

SENATE BILL NO. 88

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice

on _____)

(Patron Prior to Substitute--Senator Locke)

A BILL to amend and reenact §§ 9.1-102, 15.2-1707, 15.2-1708, and 19.2-83.7 of the Code of Virginia, relating to decertification of law-enforcement officers and jail officers.

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-102, 15.2-1707, and 15.2-1708 of the Code of Virginia are amended and reenacted as follows:

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

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

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

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

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

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

30 5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize
31 radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in §
32 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum
33 qualifications for certification and recertification of instructors who provide such training;

34 6. [Repealed];

35 7. Establish compulsory minimum entry-level, in-service and advanced training standards for those
36 persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-
37 120, and to establish the time required for completion of such training;

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

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

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

51 11. Establish compulsory minimum training standards for all auxiliary police officers employed
52 by or in any local or state government agency. Such training shall be graduated and based on the type of

53 duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary
54 police officers exempt pursuant to § 15.2-1731;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

103 28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects
104 and activities for the Commonwealth and units of general local government, or combinations thereof, in

105 the Commonwealth, designed to strengthen and improve law enforcement and the administration of
106 criminal justice at every level throughout the Commonwealth;

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

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

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

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

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

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

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

139 36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707
140 and provide for a decertification review process in accordance with § 15.2-1708;

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

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

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

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

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

163 e. Communication of death notifications;

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

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

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

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

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

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

176 l. The handling and use of tear gas or other gases and kinetic impact munitions, as defined in §
177 19.2-83.3, that embody current best practices for using such items as a crowd control measure or during
178 an arrest or detention of another person;

179 38. Establish compulsory training standards for basic training and the recertification of law-
180 enforcement officers to ensure (i) sensitivity to and awareness of systemic and individual racism, cultural
181 diversity, and the potential for racially biased policing and bias-based profiling as defined in § 52-30.1,
182 which shall include recognizing implicit biases in interacting with persons who have a mental illness,
183 substance use disorder, or developmental or cognitive disability; (ii) training in de-escalation techniques;

184 and (iii) training in the lawful use of force, including the use of deadly force, as defined in § 19.2-83.3,
185 only when necessary to protect the law-enforcement officer or another person;

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

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

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

208 42. Establish, in consultation with the Department of Education and the Virginia State Crime
209 Commission, compulsory minimum standards for employment and job-entry and in-service training
210 curricula and certification requirements for school security officers, including school security officers

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

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

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

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

233 46. Establish minimum standards for (i) employment, (ii) job-entry and in-service training
234 curricula, and (iii) certification requirements for campus security officers. Such training standards shall
235 include, but not be limited to, the role and responsibility of campus security officers, relevant state and
236 federal laws, school and personal liability issues, security awareness in the campus environment, and
237 disaster and emergency response. The Department shall provide technical support and assistance to

238 campus police departments and campus security departments on the establishment and implementation of
239 policies and procedures, including but not limited to: the management of such departments, investigatory
240 procedures, judicial referrals, the establishment and management of databases for campus safety and
241 security information sharing, and development of uniform record keeping for disciplinary records and
242 statistics, such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall
243 establish an advisory committee consisting of college administrators, college police chiefs, college
244 security department chiefs, and local law-enforcement officials to assist in the development of the
245 standards and certification requirements and training pursuant to this subdivision;

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

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

251 49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of §
252 46.2-117;

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

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

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

261 53. In consultation with the Department of Behavioral Health and Developmental Services,
262 develop a model addiction recovery program that may be administered by sheriffs, deputy sheriffs, jail
263 officers, administrators, or superintendents in any local or regional jail. Such program shall be based on
264 any existing addiction recovery programs that are being administered by any local or regional jails in the

265 Commonwealth. Participation in the model addiction recovery program shall be voluntary, and such
266 program may address aspects of the recovery process, including medical and clinical recovery, peer-to-
267 peer support, availability of mental health resources, family dynamics, and aftercare aspects of the
268 recovery process;

