

**REPORT OF THE  
VIRGINIA STATE CRIME COMMISSION**

# **Study of School Security Officers**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



## **HOUSE DOCUMENT NO. 31**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2002**





# COMMONWEALTH of VIRGINIA

## VIRGINIA STATE CRIME COMMISSION

Senator Ken Stolle  
Chairman

Rich Savage  
Director

February 6, 2002

TO: The Honorable Mark Warner, Governor of Virginia

And

Members of the Virginia General Assembly

The 2001 General Assembly, through House Joint Resolution 542, requested the Virginia State Crime Commission examine the role, responsibilities, training and authority of school security officers and school safety specialists.

Enclosed for your review and consideration is the report which has been prepared in response to this request. The Commission received assistance from all affected agencies and gratefully acknowledge their input into this report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "K. Stolle", written over a horizontal line.

Kenneth W. Stolle  
Chairman



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## **I. Authority for Study**

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Section 30-156 of the *Code of Virginia* establishes the Virginia State Crime Commission and directs it to "... study, report and make recommendations on all areas of public safety and protection."

The 2001 General Assembly enacted House Joint Resolution 542 directing the Virginia State Crime Commission to examine the role, responsibilities, training and authority of school security officers and school safety specialists. The study resolution identified five areas for analysis: (i) the coordination of school security officers and school safety specialists with school resource officers; (ii) current school security officer and school safety specialist employment levels within the Commonwealth's school divisions; (iii) the role, responsibility and training needs of school security officers and school safety specialists; (iv) data regarding incidences of school crime and violence in Virginia public schools; and (v) such other issues as it deems appropriate.

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## **II. Executive Summary**

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In Spring 2001, the Virginia State Crime Commission began a study of school security officers and school safety specialists. Crime Commission staff interviewed staff from school divisions with security officers, staff from the Department of Criminal Justice Services and national experts in the field of school safety. In addition, survey instruments were developed by a workgroup of state and local school safety experts. The surveys were disseminated to each local school division safety coordinator and to each middle and high school principal concerning the activities, authority and location of school security officers and school safety specialists. As a result of the study effort, the following recommendations were made to improve safety, clarify roles and set criteria for implementing a safety network in Virginia's secondary schools.

### **Recommendation 1**

Codify the definitions of School Resource Officers (SROs) and School Security Officers (SSOs).

*School Resource Officer – a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public secondary schools.*

*School Security Officer – an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies and detaining persons violating the law or school board policies on school property or at school sponsored events and who is responsible solely for ensuring the safety, security and welfare of all students, faculty and staff in the assigned school.*

### **Recommendation 2**

Amend the *Code of Virginia* to clarify that school security officers cannot be appointed Conservators of the Peace for purposes of maintaining security in Virginia public schools as an employee of a local school division.

#### *§15.2-1737*

*Effective July 1, 2002, no person employed by a local school board as a school security officer, as defined in §9.1-101, shall be eligible for appointment as a special police officer for purposes of maintaining safety in a public school in the Commonwealth.*

#### *§19.2-13*

*Effective July 1, 2002, no person employed by a local school board as a school security officer, as defined in §9.1-101, shall be eligible for appointment as a conservator for purposes of maintaining safety in a public school in the Commonwealth.*

### **Recommendation 3A**

Amend §9.1-102 of the *Code of Virginia* to direct the Department of Criminal Justice Services (DCJS), in consultation with the Department of Education (DOE) and the Virginia State Crime Commission, to:

- *develop minimum job entry and in-service employment standards for school security officers (i.e. education, background checks, drug/alcohol screenings);*
- *develop minimum training standards for school security officers (i.e. laws, conflict resolution, dynamics of student behavior); and,*
- *determine the requirements, and provide for, the certification of school security officers by the Center for School Safety.*

### **Recommendation 3B**

Training standards shall include, but not limited to:

- the role and responsibilities of school security officers;
- relevant state and federal laws;
- school and personal liability issues;
- security awareness in a school environment;
- mediation and conflict resolution;
- disaster and emergency response; and,
- student behavioral dynamics.

### **Recommendation 3C**

DCJS shall establish an advisory committee consisting of local school board representatives, division superintendents, secondary principals and school security personnel to assist in the development of the standards and certification requirements.

**Recommendation 3D**

All current and new school security officers will need to meet the training and certification requirements by September 15, 2003.

**Recommendation 3E**

Support annual funding of \$250,500 to DCJS to provide for the provision of ten annual 40 hour minimum training sessions for school security officers. The training sessions shall be administered regionally throughout the year.

**Recommendation 3F**

Support a one time funding allocation of \$15,480 to DCJS for the development of a training curriculum and certification requirements for school security officers.

**Recommendation 4**

Support annual funding of 2 FTEs and \$350,000 to achieve full funding for the DCJS Center for School Safety to:

- (1) analyze school safety audits;
- (2) provide technical assistance on safety audit problems;
- (3) conduct new and updated training for school security officers and school resource officers;
- (4) develop employment standards, training standards and certification requirements for school security officers; and,
- (5) provide for certification of school security officers.

**Recommendation 5**

Support funding, over a four year phase-in, allocating one state funded School Resource Officer (SRO) in every middle and high school in Virginia to provide for the law enforcement and arrest powers necessary to ensure safe schools. Full funding will require \$27.59 million annually by FY 2006.

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**III. Methodology**

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The Virginia State Crime Commission staff utilized several research methodologies to address the issues in the study mandate. First, interviews were conducted with state and local officials involved in school security. Staff from the Department of Criminal Justice Services, the Department of Education, the City of Richmond School Division, the Newport News School Division, the Norfolk School Division were held to determine the current state requirements for school security officers and the issues involved with school security programs in Virginia. Second, national experts were consulted on national trends and policies in school security and legal issues inherent in having law enforcement presence in public schools. Third, a workgroup consisting of state and local representatives was established to identify issues and draft survey instruments to determine the extent of school security programs in Virginia. Fourth, surveys were sent to each school division safety coordinator and each middle and high

school principal. Finally, legal advice was sought from the Office of the Attorney General of Virginia to determine the appropriate legal standard of action that is required by school security officers employed by local school divisions with Conservator of the Peace Powers. A complete discussion of the research efforts and the Attorney General's Opinion follow in Section V on p. 18.

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## **IV. Background**

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The right to a free public education has existed in Virginia since 1870. The 1870 Virginia Constitution (Article VIII, Section 3) mandated "the General Assembly shall provide by law ... a uniform system of public free schools."<sup>1</sup> Currently, the 1971 Constitution (Article VIII, Section 1) and the *Code of Virginia* (§22.1-2) specify that this free system of public education shall include public elementary and secondary schools for all children of school age throughout the Commonwealth<sup>2</sup>. Public schools in Virginia are administered at the local government level and each local school division is overseen by a local school board. The state provides supervision, funding and programmatic oversight through the state Board of Education and the Superintendent of Public Instruction.

### **A. Profile of Local Schools**<sup>3</sup>

There were 1,835 local public schools and 75 educational centers in Virginia during the 2000/01 school year.<sup>4</sup> As Table 1 illustrates, the majority of the public schools, 63%, were elementary schools. The average daily population of students in Virginia schools was 1,122,191 in 1999/00. Additionally, 2.55% of the 1999/00 students dropped out prior to the end of the school year. Fairfax County is the largest school division in the state with 194 schools/centers and an average daily population of 152,330 students.<sup>5</sup>

During the 1999/00 school year, the state appropriated over \$3.71 billion dollars to support Virginia's local public schools/centers.<sup>6</sup> The majority of the state funds are distributed on a formula basis depending on the locality's ability to pay and the Standards of Quality (SOQ) which sets forth the educational services

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<sup>1</sup> *Constitution of Virginia* of 1870, art. VIII, § 3.

<sup>2</sup> *Constitution of Virginia* of 1971, art. VIII, §1, and Va. Code §22.1-2.

<sup>3</sup> The Department of Education does not have up-to-date data on all educational statistics; therefore, facts will be represented for the most recent school year available.

<sup>4</sup> Source: The Virginia Department of Education state website updated 1/18/2001.

Educational centers are schools which serve students from more than one local school division. These types of centers include: alternative education centers, special education centers and vocational education centers.

<sup>5</sup> Source: Public School Directory, Virginia Department of Education website, updated 09/05/01.

<sup>6</sup> Source: Superintendent's Annual Report, Virginia Department of Education website, Table 12, Receipts by Division 1999/00.

State funds include state sales and use tax and other state general funds.

Table 1 Number of Schools in Virginia 2000/01 School Year	
<b>Local Schools</b>	<b>Number of Schools</b>
Elementary Schools	1,161
Middle Schools	290
High Schools	283
Combined Schools <sup>7</sup>	45
Alternative Schools	36
Special Education Schools	20
<b>Total</b>	<b>1,835</b>
<b>Local Centers</b>	<b>Number of Centers</b>
Alternative Centers	35
Special Education Centers	4
Vocational Education Centers	36
<b>Total</b>	<b>75</b>
Source: Virginia Department of Education state website.	

that must be provided to students in Virginia's public schools.

## **B. School Crime and Violence Statistics**

Both state law and federal regulations direct that Virginia schools provide parameters for student behavior and that data regarding the violations of such policies be maintained in every school division. The *Code of Virginia*, §22.1-279.6(B) requires that local school boards adopt regulations governing student conduct. The local regulations must include the criteria for removal of a student from class and the use of disciplinary sanctions for violations of the code of conduct.<sup>8</sup> Additionally, §22.1-279.3:1 of the *Code* requires local school divisions report violations of student conduct to the Department of Education and that the Department compile an annual report on discipline, crime and violence in Virginia's public schools. Student disciplinary statutes can be found in Appendix B. The federal government requires that Virginia report incidence of crimes and subsequent disciplinary actions as a condition for receiving federal funds through three programs: (i) the Safe and Drug Free Schools and Communities Act; (ii) the Individuals with Disabilities Education Act; and, (iii) the Gun-Free Schools Act.<sup>9</sup>

### **1. Student and Offense Profiles**

The 1998/99 school year is the most recent year for which there is complete, available statewide information on the nature of offenses and sanctions in Virginia's public school divisions. During the 1998/99 school year,

<sup>7</sup> Combined schools are schools which have grades encompassing two or more levels of schools: Grades K-12, 6-12, and K-8.

<sup>8</sup> The 2001 Session of the General Assembly recently reorganized the disciplinary statutes and added definitions for various forms of student discipline (House Bill 2512 and Senate Bill 1359).

<sup>9</sup> Source: Superintendent's Memo No. 35, Virginia Department of Education, July 6, 2001.

there were 7,513 cases of students disciplined for violations of school board policies.<sup>10</sup> As Table 2 illustrates, the majority of the students sanctioned (95%) were at either the middle or high school level.<sup>11</sup> Twenty-seven percent of the 1998/99 disciplinary cases involved 9<sup>th</sup> grade students.

