

15105448D

HOUSE BILL NO. 2369

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice on February 23, 2015)

(Patron Prior to Substitute—Delegate Berg)

A BILL to amend and reenact § 19.2-13 of the Code of Virginia, relating to special conservators of the peace; registration; background checks; etc.

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; bond; liability of employers; penalty; report.

A. Upon the submission of an application of, which shall include a temporary letter of qualification and results of a background investigation, 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, 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 temporary letter of qualification issued by the Department of Criminal Justice Services in accordance with the provisions of subsection B. However, a Notice of the application, the temporary letter of qualification, and results of the applicant's background check shall be given by the applicant to the chief law-enforcement officer and the attorney for the Commonwealth of the county, city, or town where the application is made, who may file a motion on whether a necessity for the security of property or the peace exists and whether the applicant is qualified for the appointment. A judge may deny the appointment for good cause, and shall state the specific reasons for the denial in writing in the order denying the appointment. The order of appointment may provide that a special conservator of the peace shall have all the powers, functions, duties, responsibilities, and authority of any other conservator of the peace within such geographical limitations as the court may deem appropriate within the confines of the county, city, or town that makes application or within the county, city or town on the real property where the corporate applicant is located, or any property contiguous to such property, limited, except as provided in subsection E, to the judicial circuit wherein application has been made, whenever such special conservator of the peace is engaged in the performance of his duties as such. The order may provide that the special conservator of the peace shall have the authority to make an arrest outside of such geographical limitations if the arrest results from a close pursuit that was initiated when the special conservator of the peace was within the confines of the area wherein he has been authorized to have the powers and authority of a special conservator of the peace; the order may further delineate a geographical limitation or distance beyond which the special conservator of the peace may not effectuate such an arrest that follows from a close pursuit. The order may also provide that the special conservator of the peace is a "law-enforcement officer" 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 seq.) of Chapter 11 of Title 16.1. The order may also provide that the special conservator of the peace is authorized to use the seal of the Commonwealth in a badge or other credential of office as the court may deem appropriate. The order may also provide that the special conservator of the peace may use the title "police" on any badge or uniform worn in the performance of his duties as such. The order may also provide that a special conservator of the peace who has completed the minimum training standards established by the Department of Criminal Justice Services; Board has the authority to affect arrests, using up to the same amount of force as would be allowed to a law-enforcement officer employed by the Commonwealth or any of its political subdivisions when making a lawful arrest. The order also may (a) require the local sheriff or chief of police to conduct a background investigation which may include a review of the applicant's school records, employment records, or interviews with persons possessing general knowledge of the applicant's character and fitness for such appointment and (b) limit the use of flashing lights and sirens on personal vehicles used by the conservator in the performance of his duties. Prior to granting an application for appointment, the circuit court shall ensure that the applicant has met the registration requirements established by the Criminal Justice Services Board.

B. Effective September 15, 2004, no person shall seek appointment as a special conservator of the peace from a circuit court judge without possessing a valid registration issued by the Department of Criminal Justice Services, except as provided in this section. Applicants for registration may submit an

SENATE SUBSTITUTE

HB2369S1

60 application on or after January 1, 2004. A temporary registration may be issued in accordance with
61 regulations established by the Criminal Justice Services Board while awaiting the results of a state and
62 national fingerprint search. However, no person shall be issued a temporary registration until he *All*
63 *applications and orders for appointments of special conservators of the peace shall be submitted on*
64 *forms developed by the Office of the Executive Secretary of the Supreme Court of Virginia, which shall*
65 *consult with the Department of Criminal Justice Services. The applications and orders shall specify the*
66 *geographic limitations consistent with subsection A. The Department shall issue a temporary letter of*
67 *qualification to an applicant who has (i) complied with, or been exempted from the compulsory*
68 *minimum training standards as set forth in this section, (ii) submitted his fingerprints on a form*
69 *provided by the Department to be used for the conduct of a national criminal records search and a*
70 *Virginia criminal history records search, and (iii) submitted the results of a background investigation,*
71 *performed by any state or local law-enforcement agency, which may, at its discretion, charge a*
72 *reasonable fee to the applicant and which may include a review of the applicant's school records,*
73 *employment records, or interviews with persons possessing general knowledge of the applicant's*
74 *character and fitness for such appointment, and (iv) met all other requirements of this article and Board*
75 *regulations. No person with a criminal conviction for a misdemeanor involving (a) moral turpitude, (b)*
76 *assault and battery, (c) damage to real or personal property, (d) controlled substances or imitation*
77 *controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (e)*
78 *prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, (f)*
79 *firearms, or (g) any felony, shall be registered eligible for registration or appointment as a special*
80 *conservator of the peace. All appointments for special conservators of the peace shall become void on*
81 *September 15, 2004, unless they have obtained a valid registration issued by the Department of Criminal*
82 *Justice Services.*

83 C. Each person registered as or seeking registration as a special conservator of the peace shall be
84 covered by (i) a cash bond, or a surety bond executed by a surety company authorized to do business in
85 the Commonwealth, in a reasonable amount to be fixed by the Board, not to be less than \$10,000,
86 conditioned upon the faithful and honest conduct of his business or employment; or (ii) evidence of a
87 policy of liability insurance or self-insurance in an amount and with coverage as fixed by the Board.
88 Any person who is aggrieved by the misconduct of any person registered as a special conservator of the
89 peace and recovers a judgment against the registrant, which is unsatisfied in whole or in part, may bring
90 an action in his own name against the bond or insurance policy of the registrant.