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

278 55. Establish a model policy for the operation of body-worn camera systems as defined in § 15.2-
279 1723.1 that also addresses the storage and maintenance of body-worn camera system records;

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

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

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

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

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

300 61. Adopt statewide professional standards of conduct applicable to all certified law-enforcement
301 officers and certified jail officers and appropriate due process procedures for decertification based on
302 serious misconduct in violation of those standards and provide for a decertification review process in
303 accordance with § 15.2-1708;

304 62. Establish and administer a waiver process, in accordance with §§ 2.2-5515 and 15.2-1721.1,
305 for law-enforcement agencies to use certain military property. Any waivers granted by the Criminal Justice
306 Services Board shall be published by the Department on the Department's website;

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

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

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

316 66. Establish standards and procedures for when the Board may grant a petition for reinstatement
317 of certification of a decertified officer pursuant to subsection E of § 15.2-1708; and

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

320 **§ 15.2-1707. Decertification of law-enforcement officers and jail officers.**

321 A. The sheriff, chief of police, or agency administrator or their designee shall notify the Criminal
322 Justice Services Board (the Board) in writing within 48 hours of becoming aware that any certified law-
323 enforcement or jail officer currently employed by his agency has (i) been convicted of or pled guilty or no
324 contest to a felony or any offense that would be a felony if committed in the Commonwealth; (ii) been
325 convicted of or pled guilty or no contest to a Class 1 misdemeanor involving moral turpitude or any offense
326 that would be any misdemeanor involving moral turpitude, including but not limited to petit larceny under
327 § 18.2-96, or any offense involving moral turpitude that would be a misdemeanor if committed in the
328 Commonwealth; (iii) been convicted of or pled guilty or no contest to any misdemeanor sex offense in the
329 Commonwealth, another state, or the United States, including but not limited to sexual battery under §
330 18.2-67.4 or consensual sexual intercourse with a minor 15 years of age or older under clause (ii) of §
331 18.2-371; (iv) been convicted of or pled guilty or no contest to domestic assault under § 18.2-57.2 or any
332 offense that would be domestic assault under the laws of another state or the United States; (v) failed to
333 comply with or maintain compliance with mandated training requirements; or (vi) refused to submit to a
334 drug screening or has produced a positive result on a drug screening reported to the employing agency,
335 where the positive result cannot be explained to the agency administrator's satisfaction.

336 B. The sheriff, chief of police, or agency administrator or their designee shall notify the Board in
337 writing ~~within 48 hours~~ if any certified law-enforcement or jail officer currently employed by his agency
338 (i) is terminated or resigns in advance of being convicted or found guilty of an offense set forth in clause
339 (i) of subsection A that requires decertification, (ii) is terminated or resigns in advance of a pending drug
340 screening, (iii) is terminated or resigns for a violation of state or federal law, including those instances
341 when a prosecution for a violation of state or federal law is terminated as a result of such law-enforcement
342 or jail officer resigning from his position, (iv) is terminated or resigns for engaging in serious misconduct
343 as defined in statewide professional standards of conduct adopted by the Board, (v) is terminated or resigns
344 while such officer is the subject of a pending internal investigation involving serious misconduct as

345 defined in statewide professional standards of conduct adopted by the Board, ~~or~~ (vi) is terminated or
346 resigns for an act committed while in the performance of or in relation to his duties that compromises an
347 officer's credibility, integrity, or honesty, or other characteristics, or (vii) is terminated or resigns for an
348 act committed while in the performance of his duties that ~~constitute~~ constitutes exculpatory or
349 impeachment evidence in a criminal case. Such notification shall be given within 48 hours of a termination
350 or resignation pursuant to clause (i), (ii), or (iii) or within 48 hours of the completion of an internal
351 investigation for a termination or resignation pursuant to clauses (iv) through (vii).