<b>Grade</b>		<b>Race</b>	
Elementary	249 (3.3%)	White	3,321 (44.2%)
Middle	3,158 (42.0%)	Black	3,851 (51.3%)
High	3,996 (53.2%)	Hispanic	206 (2.7%)
Ungraded	105 (1.4%)	Pacific Islander	95 (1.3%)
		Native American	21 (.3%)
		Mixed Race	15 (.2%)
<b>Gender</b>		<b>Educational Status</b>	
Male	5,942 (79%)	Regular Students	5,968 (79%)
Female	1,570 (21%)	Special Education Students	1,543 (21%)
<i>Source: Virginia Commission on Youth, HJR 242 Study of Alternative Education, Fall 1999.</i>			

The 1998/99 disciplinary data collected information on each of the offenses within a student's disciplinary case. Schools could capture up to six offenses with the most serious of the offenses listed first.<sup>12</sup> The majority (56.4%) of the "most serious" offenses for which students were sanctioned included a law violation. Law violations included crimes which would be a violation of the criminal code if prosecuted. A total of 4,236 students were sanctioned for law violations during the 1998/99 school year. Conflict violations, between either staff and the student or the student and another student, were the second most reported offense. Exhibit 1 below provides a brief profile of the offense categories. A more detailed list of the reported offenses can be found in Appendix C.

## **2. School Based Sanctions**

Local school divisions are required to report information on three types of sanctions for violations of school board policies: long-term suspension (more

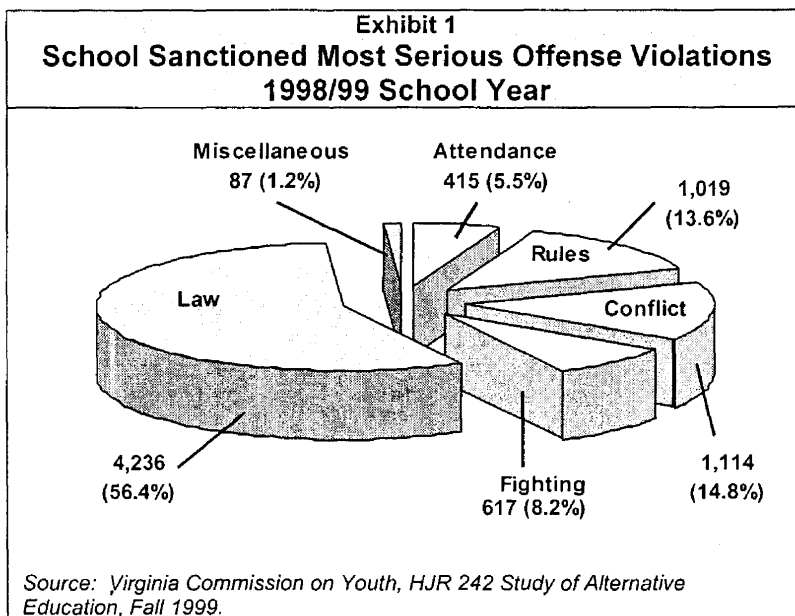
<sup>10</sup> Data was collected for the HJR 242 Study of Alternative Education and includes only those cases where the student was long-term suspended, expelled or placed in alternative education programs in lieu of the long-term suspension or expulsion.

Short-term suspensions, temporary removals from class or other disciplinary actions are not required for reporting purposes.

Ninety-eight percent of the school divisions (130 of 132) reported the requested information for the year.

<sup>11</sup> Case totals may not add to 7,513 in some categories due to missing values; percentages may not total 100% due to rounding.

<sup>12</sup> Local school divisions were given definitions and categories of offenses based, in part, on the SMART system.



than 10 days), expulsions and placement in an alternative education program in lieu of long-term suspension, or expulsion. The sanction most often used by local school divisions for the 7,513 disciplinary cases was placement of the student in an alternative education program. The number and percentage of each sanction used statewide included:

- placements in alternative education program 3,122 (42%)
- long-term suspensions (more than 10 days) 2,923 (39%)
- expulsions 896 (12%)
- special education sanctions 274 (4%)
- other local board sanctions 277 (4%).<sup>13</sup>

When examining the use of the various types of sanctions, 10% of the school districts did not use either expulsion or long-term suspensions. These divisions relied on alternative education placements as their primary means of sanctioning violations of school board policies. Alternative education programs allow for continuing supervised education of the disciplined student while removing them from the student's traditional classroom or school. In many cases, the schools have greater security personnel and teacher to student ratios are much smaller than the traditional classroom. Alternative education programs are predominately at the middle and high school levels. Due to a lack of alternative programs for elementary school students, 65% of the elementary students disciplined statewide in 1998/99 were either long-term suspended or expelled for their violations.

<sup>13</sup> Percentages do not total 100% due to rounding; totals do not equal 7,513 due to missing values.

### **C. School Safety Measures**

In recent years, the State has taken a variety of steps to address the issue of school safety. First, the State has implemented a number of laws which seek to ensure school divisions' address potential safety issues in their schools. The *Code of Virginia* (§22.1-279.8) requires each public school in Virginia to conduct a school safety audit and develop a crisis and emergency management plan. The safety audits are conducted every three years and they include a written assessment of the safety conditions in each school. The audits must:

*... (i) identify and, if necessary, develop solutions for physical safety concerns, including building security issues and (ii) identify and evaluate any patterns of student safety concerns occurring on school property or at school-sponsored events.<sup>14</sup>*

School crisis and emergency plans must include the essential procedures, operations and assignments required to prevent, manage, and respond to a critical event or emergency such as a natural disaster, vehicle accidents, medical emergencies, explosions, threats and violence on school property. The State Superintendent of Public Instruction is responsible for ensuring that each division has completed both the safety audits and the crisis emergency plans.

Second, the General Assembly in 2000 created the Virginia Center for School Safety.<sup>15</sup> Unlike other programs in the public schools, the Safety Center is located within the Department of Criminal Justice Services, a non-education agency. Exhibit 2 details the responsibilities of the School Safety Center. Finally, since 1998 the State has expanded the funding for school resource officers to maintain the safety in Virginia's schools.

### **D. Virginia's School Resource Officer Program**

School Resource Officers (SROs) are trained, certified law enforcement officers hired by the local Sheriff's office or police department to provide security in Virginia's public schools. An SRO program commits public safety personnel to the safety and security of the school community.<sup>16</sup> Although school resource officer programs were in place in Virginia prior to 1998, national high profile school shootings brought the subject of school violence to the attention of the public and Virginia elected officials in 1998. Prior to July 1, 1998, there were only 24 SRO positions funded by state or federal grants and these grants accounted for \$730,000.<sup>17</sup> However, beginning in the fall of 1998, significant legislation and funds were appropriated to expand the number of SROs in Virginia.

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<sup>14</sup> *Va. Code* §22.1-279.8(A)

<sup>15</sup> Source: House Bill 391, 4/18/00.

<sup>16</sup> Source: Virginia Department of Criminal Justice Services, School Safety Center website on School Resource Officers.

<sup>17</sup> Source: School Resource Officer Facts, the Virginia Department of Criminal Justice Services, June 2000, p. 1.



**Exhibit 2**  
**School Safety Center Duties**

1. Provide training for Virginia public school personnel in school safety and the effective identification of students who may be at risk for violent behavior and in need of special services or assistance;
2. Serve as a resource and referral center for Virginia school divisions by conducting research, sponsoring workshops, and providing information regarding current school safety concerns, such as conflict management and peer mediation, school facility design and technology, current state and federal statutory and regulatory school safety requirements, and legal and constitutional issues regarding school safety and individual rights;
3. Maintain and disseminate information to local school divisions on effective school safety initiatives in Virginia and across the nation;
4. Collect, analyze, and disseminate various Virginia school safety data, including school safety audit information submitted to it pursuant to § 22.1-279.8, collected by the Department;
5. Encourage the development of partnerships between the public and private sectors to promote school safety in Virginia;
6. Provide technical assistance to Virginia school divisions in the development and implementation of initiatives promoting school safety; and,
7. Develop a memorandum of understanding between the Commissioner of the Department of Criminal Justice Services and the Superintendent of Public Instruction to ensure collaboration and coordination of roles and responsibilities in areas of mutual concern, such as school safety audits and crime prevention.

Source: Va. Code §9.1-184.

First, in October of 1998, Governor Gilmore set aside \$500,000 of federal Safe and Drug-Free Schools and Communities Grant funds for the hiring of 30 new SRO positions. Subsequently, during the 1999 Session of the General Assembly, the School Resource Officer Grant Program and Trust Fund was created and \$1,000,000 appropriated to permanently fund these 30 grant funded positions. In May of 1999, Governor Gilmore allocated an additional \$1.5 million of Virginia's Edward G. Byrne Memorial Grant allotment for the hiring of 57 more SROs. By July 1, 1999, the number of state and federally funded SROs tripled from 24 officers to 111 officers with total funds of \$2,315,000.<sup>18</sup> Subsequently, the 2000 General Assembly appropriated an additional \$700,000 for new SRO positions.<sup>19</sup>

### **1. SRO State Grant Process**

The School Resource Officer Incentive Grant Program and Trust Fund was created to permanently fund SRO positions (*Code of Virginia*, §9.1-110). The Department of Criminal Justice Services (DCJS) is the executive branch agency responsible for administering state funds and federal grants for SROs through this program. DCJS grants are awarded for a maximum four year period and cannot exceed a state share of more than \$50,000 per grant. Allocation of

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<sup>18</sup> Ibid.

<sup>19</sup> Source: Virginia Department of Criminal Justice Services, School Safety Center website on School Resource Officers.

grant funds requires a local match which is based on the locality's ability to pay as measured by the composite index used for educational funding.<sup>20</sup>

In awarding SRO grant funds, DCJS has developed guidelines which encourage model components of a SRO program. These program components include:

- 1) A community-oriented policing philosophy;
- 2) SROs who are certified, sworn, law enforcement officers employed by a lawfully established police department or sheriff's office;
- 3) SROs who have at least one year of certified law enforcement experience and demonstrated ability, interest and skills necessary to work with youth, school personnel, and the public to solve problems;
- 4) SROs who act as primary law enforcement agents at the school and perform other multifaceted roles, including instructor of law-related education classes, criminal justice system liaison, role model, and crime prevention specialist (problem solving, mediation, personal safety); and,
- 5) SROs who will have or have attended a 40 hour, DCJS sponsored Basic SRO School within the first four months of the grant cycle.<sup>21</sup>

DCJS has developed the additional 40 hour training curriculum (beyond the 480 hours of academy training and 100 hours of field work mandated for a traditional law enforcement officer) for the SRO positions the agency funds. On average, DCJS can train up to 60 officers per session and each training session costs an average of \$12,500.<sup>22</sup> The Department also offers 8 additional specialized training opportunities that are voluntary.

## **2. Current Funding and Positions**

Data from two sources need to be considered when determining the current, most accurate number of School Resource Officers in Virginia schools. SROs are currently funded either by the state, through the SRO Trust Fund or the Byrne Memorial funds, or through local police departments using local appropriations or locally-initiated grants. Total DCJS grants to local law enforcement departments for SROs in FY 2002 will be \$4,823,887. With the FY 2002 grants, DCJS will fund 135 SROs in 90 localities through the allocation of 125 grants (Appendix D). The DCJS positions will be assigned to 135 schools.<sup>23</sup>

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<sup>20</sup> Sources: Va. Code §9.1-110 and Department of Criminal Justice Services' "Announcement of School Resource Officer Incentive Grants Funds, February 16, 2001.

Example of Funding if local position is \$50,000 and the locality's composite index is .3533:  
 $\$50,000 \times .3533 = \$17,665$  local match with the DCJS paying the remaining \$32,335.

<sup>21</sup> Source: Virginia Department of Criminal Justice Services, SRO Grant Proposal Guidelines, February 2001.

<sup>22</sup> Source: Virginia Department of Criminal Justice Services, June 16, 2001.

