-time employee of a police department or
60 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
61 thereof, or any full-time or part-time employee of a private police department, and who is responsible for
62 the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
63 Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control
64 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine
65 Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of
66 the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of
67 the Virginia Lottery; (vi) conservation officer of the Department of Conservation and Recreation
68 commissioned pursuant to § 10.1-115; (vii) full-time sworn member of the enforcement division of the
69 Department of Motor Vehicles appointed pursuant to § 46.2-217; (viii) animal protection police officer
70 employed under § 15.2-632 or 15.2-836.1; (ix) campus police officer appointed under Article 3 (§ 23.1-
71 809 et seq.) of Chapter 8 of Title 23.1; (x) member of the investigations unit designated by the State
72 Inspector General pursuant to § 2.2-311 to investigate allegations of criminal behavior affecting the
73 operations of a state or nonstate agency; (xi) employee with internal investigations authority designated
74 by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 or by the Department of Juvenile
75 Justice pursuant to subdivision A 7 of § 66-3; ~~or~~ (xii) private police officer employed by a private police
76 department; or (xiii) person designated as a sworn unit investigator by the Attorney General pursuant to
77 subsection A of § 32.1-320.1. Part-time employees are those compensated officers who are not full-time
78 employees as defined by the employing police department, sheriff's office, or private police department.

79 "Private police department" means any police department, other than a department that employs
80 police agents under the provisions of § 56-353, that employs private police officers operated by an entity
81 authorized by statute or an act of assembly to establish a private police department or such entity's
82 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
83 to operate a private police department or represent that it is a private police department unless such entity
84 has been authorized by statute or an act of assembly or such entity is the successor in interest of an entity
85 that has been authorized pursuant to this section, provided it complies with the requirements set forth
86 herein. The authority of a private police department shall be limited to real property owned, leased, or
87 controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous property;
88 such authority shall not supersede the authority, duties, or jurisdiction vested by law with the local police
89 department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or
90 sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding
91 with the private police department that addresses the duties and responsibilities of the private police
92 department and the chief law-enforcement officer in the conduct of criminal investigations. Private police
93 departments and private police officers shall be subject to and comply with the Constitution of the United
94 States; the Constitution of Virginia; the laws governing municipal police departments, including the
95 provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-
96 1722; and any regulations adopted by the Board that the Department designates as applicable to private
97 police departments. Any person employed as a private police officer pursuant to this section shall meet all
98 requirements, including the minimum compulsory training requirements, for law-enforcement officers
99 pursuant to this chapter. A private police officer is not entitled to benefits under the Line of Duty Act (§
100 9.1-400 et seq.) or under the Virginia Retirement System, is not a "qualified law enforcement officer" or
101 "qualified retired law enforcement officer" within the meaning of the federal Law Enforcement Officers
102 Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed an employee of the Commonwealth or any
103 locality. An authorized private police department may use the word "police" to describe its sworn officers
104 and may join a regional criminal justice academy created pursuant to Article 5 (§ 15.2-1747 et seq.) of
105 Chapter 17 of Title 15.2. Any private police department in existence on January 1, 2013, that was not

106 otherwise established by statute or an act of assembly and whose status as a private police department was
107 recognized by the Department at that time is hereby validated and may continue to operate as a private
108 police department as may such entity's successor in interest, provided it complies with the requirements
109 set forth herein.

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

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

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

124 **§ 9.1-101. (For contingent effective date, see Acts 2021, Sp. Sess. I, cc. 524 and 542)**

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150 its officers or special conservators to meet compulsory training standards established by the Criminal
151 Justice Services Board and submits reports of compliance with the training standards and (b) the private
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156 Violent Predators Act (§ 37.2-900 et seq.).

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169 agency maintaining the information who have both a need and right to know the information.

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171 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision
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173 the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the
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175 Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine
176 Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of
177 the Department of Wildlife Resources; (v) investigator who is a sworn member of the security division of
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193 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized
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200 department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The chief of police or
201 sheriff who is the chief local law-enforcement officer shall enter into a memorandum of understanding
202 with the private police department that addresses the duties and responsibilities of the private police
203 department and the chief law-enforcement officer in the conduct of criminal investigations. Private police
204 departments and private police officers shall be subject to and comply with the Constitution of the United
205 States; the Constitution of Virginia; the laws governing municipal police departments, including the
206 provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721, 15.2-1721.1, and 15.2-
207 1722; and any regulations adopted by the Board that the Department designates as applicable to private
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224 "School security officer" means an individual who is employed by the local school board or a
225 private or religious school for the singular purpose of maintaining order and discipline, preventing crime,
226 investigating violations of the policies of the school board or the private or religious school, and detaining
227 students violating the law or the policies of the school board or the private or religious school on school
228 property, school buses, or at school-sponsored events and who is responsible solely for ensuring the safety,
229 security, and welfare of all students, faculty, staff, and visitors in the assigned school.

230 "Sealing" means (i) restricting dissemination of criminal history record information contained in
231 the Central Criminal Records Exchange, including any records relating to an arrest, charge, or conviction,
232 in accordance with the purposes set forth in § 19.2-392.13 and pursuant to the rules and regulations
233 adopted pursuant to § 9.1-128 and the procedures adopted pursuant to § 9.1-134 and (ii) prohibiting
234 dissemination of court records related to an arrest, charge, or conviction, unless such dissemination is
235 authorized by a court order for one or more of the purposes set forth in § 19.2-392.13.

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

241 **§ 32.1-320.1. Powers and duties of sworn unit investigators.**

242 A. The Attorney General may designate up to 30 persons in the unit established under § 32.1-320
243 as sworn unit investigators. Any individual designated as a sworn unit investigator shall be sworn only to
244 enforce the provisions of this article. Sworn unit investigators shall be designated as law-enforcement
245 officers as defined in § 9.1-101.

246 B. All sworn unit investigators shall remain subject to the federal requirements authorizing State
247 Medicaid Fraud Control Units pursuant to 42 C.F.R. Part 1007.

248 C. If a search warrant is issued for any place of abode, a sworn unit investigator shall notify and
249 request assistance from the State Police or the local law-enforcement agency from the locality where such
250 abode is located prior to executing such search warrant. A sworn unit investigator shall not execute any
251 search warrant for the search of any place of abode unless such sworn unit investigator is accompanied by
252 a State Police officer or a local law-enforcement officer from the locality where such abode is located.
253 Any evidence obtained from a search warrant executed in violation of this subsection shall not be admitted
254 into evidence for the Commonwealth in any prosecution.

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