352 C. Persons currently in a recruit or field training status who have not completed all certification
353 requirements, pursuant to § 15.2-1705, and who have committed an act that would be any basis for
354 decertification as set forth in subsection A or B shall be considered ineligible for certification and shall be
355 considered decertified. The employing agency of such person shall notify the Board in accordance with
356 subsection A or B.

357 D. The notification, where appropriate, shall be accompanied by a copy of the judgment of
358 conviction.

359 ~~D-E.~~ Upon receiving such notice from the sheriff, chief of police, or agency administrator or their
360 designee, or from an attorney for the Commonwealth, the Board shall immediately decertify such law-
361 enforcement or jail officer. Such officer shall not have the right to serve as a law-enforcement, jail,
362 courthouse security, or civil process officer within the Commonwealth until his certification has been
363 reinstated by the Board pursuant to subsection E of § 15.2-1708 or through the decertification review
364 process in accordance with § 15.2-1708.

365 ~~E. When a conviction has not become final, the Board may decline to decertify the officer until~~
366 ~~the conviction becomes final, after considering the likelihood of irreparable damage to the officer if such~~
367 ~~officer is decertified during the pendency of an ultimately successful appeal, the likelihood of injury or~~
368 ~~damage to the public if the officer is not decertified, and the seriousness of the offense.~~

369 F. The Department of Criminal Justice Services is hereby authorized to waive the requirements for
370 decertification as set out in subsection A or B for good cause shown.

371 G. The Board may ~~initiate decertification proceedings against any~~ decertify a current or former
372 law-enforcement or jail officer if the Board has found that any basis for the officer's decertification set
373 forth in subsection A or B exists. Such officer shall not have the right to serve as a law-enforcement, jail,
374 courthouse security, or civil process officer within the Commonwealth until his certification has been
375 reinstated by the Board pursuant to subsection E of § 15.2-1708 or through the decertification review
376 process in accordance with § 15.2-1708.

377 H. ~~Any conviction of a misdemeanor that has been appealed to a court of record shall not be~~
378 ~~considered a conviction for purposes of this section unless a final order of conviction is entered. Any~~
379 ~~finding of misconduct listed in subsection B will not be considered final until all grievances or appeals~~
380 ~~have been exhausted or waived and the finding of misconduct is made final.~~

381 **§ 15.2-1708. Notice of decertification; decertification review process.**

382 A. Service of notice. The Board shall, within ~~ten~~ 10 days of decertification, serve notice upon ~~an~~
383 ~~affected~~ a decertified officer, in person or by certified mail or trackable courier service with signature
384 requirement, and upon the law-enforcement or jail agency employing said officer, by certified mail or
385 trackable courier service with signature requirement, specifying the action taken and remedies available.
386 The Board shall stay final action until the period for requesting ~~a hearing~~ a review of the decertification
387 expires.

388 B. ~~Decertification hearing review process.~~ Any decertified law-enforcement or jail officer ~~who has~~
389 ~~been decertified~~ may, within ~~thirty~~ 30 days of receipt of notice served by the Board, request, by certified
390 mail or trackable courier service with signature requirement, ~~a hearing review of his decertification~~, which
391 shall be granted by the Board. Upon receipt of such request, the Board shall ~~set a date, time, and place for~~
392 ~~the hearing~~ request the Department of Criminal Justice Services (the Department) to initiate a review of
393 the decertification pursuant to the authority conferred in subdivisions 36 and 61 of § 9.1-102 and in
394 accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) within ~~sixty~~ 90 days
395 and serve notice by certified mail or trackable courier service with signature requirement upon the ~~affected~~
396 ~~decertified~~ officer. ~~The Board, or a committee thereof, shall conduct such hearing.~~ The affected decertified
397 officer may be represented by counsel at all stages of the decertification review process. The former

398 employing agency shall have a representative present at all stages of the decertification review process. In
399 the absence of a request for ~~hearing~~ review, decertification shall, without further proceedings, become
400 final ~~thirty~~ 30 days after the initial notice has been served on the decertified officer in person or by certified
401 mail or trackable courier service with signature requirement.