<sup>23</sup> Source: Virginia Department of Criminal Justice Services, September 5, 2001.

DCJS supported SROs are in middle schools, high schools, combined schools and educational centers at the secondary level.

The average DCJS cost for a grant funded SRO position in FY 2002 is \$35,733, including salary and benefits.<sup>24</sup> However, it should be noted that the amount of federal Byrne funds allocated for SROs dropped from FY 2001 to FY 2002 by more than \$800,000 and grants that phased out in FY 2001 were not reallocated to new grantees.

DCJS does not oversee the local SRO positions or programs. Thus, there is no current database to determine the locally funded SROs now in the Virginia Schools. In 1999, DCJS did a survey of local law enforcement agencies to determine the number of SROs they were employing with state, federal or local government funds. In 1999, there were 427 SROs in 128 local SRO programs.<sup>25</sup> At the time of the study, DCJS was only funding 111 SROs statewide. Thus, the remaining 316 officers identified in the 1999 study were being paid for entirely with local or locally-initiated funds.

At this time, it is problematic to determine the location of locally-funded SRO positions. The positions identified in 1999 may no longer be funded or the funding source for the positions may have changed with the expansion of the DCJS grant program. In addition, many of the identified local positions were within several larger jurisdictions. Through the statewide training it offers, DCJS is aware of approximately 421 SROs statewide of which 135 are funded by their agency.<sup>26</sup>

### **E. School Security Officers and Safety Specialists**

School Security Officers (SSOs) and Safety Specialists are employed by the local school divisions to assist in school safety issues. The majority of these positions pre-date the expansion of the statewide SRO programs and have historically been the main sources of personnel for school safety in the larger school divisions in Virginia. Currently, there is no state oversight of the training, job requirements, legal standards of action or equipment used by the local school divisions employing school security officers/specialist.

Several of the larger school divisions were reported to have gone to the Circuit Courts in their jurisdictions to get their school security officers/specialists sworn as Conservators of the Peace. Virginia Code allows for the appointment of two types of Conservators of the Peace. Section §19.2-13 allows for the Circuit Court to appoint persons as Special Conservators of the Peace and §15.2-1737 allows the Circuit Court, upon the application of the local Sheriff or Chief of Police, to appoint persons as Conservators of the Peace with Special Police Powers. In both cases, the terms may be for a period up to 4 years and the court must specify the geographical limitations to the powers of the positions.

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<sup>24</sup> Source: Virginia Department of Criminal Justice Services, September 5, 2001.

<sup>25</sup> Source: School Resource Officer Facts, the Virginia Department of Criminal Justice Services, June 2000, p. 3.

<sup>26</sup> Source: Department of Criminal Justice Services website and data, September 5, 2001.

Virginia Code states that a Conservator of the Peace is a “law-enforcement officer” with all duties and powers of a certified law enforcement officer.<sup>27</sup> Thus, school security officers/specialists have powers of arrest and search/seizure. Virginia Code does not specify or provide for any mandated training prior to Circuit Court appointment as a Conservator of the Peace.

Neither the Department of Education, nor the Department of Criminal Justice Services, had a database detailing either the location or activities of school security officers/specialists operating in Virginia’s school divisions when the Virginia State Crime Commission began the HJR 542 Study in Spring 2001.

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## **V. Survey Results**

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The Virginia State Crime Commission staff, in consultation with local school security personnel and DCJS staff, developed a school division survey to determine, among other things<sup>28</sup>:

- the number of school divisions employing school security officers/specialists;
- the number of full-time, part-time and substitute school security/safety officers employed during the 2000/01 school year;
- the job criteria used to employ the officers;
- the training requirements at job entry;
- the legal authority and standards of action used by the officers;
- the division policies concerning Use of Force and Arrest; and,
- the equipment used by the officers.

Surveys were sent to the Safe and Drug Free Schools Act Coordinator in each school division. In addition, middle, high and secondary school principals were sent a brief survey concerning the need for assistance with school security and the operational aspects of having school security officers/specialists with School Resource Officers also in the building. Eighty-four percent of the school divisions (111 of 132) responded to the survey request and 66% (492 of 749) responded to the principal’s survey request. A description of the survey findings follows.

### **A. School Security Officer Programs**

As Exhibit 3 illustrates, the HJR 542 survey found that 19 (17%) divisions reported employing school security officers/specialists. These divisions

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<sup>27</sup> Code of Virginia, §19.2-13.

<sup>28</sup> A copy of the survey instrument can be found in Appendix E.

employed 557 full-time officers, 40 part-time officers and 28 substitute officers. The two divisions with the largest security forces were Virginia Beach (129 officers) and Fairfax (120 officers). The average full-time salary of a SSO was reported to be \$22,198 with a high of \$32,000 in Loudoun County to a low of \$11,355 in Galax. Four divisions paid the officers on an hourly basis.

### **1. Job Criteria**

Each of the 19 school divisions with school security officers reported having minimal educational requirements at job entry. Additionally, 95% of the divisions also reported having reference checks and criminal background checks. However, other areas of requirement job criteria were not as evenly enforced:

- 3 divisions (16%) required drug screening at job entry;
- 3 divisions (16%) use random/periodic drug screening after employment;
- 5 divisions (26%) required a physical exam;
- none of the divisions required a physical fitness test;
- 1 division (5%) required psychological testing;
- 1 division (5%) required a writing sample; and,
- 9 divisions (45%) required U.S. citizenship.

### **2. Equipment and Uniforms**

The use of various types of security equipment also varied in the school divisions. Every division allowed the school security officers/specialists to carry radios. Two-thirds of the divisions also allowed closed circuit television and computers and slightly more than half of the divisions used metal detectors. However, a minority of the divisions reported the usage of more advance forms of security equipment:

- 4 divisions (21%) had handcuffs;
- 7 divisions (37%) had alco-synsors (breathalyzers);
- 6 divisions (32%) had drug testing kits;
- 1 division (5%) had pepper spray; and,
- 1 division (5%) had body armor.

Forty-seven percent of the divisions reported that their school security officers had a law enforcement style uniform and 40% reported their officers wore street/plain clothes.<sup>29</sup> Nine divisions had issued police style shields as part of the officer uniforms and 5 division issue utility belts.

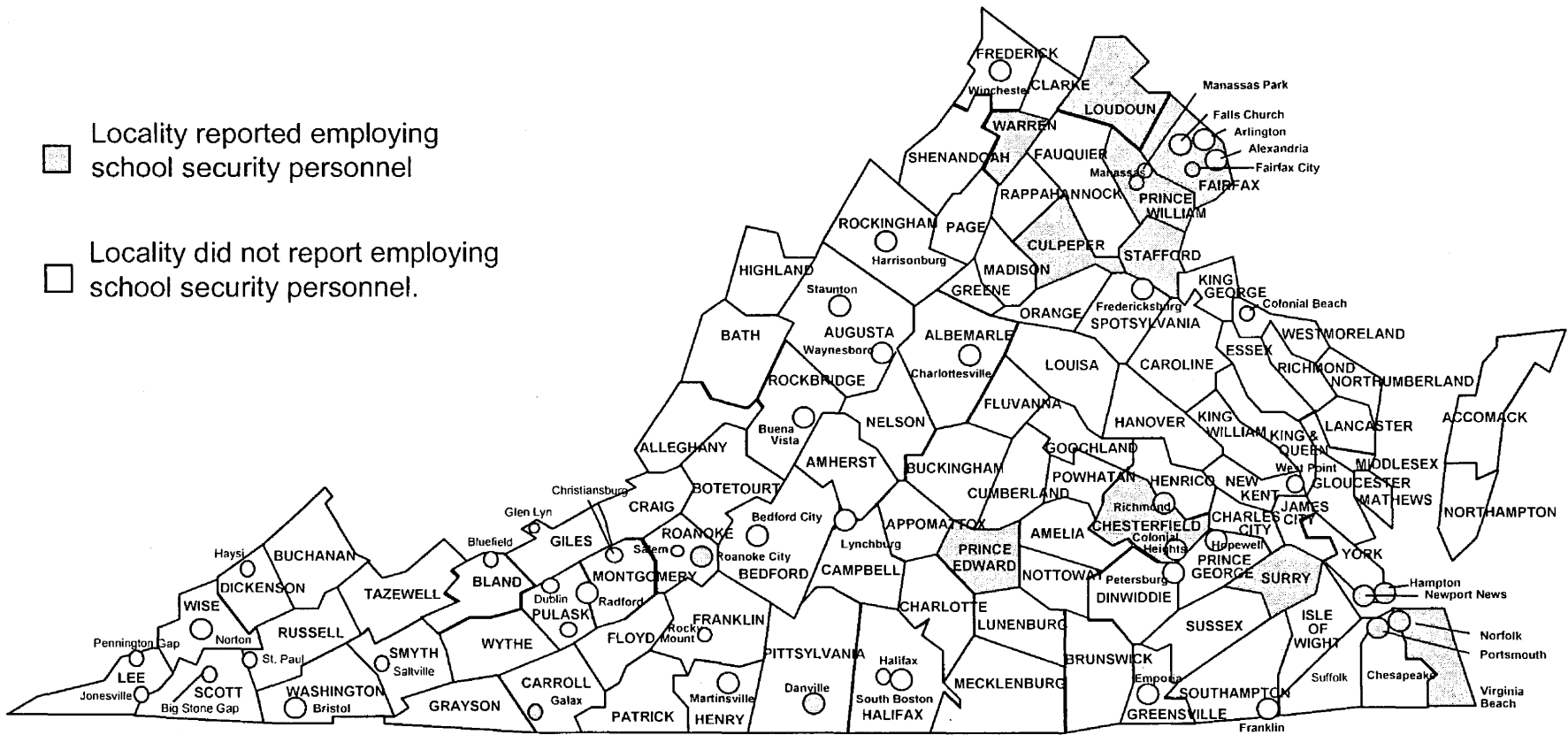
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<sup>29</sup> Two divisions did not answer the question; N = 17.

### Exhibit 3

# Divisions with School Security Officers

19 school divisions reported employing school security officers.



Source: HJR 542 Survey of School Safety Coordinators, Virginia State Crime Commission, December 2001.

### **3. Job Responsibilities**

There were some areas of job responsibilities where there appeared to be similarities between most of the school divisions. Two-thirds of the school divisions reported that their SSOs were responsible for building security, building safety audits/assessments, roving security patrols, participation in crisis response teams, monitoring of alarm/closed circuit television equipment, on-site patrols and maintaining security at after hours extra-curricular events.

School divisions did not, however, have uniform law enforcement related responsibilities. A third of the school divisions reported having law enforcement activities as part of the job responsibilities for their school security officers:

- 6 (32%) conducted on-site arrests for law violations;
- 7 (37%) pursued law violations off school property for school based violations; and,
- 6 (32%) pursued law violations off school property when occurring as part of a school sponsored trip/event.

All of the divisions that reported having law enforcement activities have school security officers which are sworn Conservators of the Peace.

### **4. Training**

The degree of, and quality of, school division training varied tremendously across the school divisions. Only 8 of the 19 divisions (42%) reported their officers had required training of all SSOs at job entry; all but one of the remaining 11 divisions required some form of training later in employment tenure. Surprisingly, two of the divisions that allow for their officers to be sworn Conservators do not mandate any training at job entry.