91 D. ~~Individuals listed in § 19.2-12, individuals who have complied with or been exempted pursuant to~~
92 ~~subsection A of § 9.1-141, individuals employed as law-enforcement officers as defined in § 9.1-101~~
93 ~~who have met the minimum qualifications set forth in § 15.2-1705 shall be exempt from the~~
94 ~~requirements in subsections A through C. Further, individuals appointed under subsection A and~~
95 ~~employed by a private corporation or entity that meets the requirements of subdivision (ii) of the~~
96 ~~definition of criminal justice agency in § 9.1-101, shall be exempt from the registration requirements of~~
97 ~~subsection A and from subsections B and C provided they have met the minimum qualifications set~~
98 ~~forth in § 15.2-1705. The Department of Criminal Justice Services shall, upon request by the circuit~~
99 ~~court, provide evidence to the circuit court of such employment prior to appointing an individual special~~
100 ~~conservator of the peace. Effective July 1, 2015, all persons seeking appointment or reappointment as a~~
101 ~~special conservator of the peace are required to register with the Department of Criminal Justice~~
102 ~~Services, regardless of any other standing the person may have as a law-enforcement officer or other~~
103 ~~position requiring registration or licensure by the Department. The employing agency employer of any~~
104 ~~special conservator of the peace shall notify the circuit court within 30 days after the date such~~
105 ~~individual has left employment and all powers of the special conservator of the peace shall be void.~~
106 ~~Failure to provide such notification shall be punishable by a fine of \$250 plus an additional \$50 per day~~
107 ~~for each day such notice is not provided.~~

108 E. When the application is made *by any sheriff or chief of police*, the circuit court shall specify in
109 the order of appointment the name of the applicant authorized under subsection A and the geographic
110 jurisdiction ~~of where the special conservator of the peace is authorized to serve. Court~~ *When the*
111 *application is made by any corporation authorized to do business in the Commonwealth, any owner,*
112 *proprietor, or authorized custodian of any place within the Commonwealth, or any museum owned and*
113 *managed by the Commonwealth, the circuit court shall specify in the order of appointment the name of*
114 *the applicant authorized under subsection A and the specific real property where the special conservator*
115 *of the peace is authorized to serve. Such appointments shall be limited to the judicial circuit specific*
116 *real property within the county, city, or town wherein application has been made. In the case of a*
117 *corporation or other business, the court appointment may also include, for good cause shown, any real*
118 *property owned or leased by the corporation or business, including any subsidiaries, in other specifically*
119 *named cities and counties, but shall provide that the powers of the special conservator of the peace do*
120 *not extend beyond the boundaries of such real property. Effective July 1, 2004, the* *The* clerk of the
121 appointing circuit court shall transmit a copy of the order of appointment that shall specify the following

122 information to the Department of State Police: the person's complete name, address, date of birth, social
123 security number, gender, race, height, weight, color of hair, color of eyes, firearm authority or limitation
124 as set forth in subsection F, date of the order, and other information as may be required by the
125 Department of State Police. The Department of State Police shall enter the person's name and other
126 information into the Virginia Criminal Information Network established and maintained by the
127 Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. The Department of State Police may
128 charge a fee not to exceed \$10 to cover its costs associated with processing these orders. Each special
129 conservator of the peace so appointed on application shall present his credentials to the chief of police
130 or sheriff or his designee of all jurisdictions where he has conservator powers. If his powers are limited
131 to certain areas real property owned or leased by a corporation or business, he shall also provide notice
132 of the exact physical addresses of those areas. Each special conservator shall provide to the circuit court
133 a temporary registration letter of qualification issued by the Department of Criminal Justice Services, to
134 include the results of the background check, prior to seeking an appointment by the circuit court. Once
135 the applicant receives the appointment from the circuit court, the applicant shall file the appointment
136 order and a copy of the application with the Department of Criminal Justice Services in order to receive
137 his special conservator of the peace photo registration card document.

138 If any such special conservator of the peace is the employee, agent, or servant of another, his
139 appointment as special conservator of the peace shall not relieve his employer, principal, or master, from
140 civil liability to another arising out of any wrongful action or conduct committed by such special
141 conservator of the peace while within the scope of his employment.

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

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

149 G. The circuit court shall retain jurisdiction for four years over any order it enters pursuant to this
150 section and may revoke such appointment at any time for good cause shown.