402 ~~C. Standard of review. The decertification of a law enforcement or jail officer under § 15.2-1707~~
403 ~~shall be sustained by the Board unless such law enforcement or jail officer shows, by a preponderance of~~
404 ~~the evidence, good cause for his certification to be reinstated.~~

405 ~~D. Final decision after request for hearing. The Board shall render a final decision within thirty~~
406 ~~days.~~

407 ~~E. Notice of final action. The Board shall notify the officer and the law enforcement or jail agency~~
408 ~~involved, by certified mail, of the final action regarding decertification. 1. Upon motion by the decertified~~
409 ~~officer or his counsel or the Attorney General, the Department may grant a continuance of any informal~~
410 ~~fact-finding conference or formal hearing for good cause shown.~~

411 2. When an officer is decertified as a result of a termination or resignation related to a criminal
412 charge that has not yet been adjudicated by a court and thereafter requests a review of his decertification,
413 the Department may continue any informal fact-finding conference or formal hearing until the final
414 disposition of the charge has been entered by the court hearing the criminal matter. Such officer shall
415 remain decertified during such period of continuance unless the Department finds the officer's continued
416 decertification may cause circumstances that constitute a manifest injustice to the officer, in which case
417 the officer's certification may be reinstated during the period of continuance until the conviction becomes
418 final.

419 3. When an officer is decertified as a result of a misdemeanor conviction that has been appealed
420 to a court of record and thereafter requests review of his decertification, any informal fact-finding
421 conference or formal hearing shall be continued until after the matter has been adjudicated by such court
422 of record. Such officer shall remain decertified during such period of continuance.

423 4. When an officer is decertified as a result of any provision of clauses (ii) through (v) of subsection
424 B of § 15.2-1707 and thereafter requests review of his decertification, any informal fact-finding conference

425 or formal hearing shall be continued until after all grievances or appeals have been exhausted or waived
 426 and the employing agency's finding of misconduct is final. Such officer shall remain decertified during
 427 such period of continuance.

428 D. The findings and decision of the Department's decertification review may be appealed to the
 429 Criminal Justice Services Board (the Board) within 30 days of the decertified officer's receipt of notice of
 430 the Department's decision served by the Department. The final administrative decision of the Board's
 431 decertification review may be appealed pursuant to § 2.2-4026 of the Code of Virginia.

432 ~~F.~~E. Reinstatement after decertification. Any decertified officer ~~who is decertified~~ may, after a
 433 period of not less than five years after the date on which a final decision is made, petition the Board to be
 434 considered for reinstatement of certification.

435 F. For purposes of subdivision 9 of § 2.2-3705.3 and subdivision 9 of § 2.2-3706, any records
 436 received by the Board or the Department for the purposes of decertifying a law-enforcement or jail officer
 437 or the decertification review process shall be construed as being records of an administrative investigation
 438 relating to allegations of wrongdoing by employees of a law-enforcement agency.

439 For purposes of § 2.2-3711, any meetings, or part thereof, by the Board or the Department
 440 regarding discussion, consideration, or deliberation concerning the decertification of a law-enforcement
 441 or jail officer or the decertification review process may be a closed meeting in accordance with the
 442 procedures of § 2.2-3712.

443 **§ 19.2-83.7. Penalties for violations of this chapter.**

444 In addition to any other penalty authorized by law, any law-enforcement officer who knowingly
 445 violates the provisions of this chapter shall be subject to disciplinary action, including dismissal, demotion,
 446 suspension, or transfer of the law-enforcement officer or decertification as provided in subsection ~~D~~E of
 447 § 15.2-1707.

448 **2. That the Department of Criminal Justice Services shall promulgate regulations to implement the**
 449 **provisions of this act to be effective within 280 days of its enactment.**

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