Of the eight school divisions that do require training at job entry, the number of hours required varied from a low of 12 to a high of 103.<sup>30</sup> Each of the eight divisions had some training in legal issues and school division policies/procedures. The City of Richmond had the most extensive training requirements with 103 hours reported, Culpeper required 64 hours of training and the remaining 6 divisions had 30 or less hours of training. As a comparison, School Resource Officers must have 480 hours of training at a certified training academy and 100 hours of field work. In addition, SROs funded by DCJS must have an additional 40 hours of school based training prior to working in a public school.

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<sup>30</sup> Total hours were calculated using the hours provided in each of the nine categories on the survey.

## **5. Legal Authority**

The majority of the school divisions reported that their SSOs acted pursuant to school board policies as they related to other educational personnel. These officers were reported to use a “reasonable” suspicion standard as the basis for responding and reacting to violations of school board policies or the *Code of Virginia*.

However, as stated earlier, seven divisions (37%) reported having their school security officers sworn as Conservators of the Peace. These divisions included: Newport News, Norfolk, Portsmouth, Prince Edward, Richmond, Virginia Beach and Warren. Of the seven divisions with Conservator powers:

- 6 reported using a “reasonable” suspicion standard of action for arrest and search/seizure;
- 2 reported not having a school division approved Use of Force Policy to guide SSO actions;
- 3 reported not having a division approved Arrest Policy to guide SSOs when a violation of the Code has occurred on school property or at a school sponsored event;
- 4 reported not providing training on powers of arrest at job entry;
- 3 reported not providing training on search and seizure issues at job entry;
- 3 reported not providing training on rules of evidence at job entry; and,
- 3 reported not providing training on constitutional law at job entry.

As Exhibit 4 illustrates, the legal standards of authority, standards of action and job responsibilities varied greatly in the seven school divisions that reported allowing their SSOs to have sworn Conservator of the Peace powers.

## **6. State Oversight**

The majority of the division survey respondents (84%) reported that there should be uniform training and certification of school security officers/safety specialists. Additionally, 77% of the principals also supported uniform training and certification. The three most often reported reasons for the need for uniform training and certification were:

1. provide consistency and continuity across the state;
2. ensure proper training of school employees; and,
3. mitigate school division liability by ensuring compliance with state and federal laws.



**Exhibit 4**

**School Divisions with Conservators of the Peace**

LEGAL AUTHORITY	STANDARD OF ACTION		LACK OF DIVISION POLICIES		JOB RESPONSIBILITIES		
	Reasonable Suspicion	Probable Cause	Use of Force Policy	Arrest Policy	On-site Arrests of Law Violations	Pursuit of Law Violations off School Property (School Based Violation)	Pursuit of Law Violations off School Property (Part of School Sponsored Event/Trip)
Conservator of the Peace with Appointed Police Powers							
Division A	✓				✓	✓	✓
Division B	✓			✓	✓		✓
Division C	✓		✓		✓	✓	
Division D		✓			✓	✓	✓
Conservator of the Peace							
Division E	✓				✓	✓	
Division F	✓			✓			
Division G	✓		✓	✓			

Source: HJR 542 Survey of School Division Safe and Drug Free Schools Act Coordinators; Fall 2002.

**B. Legal Issues**

In 1985, the United State Supreme Court in the landmark case of New Jersey vs. T.L.O. set the legal parameters for actions by school officials acting in security matters.<sup>31</sup> The Court found that:

*... the legality of a search of a student should depend simply on the reasonableness, under all circumstances, of the search. Determining the reasonableness of any search involves a determination of whether the search was justified at its inception and whether, as conducted, it was reasonably related in scope to the circumstances that justified the interference in the first place.*

Thus, when employed by a local school division, an educational employee is not held to the same high level of probable cause for action that a law enforcement officer would. The Supreme Court made a point of stating it did not address the appropriate standard of action when the school official is also a law enforcement officer in the T.L.O. decision.

The *Code of Virginia*, §19.2-1737, states that a "special conservator of the peace is a 'law enforcement officer'." Additionally, §15.2-1737(A) states that conservators "have the general power, authority and duties of other peace

<sup>31</sup> Source: U.S. Supreme Court New Jersey v. T.L.O., 469 U.S. 325 (1985), January 15, 1985.

officers” thus having legal powers of arrest and search and seizure. However, given the fact that the Supreme Court did not specifically address the appropriate standard of action for school officials who are also law enforcement officers in schools, the Virginia State Crime Commission sought an opinion from the Attorney General of Virginia regarding the warrant requirements of the Fourth Amendment to the United States Constitution before conducting searches (See Appendix F). Specifically, the Crime Commission asked whether:

“... the school safety officers, sworn as conservators, remain in the legal capacity of school officials and can operate under the T.L.O. reasonableness standard, or if they are considered law enforcement officials and must operate under a probable cause standard for searches and arrests.”

In November 2002, Virginia Attorney General Randolph A. Beales found<sup>32</sup>:

- When a school safety officer conducts a search as a Conservator of the Peace, with special police powers, he is clearly acting in a law enforcement capacity.
- Should school safety officers conduct a search seeking evidence of a crime, it should be done using a standard of probable cause for an actual arrest to justify the search.

In closing, the Attorney General stated:

*“It is my general opinion that all school searches conducted by a school safety officer as a school official must be assessed in terms of general reasonableness. When searches are conducted by a school safety officer as a Conservator of the Peace with special police powers seeking evidence of a crime it must be assessed in terms of probable cause.”*

Based on the Attorney General’s Opinion, six of the seven school divisions, who have had their school security officers sworn as Conservators of the Peace, were acting under an inappropriate legal standard of action.

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## **VI. Summary and Recommendations**

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Analysis of the HJR 542 surveys revealed large differences between the powers, training and oversight of school security officers in Virginia. Survey analysis found that reform is needed in two specific areas related to school security officers: control of the legal parameters with which school security officers may act and uniformity and oversight of local division programs.

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<sup>32</sup> See Appendix G for Attorney General Beale’s Opinion.

A minority of school divisions have obtained Conservator of the Peace powers without uniform state oversight or training. Given the Attorney General's Opinion, all but one of the divisions has been acting under an inappropriate legal standard of action for arrests and search and seizure.

The State of Virginia has established, and funds, 10 regional training academies to train and certify law enforcement officers to ensure proper arrest and search and seizure of persons in the Commonwealth. Law enforcement officers must have 480 hours of training and 100 hours of field work to meet certification requirements. The State of Virginia appropriates \$2.79 million annually to ensure that the academies are funded to produce well trained law enforcement officers.

The State of Virginia has not made a policy decision to establish police forces in the public school divisions, neither through statutory provisions or administrative regulations. However, the State has, through statute and administrative regulation, set a public policy that law enforcement officers must be properly trained to do arrest and search and seizure. The State has determined the standards for proper training. Local school divisions who have obtained police powers, while determining their own standards of acceptable training, are doing so without statutory authority or administrative regulation; the majority of which are acting under an inappropriate legal standard of action which subjects students to possible violations of their Fourth Amendment Rights guaranteed under the United States Constitution.

Without statutory provisions stating otherwise, the entities responsible for arresting students in public schools should be either School Resource Officers or certified law enforcement officers from the local Sheriff's or Police department. There should be statutory definitions of both School Resource Officers and School Security Officers put in the Code to clearly delineate that SROs are the only officers in public schools with arrest powers.

**Recommendation 1**

Codify the definitions of School Resource Officers (SROs) and School Security Officers (SSOs).

*School Resource Officer – a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public secondary schools.*

*School Security Officer – an individual who is employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies and detaining persons violating the law or school board policies on school property or at school sponsored events and who is responsible solely for ensuring the safety, security and welfare of all students, faculty and staff in the assigned school.*

In addition, to codifying the duties and powers of the various officers acting in Virginia's public schools, the *Code of Virginia* should be amended to clearly state that no school security officer can be appointed as a Conservator of the Peace for purposes of maintaining security services in a public school in Virginia. The State of Virginia has made policy decisions, through statutes and regulations, concerning both the levels of training and appropriate oversight of persons certified to be law enforcement officers. No school division in Virginia is certified to have a police training academy and no school division provides the requisite 480 hours of training and 100 hours of field work necessary to certify law enforcement officers.

**Recommendation 2**

Amend the *Code of Virginia* to clarify that school security officers cannot be appointed Conservators of the Peace for purposes of maintaining security in Virginia public schools as an employee of a local school division.

*§15.2-1737*

*Effective July 1, 2002, no person employed by a local school board as a school security officer, as defined in §9.1-101, shall be eligible for appointment as a special police officer for purposes of maintaining safety in a public school in the Commonwealth.*

*§19.2-13*

*Effective July 1, 2002, no person employed by a local school board as a school security officer, as defined in §9.1-101, shall be eligible for appointment as a conservator for purposes of maintaining safety in a public school in the Commonwealth.*

The HJR 542 study revealed a need for the state to provide for oversight, uniform training and employment standards for school security officers. In light of the lack of such oversight in the past, school divisions have developed their own programs with varying degrees of training, equipment usage, employment requirements and job responsibilities. Eighty-four percent of the school division respondent's reported a need for uniformity in school security officer programs in Virginia.

The Virginia Center for School Safety currently provides training for School Resource Officers in Virginia and they are responsible for assisting local school divisions with technical assistance in school safety issues. In addition, DCJS is also responsible for developing and overseeing the process for certifying law enforcement officers in the State. Thus, DCJS should oversee the appropriate requirements for school security programs and officers in the state.

### **Recommendation 3**

Amend the *Code of Virginia* to establish a process for the training, certification and establishment of minimum employment standards for school security officers.

Specifically, §9.1-102 of the *Code of Virginia* should be amended to direct the Department of Criminal Justice Services (DCJS), in consultation with the Department of Education (DOE) and the Virginia State Crime Commission, to:

- *develop minimum job entry and in-service employment standards for school security officers (i.e. education, background checks, drug/alcohol screenings);*
- *develop minimum training standards for school security officers (i.e. laws, conflict resolution, dynamics of student behavior); and,*
- *determine the requirements, and provide for, the certification of school security officers by the Center for School Safety.*

Training standards shall include, but not be limited to:

- the role and responsibilities of school security officers;
- relevant state and federal laws;
- school and personal liability issues;
- security awareness in a school environment;
- mediation and conflict resolution;
- disaster and emergency response; and,
- student behavioral dynamics.

In addition, DCJS shall establish an advisory committee consisting of local school board representatives, division superintendents, secondary principals and school security personnel to assist in the development of the standards and certification requirements. In order to give local school divisions time to plan, all current and new school security officers will need to meet the training and certification requirements by September 15, 2003.

The DCJS School Safety Center currently does not have the staff to carry out the new School Security Officer program requirements without new resources. The State will need to provide annual funding of \$250,500 to DCJS to provide for ten annual, 40 hour minimum, training sessions for school security officers. The training sessions shall be administered regionally throughout the year. In addition, DCJS will need funding support for development of school security officer job and program requirements. The State will need to provide a one time funding allocation of \$15,480 to DCJS for the development of a training curriculum and certification requirements for school security officers.

The Virginia Center for School Safety was established to provide school divisions with technical assistance on school safety issues. However, the Center was never fully funded. Because of new responsibilities associated with school

security officer requirements, and the additional responsibility in 2001 to analyze school safety audits, the Center should be fully funded. The State should provide annual funding for 2 FTEs and \$350,000 to achieve full funding for the DCJS Center for School Safety to:

- analyze school safety audits;
- provide technical assistance on safety audit problems;
- conduct new and updated training for school security officers and school resource officers;
- develop employment standards, training standards and certification requirements for school security officers; and,
- provide for certification of school security officers.

**Recommendation 4**

Support annual full funding for the DCJS Center for School Safety to meet its statutory responsibilities.

Local school divisions have started their own school security departments with division employed school security officers due to a lack of state resources and personnel to assist schools. The State of Virginia appropriates \$3.9 billion annually to local school divisions for educational services, yet only \$2.8 million in GF appropriations have been targeted for 77 SROs. The 77 SRO positions do not begin to approach full law enforcement coverage for the more than 606 Middle, High and Alternative schools in Virginia. Given that 7 divisions have acquired law enforcement powers out of a perceived need for arrest authority, the State should provide for the appropriate levels of trained certified law enforcement officers necessary to ensure safety in the public schools while upholding Fourth Amendment rights of students through adequately trained officers. Thus, the State should expand the SRO program statewide. Due to the large annual costs of such expansion, those schools with the highest incidence of school violence should be identified and funded with officers first.

**Recommendation 5**

Support funding, over a four year phase-in, to put one state funded School Resource Officer (SRO) in every middle and high school in Virginia to provide for the law enforcement and arrest powers necessary to ensure safe schools. Full funding will require \$27.59 million annually by FY 2006.

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## **VI. Acknowledgements**

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The Virginia State Crime Commission extends its appreciation to the following agencies and individuals for their assistance and cooperation on this study.

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### **Department of Criminal Justice Services**

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### **Virginia Association of Chiefs of Police**

Dana Schrad, Executive Director

### **Virginia Sheriff's Association**

John Jones, Executive Director





*Appendix A*

**House Joint Resolution 542**

# GENERAL ASSEMBLY OF VIRGINIA -- 2001 SESSION

## HOUSE JOINT RESOLUTION NO. 542

*Directing the Virginia State Crime Commission to examine the role, responsibilities, training and authority of school security officers and school safety specialists.*

Agreed to by the House of Delegates, February 6, 2001

Agreed to by the Senate, February 21, 2001

WHEREAS, children are better able to learn in an educational environment that is "free of disruption and threat to persons or property, and supportive of individual rights"; and

WHEREAS, recognizing that safety of Virginia public school students is of paramount importance, the Commonwealth has demonstrated its commitment to ensuring that safety by addressing the implementation of school safety audits, school crisis and emergency management plans, school crime lines, student discipline procedures, and student conduct policies; and

WHEREAS, in 1999 the General Assembly created the School Resource Officer Grants Program, administered by the Board of Criminal Justice Services, in consultation with the Board of Education, to provide matching grants to local law-enforcement agencies and local school boards that have established a collaborative agreement to employ uniformed school resource officers in middle and high schools within the relevant school division; and

WHEREAS, these school resource officers are certified law-enforcement officers and are to be employed "to help ensure safety, to prevent truancy and violence in schools, and to enforce school board rules and codes of student conduct" pursuant to § 9-171.1; and

WHEREAS, school security officers also play an important role in ensuring the safety of students and the integrity of the learning environment; and

WHEREAS, unlike school resource officers, school security officers are not law-enforcement officers, but are employed by the school division to supplement school safety and security efforts; and

WHEREAS, however, at least one local school board has an established school safety and security department staffed by school safety specialists who are sworn law-enforcement officers who enforce state laws, local ordinances and school board policies—including student conduct policies on school property and at school-sponsored activities—and otherwise provide security for students, school personnel and school property; and

WHEREAS, the effective coordination of school security officers, school resource officers, and school safety specialists will further enhance the safety of our public schools, thereby increasing the likelihood of maintaining an atmosphere conducive to learning for all students; and

WHEREAS, consideration of the various and distinctive roles played by school security officers, school resource officers, and school safety specialists is necessary to ensure the most efficient and fruitful coordination of school safety personnel, policies and procedures; and

WHEREAS, the Virginia State Crime Commission, pursuant to § 9-125, is empowered to "study, report and make recommendations on all areas of public safety and protection"; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to examine the role, responsibilities, training and authority of school security officers and school safety specialists. In conducting the study, the Virginia State Crime Commission shall consider, among other things, (i) the coordination of school security officers and school safety specialists with school resource officers; (ii) current school security officer and school safety specialist employment levels within the Commonwealth's school divisions; (iii) the role, responsibility and training needs of school security officers and school safety specialists; (iv) data regarding incidences of school crime and violence in Virginia public schools; and (v) such other issues as it deems appropriate.

All agencies of the Commonwealth shall provide assistance to the Virginia State Crime Commission for this study, upon request.

The Virginia State Crime Commission shall complete its work in time to submit its written findings and recommendations by November 30, 2001, to the Governor and the 2002 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

*Appendix B*

**School Disciplinary Statutes**

# VIRGINIA ACTS OF ASSEMBLY -- 2001 RECONVENED SESSION

REENROLLED

## CHAPTER 820

*An Act to amend and reenact §§ 8.01-47, 9-6.14:4.1, 16.1-293, 22.1-254, 22.1-266, 22.1-276.2, 22.1-277, 22.1-277.2, and 22.1-279.3 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 22.1-4.3, 22.1-79.3, 22.1-203.2, 22.1-276.01, 22.1-277.04 through 22.1-277.08, 22.1-277.2:1, 22.1-279.3:1, 22.1-279.6 through 22.1-279.9, and 22.1-280.4, and to repeal §§ 22.1-276, 22.1-277.01, 22.1-277.01:1, 22.1-277.01:2, 22.1-277.02, 22.1-277.02:1, 22.1-277.03, 22.1-277.1, 22.1-278, 22.1-278.1, 22.1-278.2, 22.1-278.3, 22.1-279.5, 22.1-280.1, and 22.1-280.3 of the Code of Virginia, relating to student discipline.*

[H 2512]

Approved April 4, 2001

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

1. That §§ 8.01-47, 9-6.14:4.1, 16.1-293, 22.1-254, 22.1-266, 22.1-276.2, 22.1-277, 22.1-277.2, and 22.1-279.3 are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 22.1-4.3, 22.1-79.3, 22.1-203.2, 22.1-276.01, 22.1-277.04 through 22.1-277.08, 22.1-277.2:1, 22.1-279.3:1, 22.1-279.6 through 22.1-279.9, and 22.1-280.4 as follows:

§ 8.01-47. Immunity of school personnel investigating or reporting certain incidents.

In addition to any other immunity he may have, any teacher, instructor, principal, school administrator, school coordinator, guidance counselor or any other professional, administrative or clerical staff member or other personnel of any elementary or secondary school, or institution of higher learning who, in good faith with reasonable cause and without malice, acts to report, investigate or cause any investigation to be made into the activities of any student or students or any other person or persons as they relate to conduct involving bomb threats, firebombs, explosive materials or other similar devices as described in clauses (v) and (vi) of § ~~22.1-280.4~~ 22.1-279.3:1 A, or alcohol or drug use or abuse in or related to the school or institution or in connection with any school or institution activity, shall be immune from all civil liability that might otherwise be incurred or imposed as the result of the making of such a report, investigation or disclosure.

§ 9-6.14:4.1. Exemptions and exclusions.

A. Although required to comply with § 9-6.18 of the Virginia Register Act (§ 9-6.15 et seq.), the following agencies are exempted from the provisions of this chapter, except to the extent that they are specifically made subject to §§ 9-6.14:14.1, 9-6.14:21 and 9-6.14:22:

1. The General Assembly.

2. Courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

3. The Department of Game and Inland Fisheries in promulgating regulations regarding the management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§ 29.1-700 et seq.) of Title 29.1.

4. The Virginia Housing Development Authority.

5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created under this Code, including those with federal authorities.

6. Educational institutions operated by the Commonwealth, provided that, with respect to § 9-6.14:22, such educational institutions shall be exempt from the publication requirements only with respect to regulations which pertain to (i) their academic affairs; (ii) the selection, tenure, promotion and disciplining of faculty and employees; (iii) the selection of students; and (iv) rules of conduct and disciplining of students.

7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii) classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for producers' milk, time and method of payment, butterfat testing and differential.

8. The Virginia Resources Authority.

9. Agencies expressly exempted by any other provision of this Code.

10. The Virginia Voluntary Formulary Board in formulating recommendations regarding

amendments to the Formulary pursuant to § 32.1-81.

11. [Repealed.]
  12. The Department of General Services in promulgating standards for the inspection of buildings for asbestos pursuant to § 2.1-526.14.
  - 13., 14. [Repealed.]
  15. The State Council of Higher Education for Virginia, in developing, issuing, and revising guidelines pursuant to § 23-9.6:2.
  16. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to subsection B of § 3.1-726.
  17. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer Services in promulgating regulations pursuant to subsections B and C of § 3.1-106.4, subsection B of § 3.1-126.12:1, § 3.1-271.1, § 3.1-398, subsections B and C of § 3.1-828.4, and subsection A of § 3.1-884.21:1.
  18. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.
  19. The Board of Medicine, in consultation with the Board of Pharmacy, when promulgating amendments to the Physician Assistant Formulary established pursuant to § 54.1-2952.1.
  20. The Virginia War Memorial Foundation.
  21. The Virginia Medicaid Prior Authorization Advisory Committee in making recommendations to the Board of Medical Assistance Services regarding prior authorization for prescription drug coverage pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.
  22. The State Board of Education, in developing, issuing, and revising guidelines pursuant to § ~~22.1-280.3~~ 22.1-203.2.
  23. The Virginia Racing Commission, when acting by and through its duly appointed stewards or in matters related to any specific race meeting.
  24. The Virginia Small Business Financing Authority.
  25. The Virginia Economic Development Partnership Authority.
  26. The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations pursuant to subsection A (ii) of § 59.1-156.
  27. The Insurance Continuing Education Board pursuant to § 38.2-1867.
  28. The Board of Health in promulgating the list of diseases that shall be reported to the Department of Health pursuant to § 32.1-35.
  29. The Virginia Racing Commission in promulgating technical rules regulating actual live horse racing at race meetings licensed by the Commission.
- B. Agency action relating to the following subjects is exempted from the provisions of this chapter:
1. Money or damage claims against the Commonwealth or agencies thereof.
  2. The award or denial of state contracts, as well as decisions regarding compliance therewith.
  3. The location, design, specifications or construction of public buildings or other facilities.
  4. Grants of state or federal funds or property.
  5. The chartering of corporations.
  6. Customary military, naval or police functions.
  7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of the Commonwealth.
  8. The conduct of elections or eligibility to vote.
  9. Inmates of prisons or other such facilities or parolees therefrom.
  10. The custody of persons in, or sought to be placed in, mental, penal or other state institutions as well as the treatment, supervision, or discharge of such persons.
  11. Traffic signs, markers or control devices.
  12. Instructions for application or renewal of a license, certificate, or registration required by law.
  13. Content of, or rules for the conduct of, any examination required by law.
  14. The administration of a pool or pools authorized by Article 7.1 (§ 2.1-234.9:1 et seq.) of

Chapter 14 of Title 2.1.

15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the State Lottery Board, and provided that such regulations are published and posted.

16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.

17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1.

18. The regulations for the implementation of the Health Practitioners' Intervention Program and the activities of the Intervention Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 32.1-73.1 et seq.) of Chapter 2 of Title 32.1.

20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.

21. The Virginia Breeders Fund created pursuant to § 59.1-372.

22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.

23. The administration of medication or other substances foreign to the natural horse.

C. The following agency actions otherwise subject to this chapter and § 9-6.18 of the Virginia Register Act are excluded from the operation of Article 2 (§ 9-6.14:7.1 et seq.) of this chapter:

1. Agency orders or regulations fixing rates or prices.

2. Regulations which establish or prescribe agency organization, internal practice or procedures, including delegations of authority.

3. Regulations which consist only of changes in style or form or corrections of technical errors. Each promulgating agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision identification listed.

4. Regulations which:

(a) Are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved;

(b) Are required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or

(c) Are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing; notice of the proposed adoption of these regulations and the Registrar's above determination shall be published in the Virginia Register not less than thirty days prior to the effective date thereof.

5. Regulations which an agency finds are necessitated by an emergency situation. For the purposes of this subdivision, "emergency situation" means (i) a situation involving an imminent threat to public health or safety or (ii) a situation in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation shall be effective in 280 days or less from enactment of the law or the appropriation act or the effective date of the federal regulation, and the regulation is not exempt under the provisions of subdivision C 4 of this section. In such cases, the agency shall state in writing the nature of the emergency and of the necessity for such action and may adopt such regulations. Pursuant to § 9-6.14:9, such regulations shall become effective upon approval by the Governor and filing with the Registrar of Regulations. Such regulations shall be limited to no more than twelve months in duration. During the twelve-month period, an agency may issue additional emergency regulations as needed addressing the subject matter of the initial emergency regulation, but any such additional emergency regulations shall not be effective beyond the twelve-month period from the effective date of the initial emergency regulation. If the agency wishes to continue regulating the subject matter governed by the emergency regulation beyond the twelve-month limitation, a regulation to replace the emergency regulation shall be promulgated in

accordance with Article 2 (§ 9-6.14:7.1 et seq.) of this chapter. The Notice of Intended Regulatory Action to promulgate a replacement regulation shall be filed with the Registrar within sixty days of the effective date of the emergency regulation and published as soon as practicable, and the proposed replacement regulation shall be filed with the Registrar within 180 days after the effective date of the emergency regulation and published as soon as practicable.

6. [Repealed.]

7. Preliminary program permit fees of the Department of Environmental Quality assessed pursuant to subsection C of § 10.1-1322.2.

8. Regulations of the Pesticide Control Board adopted pursuant to subsection B of § 3.1-249.51 or clause (v) or (vi) of subsection C of § 3.1-249.53 after having been considered at two or more Board meetings and one public hearing.

9. Regulations of the regulatory boards served by (i) the Department of Labor and Industry pursuant to Title 40.1 and (ii) the Department of Professional and Occupational Regulation or the Department of Health Professions pursuant to Title 54.1 which are limited to reducing fees charged to regulators and applicants.

10. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of Mines, Minerals and Energy authorized pursuant to §§ 45.1-161.82 and 45.1-161.292:55.

11. General permits issued by the State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 if the Board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

12. General permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the Board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

13. The development and issuance by the Board of Education of guidelines on constitutional rights and restrictions relating to the recitation of the pledge of allegiance to the American flag in public schools pursuant to § 22.1-202.

14. Regulations of the Board of the Virginia College Savings Plan promulgated pursuant to § 23-38.77.

15. The development and issuance of general wetlands permits by the Marine Resources Commission pursuant to subsection B of § 28.2-1307 if the Commission: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1, (ii) following the passage of thirty days from publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 9-6.14:7.1, and (iv) conducts at least one public hearing on the proposed general permit.

Whenever regulations are adopted under this subsection, the agency shall state as part thereof that it will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. The effective date of regulations adopted under this subsection shall be in accordance with the provisions of § 9-6.14:9.3, except in the case of emergency regulations, which shall become effective as provided in subsection B of § 9-6.14:9.

D. The following agency actions otherwise subject to this chapter are excluded from the operation

of Article 3 (§ 9-6.14:11 et seq.) of this chapter:

1. The assessment of taxes or penalties and other rulings in individual cases in connection with the administration of the tax laws.

2. The award or denial of claims for workers' compensation.

3. The grant or denial of public assistance.

4. Temporary injunctive or summary orders authorized by law.

5. The determination of claims for unemployment compensation or special unemployment.

6. The suspension of any license, certificate, registration or authority granted any person by the Department of Health Professions or the Department of Professional and Occupational Regulation for the dishonor, by a bank or financial institution named, of any check, money draft or similar instrument used in payment of a fee required by statute or regulation.

E. Appeals from decisions of the Governor's Employment and Training Department otherwise subject to this chapter are excluded from the operation of Article 4 (§ 9-6.14:15 et seq.) of this chapter.

F. The Marine Resources Commission, otherwise subject to this chapter and § 9-6.18 of the Virginia Register Act, is excluded from the operation of subdivision C 5 of this section and of Article 2 (§ 9-6.14:7.1 et seq.) of this chapter.

G. A regulation for which an exemption is claimed under this section and which is placed before a board or commission for consideration shall be provided at least two days in advance of the board or commission meeting to members of the public that request a copy of that regulation. A copy of that regulation shall be made available to the public attending such meeting.

H. The Joint Legislative Audit and Review Commission shall conduct a review periodically of exemptions and exclusions authorized by this section. The purpose of this review shall be to assess whether there are any exemptions or exclusions which should be discontinued or modified.

I. Minor changes to regulations being published in the Virginia Administrative Code under the Virginia Register Act, Chapter 1.2 (§ 9-6.15 et seq.) of this title, made by the Virginia Code Commission pursuant to § 9-77.10:1 shall be exempt from the provisions of this chapter.

§ 16.1-293. Supervision of juvenile during commitment and on parole; placing juvenile in halfway house.

At such time as the court commits a juvenile to the Department, it shall determine whether the juvenile and domestic relations district court service unit or the local department of public welfare or social services shall maintain contact with the juvenile during the juvenile's commitment. Except in exceptional cases, the court shall designate the local department to maintain contact with the juvenile during commitment only when the juvenile was in the custody of the local department immediately prior to his commitment to the Department. The Department shall return a juvenile to the previously designated local supervising agency and shall consult with the local supervising agency two weeks prior to such release on parole supervision concerning return of the juvenile to the local agency, unless there is an agreement for an earlier release. However, when any juvenile is committed to the Department by a circuit court, the juvenile may, upon request of the judge, be returned to the committing court by the Department.

The local supervising agency shall furnish the juvenile a written statement of the conditions of his parole and shall instruct him regarding the same. The conditions of the reenrollment plan may be included in the conditions of parole. Violations of parole shall be heard by the court pursuant to § 16.1-291. The director of the supervising agency may approve termination of parole supervision.

The Department shall notify the school division superintendent in the locality where the juvenile was enrolled of his commitment to a facility. The court services unit or local department of public welfare or social services shall, in consultation with the Department of Correctional Education, the local school division, and the juvenile correctional counselor, develop a reenrollment plan if the juvenile is of compulsory school attendance age or is eligible for special education services pursuant to § 22.1-213. The reenrollment plan shall be in accordance with regulations adopted by the Board of Education pursuant to § 22.1-17.1. The superintendent shall provide the juvenile's scholastic records, as defined in § 22.1-289, and the terms and conditions of any expulsion which was in effect at the time of commitment or which will be in effect upon release. A court may not order a local school board to reenroll a juvenile who has been expelled in accordance with § ~~22.1-277~~ *the procedures set*



forth in § 22.1-277.06. At least fourteen days prior to the juvenile's scheduled release, the Department shall notify the school division superintendent in the locality where the juvenile will reside.

In the event it is determined by the juvenile and domestic relations district court that a juvenile may benefit from placement in the halfway house program operated by the Department, the juvenile may be referred for care and treatment to a halfway house. Juveniles so placed in a halfway house shall remain in parole status and cannot be transferred or otherwise placed in another institutional setting or institutional placement operated by the Department except as elsewhere provided by law for those juveniles who have violated their parole status.

*§ 22.1-4.3. Participation in certain school activities by noncustodial parent.*

*Unless a court order has been issued to the contrary, the noncustodial parent of a student enrolled in a public school or day care center shall not be denied the opportunity to participate in any of the student's school or day care activities in which such participation is supported or encouraged by the policies of the school or day care center solely on the basis of such noncustodial status. For the purposes of this section, "school or day care activities" shall include, but shall not be limited to, lunch breaks, special in-school programs, parent-teacher conferences and meetings, and extracurricular activities. It is the responsibility of the custodial parent to provide the court order to the school or day care center.*

*§ 22.1-79.3. Policies regarding certain activities.*

*No later than January 1, 2001, local school boards shall develop and implement policies to ensure that public school students are not required to convey or deliver any materials that (i) advocate the election or defeat of any candidate for elective office, (ii) advocate the passage or defeat of any referendum question, or (iii) advocate the passage or defeat of any matter pending before a local school board, local governing body or the General Assembly of Virginia or the Congress of the United States.*

*This section shall not be construed to prohibit the discussion or use of political or issue-oriented materials as part of classroom discussions or projects or to prohibit the delivery of informational materials.*

*§ 22.1-203.2. Guidelines for constitutional compliance for student prayer.*

*To promote compliance with constitutional restrictions as well as observance of constitutional rights, the Board of Education shall, in consultation with the Office of the Attorney General, develop guidelines on constitutional rights and restrictions relating to prayer and other religious expression in the public schools. The Board's guidelines shall include, but shall not be limited to, provisions that address the following: the initiative and involvement of local school boards, individual schools, administrators, teachers, and students; the use of school facilities and equipment, including audio systems, and class time for prayer or other religious expression; and relevant state and federal constitutional concerns, such as freedom of religion and speech and separation of church and state. These guidelines shall not be subject to the requirements of the Administrative Process Act (§ 9-6.14:1 et seq.). However, in order to provide appropriate opportunity for input from the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing such guidelines. Thirty days prior to conducting such hearings, the Board shall give written notice by mail of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to hold such hearings in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to the adoption of such guidelines.*

*§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program attendance; exemptions from article.*

A. Except as otherwise provided in this article, every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday shall, during the period of each year the public schools are in session and for the same number of days and hours per day as the public schools, send such child to a public school or to a private, denominational or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent or provide for home instruction of such child as described in § 22.1-254.1.

As prescribed in the regulations of the Board of Education, the requirements of this section may also be satisfied by sending a child to an alternative program of study or work/study offered by a public, private, denominational or parochial school or by a public or private degree-granting institution of higher education. Further, in the case of any five-year-old child who is subject to the provisions of this subsection, the requirements of this section may be alternatively satisfied by sending the child to any public educational prekindergarten program, including a Head Start program, or in a private, denominational or parochial educational prekindergarten program.

Instruction in the home of a child or children by the parent, guardian or other person having control or charge of such child or children shall not be classified or defined as a private, denominational or parochial school.

The requirements of this section shall apply to (i) any child in the custody of the Department of Juvenile Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii) any child whom the division superintendent has required to take a special program of prevention, intervention, or remediation as provided in subsection C of § 22.1-253.13:1 and in § 22.1-254.01. However, the requirements of this section shall not apply to any child who has obtained a high school diploma, its equivalent, or a certificate of completion or who has otherwise complied with compulsory school attendance requirements as set forth in this article.

B. A school board shall excuse from attendance at school:

1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is conscientiously opposed to attendance at school. For purposes of this subdivision, "bona fide religious training or belief" does not include essentially political, sociological or philosophical views or a merely personal moral code; and

2. On the recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides and for such period of time as the court deems appropriate, any pupil who, together with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety when such concern or apprehension in that pupil's specific case is determined by the court, upon consideration of the recommendation of the principal and division superintendent, to be justified.

C. A school board may excuse from attendance at school:

1. On recommendation of the principal and the division superintendent and with the written consent of the parent or guardian, any pupil who the school board determines, in accordance with regulations of the Board of Education, cannot benefit from education at such school; and

2. On recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides, any pupil who, in the judgment of such court, cannot benefit from education at such school.

D. Local school boards may allow the requirements of subsection A of this section to be met under the following conditions:

For a student who is at least sixteen years of age, there shall be a meeting of the student, the student's parents, and the principal or his designee of the school in which the student is enrolled in which an individual student alternative education plan shall be developed in conformity with guidelines prescribed by the Board, which plan must include:

a. Career guidance counseling;

b. Mandatory enrollment and attendance in a general educational development preparatory program or other alternative education program approved by the local school board with attendance requirements that provide for reporting of student attendance by the chief administrator of such GED preparatory program or approved alternative education program to such principal or his designee;

c. Counseling on the economic impact of failing to complete high school; and

d. Procedures for reenrollment to comply with the requirements of subsection A of this section.

A student for whom an individual student alternative education plan has been granted pursuant to this subsection and who fails to comply with the conditions of such plan shall be in violation of the compulsory school attendance law, and the division superintendent or attendance officer of the school division in which such student was last enrolled shall seek immediate compliance with the compulsory school attendance law as set forth in this article.

Students enrolled with an individual student alternative education plan shall be counted in the average daily membership of the school division.

E. A school board may, in accordance with the procedures set forth in ~~§ 22.1-277~~ *Article 3 of Chapter 14 (§ 22.1-276 et seq.) of this title* and upon a finding that a school-age child has ~~(i) committed an offense in violation of school board policies;~~ ~~(ii) been (i) charged with an offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or intentional injury to another person;~~ ~~(ii) found guilty or not innocent of a crime that resulted in or could have resulted in injury to others, or for which the disposition ordered by a court is required to be disclosed to the superintendent of the school division pursuant to § 16.1-305.1;~~ ~~or (iii) been suspended pursuant to § 22.1-277.05; or (iv) expelled from school attendance pursuant to § 22.1-277.04 22.1-277.06 or § 22.1-277.07 or subsection B of § 22.1-277,~~ require the child to attend an alternative education program as provided in § 22.1-209.1:2 or ~~§ 22.1-277.1 22.1-277.2:1.~~

F. Whenever a court orders any pupil into an alternative education program offered in the public schools, the local school board of the school division in which the program is offered shall determine the appropriate alternative education placement of the pupil, regardless of whether the pupil attends the public schools it supervises or resides within its school division.

The juvenile and domestic relations district court of the county or city in which a pupil resides or in which charges are pending against a pupil, or any court in which charges are pending against a pupil, may require the pupil who has been charged with (i) a crime which resulted in or could have resulted in injury to others, (ii) a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any offense related to possession or distribution of any Schedule I, II, or III controlled substances to attend an alternative education program, including, but not limited to, night school, adult education, or any other education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.

This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude students, as provided in §§ ~~22.1-277, 22.1-277.01, 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.07, and 22.1-277.2.~~ As used in this subsection, the term "charged" means that a petition or warrant has been filed or is pending against a pupil.

G. Within one calendar month of the opening of school, each school board shall send to the parents or guardian of each student enrolled in the division a copy of the compulsory school attendance law and the enforcement procedures and policies established by the school board.

H. The provisions of this article shall not apply to:

1. Children suffering from contagious or infectious diseases while suffering from such diseases;
2. Children whose immunizations against communicable diseases have not been completed as provided in § 22.1-271.2;
3. Children under ten years of age who live more than two miles from a public school unless public transportation is provided within one mile of the place where such children live;
4. Children between the ages of ten and seventeen, inclusive, who live more than 2.5 miles from a public school unless public transportation is provided within 1.5 miles of the place where such children live; and
5. Children excused pursuant to subsections B and C of this section.

Further, any child who will not have reached his sixth birthday on or before September 30 of each school year whose parent or guardian notifies the appropriate school board that he does not wish the child to attend school until the following year because the child, in the opinion of the parent or guardian, is not mentally, physically or emotionally prepared to attend school, may delay the child's attendance for one year.

The distances specified in subdivisions 3 and 4 of this subsection shall be measured or determined from the child's residence to the entrance to the school grounds or to the school bus stop nearest the entrance to the residence of such children by the nearest practical routes which are usable for walking or riding. Disease shall be established by the certificate of a reputable practicing physician in accordance with regulations adopted by the Board of Education.

§ 22.1-266. Law-enforcement officers and truant children.

A. Notwithstanding the provisions of § 16.1-246, any law-enforcement officer as defined in § 9-169 or any attendance officer may pick up any child who (i) is reported to be truant from a public

school by a school principal or division superintendent or (ii) the law-enforcement officer or attendance officer reasonably determines to be a public school student and by reason of the child's age and circumstances is either truant from public school or has been expelled from school and has been required to attend an alternative education program pursuant to ~~§ 22.1-277.4~~ 22.1-254 or § 22.1-277.2:1, and may deliver such child to the appropriate public school, alternative education program, or truancy center and personnel thereof without charging the parent or guardian of such child with a violation of any provision of law.

B. Any such law-enforcement officer or attendance officer shall not be liable for any civil damages for any acts or omissions resulting from picking up or delivering a public school child as provided in subsection A when such acts or omissions are within the scope of the employment of such law-enforcement officer or attendance officer and are taken in good faith, unless such acts or omissions were the result of gross negligence or willful misconduct. This subsection shall not be construed to limit, withdraw or overturn any defense or immunity already existing in statutory or common law or to affect any claim occurring prior to the effective date of this law.

C. For the purposes of this section, "truancy center" means a facility or site operated by a school division, sometimes jointly with the local law-enforcement agency, and designated for receiving children who have been retrieved by a law-enforcement officer or attendance officer for truancy from school.

*§ 22.1-276.01. Definitions.*

*A. For the purposes of this article, unless the context clearly indicates otherwise:*

*"Alternative education program" shall include, but shall not be limited to, night school, adult education, or any other education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.*

*"Disruptive behavior" means a violation of school board regulations governing student conduct that interrupts or obstructs the learning environment.*

*"Exclusion" means a Virginia school board's denial of school admission to a student who has been expelled or has been placed on a long-term suspension of more than thirty calendar days by another school board or a private school, either in Virginia or another state, or for whom admission has been withdrawn by a private school in Virginia or another state.*

*"Expulsion" means any disciplinary action imposed by a school board or a committee thereof, as provided in school board policy, whereby a student is not permitted to attend school within the school division and is ineligible for readmission for 365 calendar days after the date of the expulsion.*

*"Long-term suspension" means any disciplinary action whereby a student is not permitted to attend school for more than ten school days but less than 365 calendar days.*

*"Short-term suspension" means any disciplinary action whereby a student is not permitted to attend school for a period not to exceed ten school days.*

*B. For the purposes of §§ 22.1-277, 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.2, and 22.1-277.2:1, "superintendent's designee" means a (i) trained hearing officer or (ii) professional employee within the administrative offices of the school division who reports directly to the division superintendent and who is not a school-based instructional or administrative employee.*

*§ 22.1-276.2. Removal of students from classes.*

*A. Teachers shall have the initial authority to remove a student for disruptive behavior from a class. For the purposes of this section, "disruptive behavior" means a violation of school board regulations governing student conduct that interrupts or obstructs the learning environment.*

*B. Each school board shall establish, within the regulations governing student conduct required by § 22.1-278 22.1-279.6:*

- 1. Criteria for teachers to remove disruptive students from their classes;*
- 2. Requirements for incident reports of disruptive behavior to school administrators and any other documentation to support such removals from class;*
- 3. Procedures for the written notification of a student and his parents of any incident report and its contents and for the opportunity to meet with the teacher and school administrators to discuss the student's behavior and the possible consequences if such behavior does not cease;*
- 4. Guidelines for the alternative assignment and instruction of such students and for the duration of such removals; and*

5. Procedures for the return of students to class, for teacher participation in any decision by the principal to return a student to the class from which he has been removed, and for the resolution of any disagreements between such principal and teacher regarding such return.

C. The principal shall, unless a student who has been removed from class is suspended or expelled from school attendance, ensure that such student continues to receive an education.

D. Any teacher whose evaluation indicates deficiencies in the management of student conduct may be required by the school board to attend professional development activities designed to improve classroom management and disciplinary skills.

E. Application of this section to students with disabilities shall be in accordance with state and federal law and regulations.

F. This section shall not be construed to limit or restrict other school board policies and regulations for maintaining order in the classroom.

§ 22.1-277. Suspensions and expulsions of pupils generally.

A. Pupils may be suspended or expelled from attendance at school for sufficient cause.

B. A pupil may be suspended for not more than ten school days by either the school principal, any assistant principal or in their absence any teacher. The principal, assistant principal, or teacher may suspend the pupil after giving the pupil oral or written notice of the charges against him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity to present his version of what occurred. In the case of any pupil whose presence poses a continuing danger to persons or property, or whose presence is an ongoing threat of disruption, the pupil may be removed from school immediately and the notice, explanation of facts and opportunity to present his version shall be given as soon as practicable thereafter. Upon suspension of any pupil, the principal, assistant principal, or teacher responsible for such suspension shall report the facts of the case in writing to the division superintendent or his designee and the parent of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the principal, assistant principal, or teacher upon a petition for such review by any party in interest and confirm or disapprove such action based on an examination of the record of the pupil's behavior. The decision of the division superintendent or his designee may be appealed to the school board or a committee thereof in accordance with regulations of the school board; however, the decision of the division superintendent or his designee shall be final if so prescribed by school board regulations.

C. A pupil may be suspended from attendance at school for more than ten days after providing written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board, or a committee thereof, or the superintendent or his designee, in accordance with regulations of the school board. If the regulations provide for a hearing by the superintendent or his designee, the regulations shall also provide for an appeal of the decision to the full school board. Such appeal shall be decided by the school board within thirty days.

If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide that such committee may confirm or disapprove the suspension of a student. Any such committee of the school board shall be composed of at least three members. If the committee's decision is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within thirty days.

D. Pupils may be expelled from attendance at school after written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board or a committee thereof in accordance with regulations of the school board. If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide that such committee may confirm or disapprove the expulsion of a student. Any such committee of the school board shall be composed of at least three members. If the committee's decision is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within thirty days.

E. For the purposes of this section, the superintendent's designee shall be a (i) trained hearing officer or (ii) professional employee within the administrative offices of the school division who reports directly to the division superintendent and who is not a school-based instructional or administrative employee.

F. Any student for whom the division superintendent of the school division in which such student is

enrolled has received a report pursuant to § 16.1-305.1 of an adjudication of delinquency or a conviction may be suspended or expelled from school attendance pursuant to this article.

C. The authority provided in § 22.1-276.2 for teachers to remove students from their classes in certain instances of disruptive behavior shall not be interpreted to affect the operation of ~~this section~~ §§ 22.1-277.04, 22.1-277.05, or § 22.1-277.06.

*§ 22.1-277.04. Short-term suspension; procedures; readmission.*

*A pupil may be suspended for not more than ten school days by either the school principal, any assistant principal, or, in their absence, any teacher. The principal, assistant principal, or teacher may suspend the pupil after giving the pupil oral or written notice of the charges against him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity to present his version of what occurred. In the case of any pupil whose presence poses a continuing danger to persons or property, or whose presence is an ongoing threat of disruption, the pupil may be removed from school immediately and the notice, explanation of facts, and opportunity to present his version shall be given as soon as practicable thereafter.*

*Upon suspension of any pupil, the principal, assistant principal, or teacher responsible for such suspension shall report the facts of the case in writing to the division superintendent or his designee and the parent of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the principal, assistant principal, or teacher upon a petition for such review by any party in interest and confirm or disapprove such action based on an examination of the record of the pupil's behavior.*

*The decision of the division superintendent or his designee may be appealed to the school board or a committee thereof in accordance with regulations of the school board; however, the decision of the division superintendent or his designee shall be final if so prescribed by school board regulations.*

*The school board shall require that any oral or written notice to the parent of a student who is suspended from school attendance for not more than ten days include notification of the length of the suspension, information regarding the availability of community-based educational programs, alternative education programs or other educational options, and of the student's right to return to regular school attendance upon the expiration of the suspension. The costs of any community-based educational program, or alternative education program or educational option, which is not a part of the educational program offered by the school division, shall be borne by the parent of the student.*

*§ 22.1-277.05. Long-term suspensions; procedures; readmission.*

*A. A pupil may be suspended from attendance at school for more than ten days after providing written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board, or a committee thereof, or the superintendent or his designee, in accordance with regulations of the school board. If the regulations provide for a hearing by the superintendent or his designee, the regulations shall also provide for an appeal of the decision to the full school board. Such appeal shall be decided by the school board within thirty days.*

*If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide that such committee may confirm or disapprove the suspension of a student. Any such committee of the school board shall be composed of at least three members. If the committee's decision is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within thirty days.*

*B. A school board shall include in the written notice of a suspension for more than ten days required by this section, notification of the length of the suspension. In the case of a suspension for more than ten days, such written notice shall provide information concerning the availability of community-based educational, alternative education, or intervention programs. Such notice shall also state that the student is eligible to return to regular school attendance upon the expiration of the suspension or to attend an appropriate alternative education program approved by the school board during or upon the expiration of the suspension. The costs of any community-based educational, alternative education, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his suspension shall be borne by the parent of the student.*

*Nothing in this section shall be construed to prohibit the school board from permitting or requiring students suspended pursuant to this section to attend an alternative education program*

*provided by the school board for the term of such suspension.*

*§ 22.1-277.06. Expulsions; procedures; readmission.*

*A. Pupils may be expelled from attendance at school after written notice to the pupil and his parent of the proposed action and the reasons therefor and of the right to a hearing before the school board or a committee thereof in accordance with regulations of the school board.*

*If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide that such committee may confirm or disapprove the expulsion of a student. Any such committee of the school board shall be composed of at least three members. If the committee's decision is not unanimous, the pupil or his parent may appeal the committee's decision to the full school board. Such appeal shall be decided by the school board within thirty days.*

*The regulations shall also provide for subsequent confirmation or disapproval of the proposed expulsion by the school board, or a committee thereof, as may be provided in regulation, regardless of whether the pupil exercised the right to a hearing.*

*B. The written notice required by this section shall include notification of the length of the expulsion and shall provide information to the parent of the student concerning the availability of community-based educational, training, and intervention programs. Such notice shall state further whether or not the student is eligible to return to regular school attendance, or to attend an appropriate alternative education program approved by the school board, or an adult education program offered by the school division, during or upon the expiration of the expulsion, and the terms or conditions of such readmission. The costs of any community-based educational, training, or intervention program that is not a part of the educational program offered by the school division that the student may attend during his expulsion shall be borne by the parent of the student.*

*Nothing in this section shall be construed to prohibit the school board from permitting or requiring students expelled pursuant to this section to attend an alternative education program provided by the school board for the term of such expulsion.*

*If the school board determines that the student is ineligible to return to regular school attendance or to attend during the expulsion an alternative education program or an adult education program in the school division, the written notice shall also advise the parent of such student that the student may petition the school board for readmission to be effective one calendar year from the date of his expulsion, and of the conditions, if any, under which readmission may be granted.*

*School boards shall establish, by regulation, a schedule pursuant to which such students may apply and reapply for readmission to school. Such schedule shall be designed to ensure that the hearing and ruling on any initial petition for readmission, if granted, would enable the student to resume school attendance one calendar year from the date of the expulsion.*

*C. Recommendations for expulsion for actions other than those specified in §§ 22.1-277.07 and 22.1-277.08 shall be based on consideration of the following factors:*

- 1. The nature and seriousness of the violation;*
- 2. The degree of danger to the school community;*
- 3. The student's disciplinary history, including the seriousness and number of previous infractions;*
- 4. The appropriateness and availability of an alternative education placement or program;*
- 5. The student's age and grade level;*
- 6. The results of any mental health, substance abuse, or special education assessments;*
- 7. The student's attendance and academic records; and*
- 8. Such other matters as he deems appropriate.*

*No decision to expel a student shall be reversed on the grounds that such factors were not considered.*

*Nothing in this subsection shall be deemed to preclude a school board from considering any of these factors as "special circumstances" for purposes of §§ 22.1-277.07 and 22.1-277.08.*

*§ 22.1-277.07. Expulsion of students under certain circumstances; exceptions.*

*A. In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), a school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined, in accordance with the procedures set forth in this article, to have brought a firearm onto school property or to a school-sponsored activity as prohibited by § 18.2-308.1, or to have brought a firearm as defined in subsection D on school*

property or to a school-sponsored activity. A school administrator, pursuant to school board policy, or a school board may, however, determine, based on the facts of a particular situation, that special circumstances exist and no disciplinary action or another disciplinary action or another term of expulsion is appropriate. A school board may promulgate guidelines for determining what constitutes special circumstances. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.

B. The Board of Education is designated as the state education agency to carry out the provisions of the federal Improving America's Schools Act of 1994, and shall administer the funds to be appropriated to the Commonwealth under this act.

C. Each school board shall revise its standards of student conduct no later than three months after the date on which this act becomes effective. Local school boards requesting moneys apportioned to the Commonwealth through the federal Improving America's Schools Act of 1994 shall submit to the Department of Education an application requesting such assistance. Applications for assistance shall include:

1. Documentation that the local school board has adopted and implemented student conduct policies in compliance with this section; and

2. A description of the circumstances pertaining to expulsions imposed under this section, including (i) the schools from which students were expelled under this section, (ii) the number of students expelled from each such school in the school division during the school year, and (iii) the types of firearms involved in the expulsions.

D. As used in this section:

"Destructive device" means (i) any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or other similar device; (ii) any weapon, except a shotgun or a shotgun shell generally recognized as particularly suitable for sporting purposes, by whatever name known that will, or may be readily converted to, expel a projectile by the action of an explosive or other propellant, and that has any barrel with a bore of more than one-half inch in diameter; and (iii) any combination of parts either designed or intended for use in converting any device into any destructive device described in this subsection and from which a destructive device may be readily assembled. "Destructive device" shall not include any device that is not designed or redesigned for use as a weapon, or any device originally designed for use as a weapon and that is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or other similar device.

"Firearm" means any weapon prohibited on school property or at a school-sponsored activity pursuant to § 18.2-308.1, or (i) any weapon, including a starter gun, that will, or is designed or may readily be converted to, expel a projectile by the action of an explosive; (ii) the frame or receiver of any such weapon; (iii) any firearm muffler or firearm silencer; or (iv) any destructive device.

"One year" means 365 calendar days as required in federal regulations.

"School property" means any real property owned or leased by the school board or any vehicle owned or leased by the school board or operated by or on behalf of the school board.

E. The exemptions set out in § 18.2-308 regarding concealed weapons shall apply, *mutatis mutandis*, to the provisions of this section. The provisions of this section shall not apply to persons who possess such firearm or firearms as a part of the curriculum or other programs sponsored by the schools in the school division or any organization permitted by the school to use its premises or to any law-enforcement officer while engaged in his duties as such.

F. This section shall not be construed to diminish the authority of the Board of Education or the Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

§ 22.1-277.08. Expulsion of students for certain drug offenses.

A. School boards shall expel from school attendance any student whom such school board has



determined, in accordance with the procedures set forth in this article, to have brought a controlled substance, imitation controlled substance, or marijuana as defined in § 18.2-247 onto school property or to a school-sponsored activity. A school board may, however, determine, based on the facts of the particular case, that special circumstances exist and another disciplinary action is appropriate. In addition, a school board may, by regulation, authorize the division superintendent or his designee to conduct a preliminary review of such cases to determine whether a disciplinary action other than expulsion is appropriate. Such regulations shall ensure that, if a determination is made that another disciplinary action is appropriate, any such subsequent disciplinary action is to be taken in accordance with the procedures set forth in this article.

B. Each school board shall revise its standards of student conduct to incorporate the requirements of this section no later than three months after the date on which this act becomes effective.

§ 22.1-277.2. Authority to exclude students under certain circumstances.

A. A student, who has been expelled or suspended for more than thirty days from attendance at school by a school board or a private school in this Commonwealth or in another state or for whom admission has been withdrawn by a private school in this Commonwealth or in another state for an offense in violation of school board policies related to destruction of school property or privately-owned property while located on school property, weapons, alcohol or drugs, or for the willful infliction of injury to another person, may be excluded from attendance by a local school board in Virginia, regardless of whether such student has been admitted to another school division or private school in the Commonwealth or in another state subsequent to such expulsion, suspension, or withdrawal of admission; for no more than one year in the case of an expulsion or withdrawal of admission and, in the case of a suspension of more than thirty days, for no longer than the duration of such suspension; upon a finding that the student presents a danger to the other students or staff of the school division after (i) written notice to the student and his parent that the student may be subject to exclusion, the reasons therefor, and, in the event of such exclusion, of the right to appeal the decision at a hearing before the school board or a committee thereof; and (ii) a review of the case has been conducted by the division superintendent or his designee and exclusion has been recommended.

*In the case of a suspension of more than thirty days, the term of the exclusion may not exceed the duration of such suspension.*

*In excluding any such expelled student from school attendance, the local school board may accept or waive any or all of any conditions for readmission imposed upon such student by the expelling school board pursuant to § 22.1-277.06. The excluding school board shall not impose additional conditions for readmission to school.*

If the decision by the superintendent or his designee to exclude has been appealed to a committee of the school board, the student or his parent shall be provided written notice of the right to appeal the decision to the full board, which shall, within thirty days following any such hearing, in the case of an expulsion or withdrawal of admission and, in the case of a suspension of more than thirty days, within fifteen days following any such hearing, notify in writing the student or his parent of its decision.

B. In lieu of the procedures established in subsection A, a school board may adopt regulations providing that a student may be excluded from attendance after (i) written notice to the student and his parent that the student may be subject to exclusion, including the reasons therefor, and notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his designee regarding such exclusion; and (ii) a hearing of the case has been conducted by the division superintendent or his designee, and the decision has been to exclude the student from attendance. The decision of the superintendent or his designee to exclude shall be final unless altered by the school board, upon timely written petition, as established in regulation, of the student so excluded or his parent, for a review of the record by the school board.

C. For the purposes of this section, the superintendent's designee shall be a (i) trained hearing officer or (ii) professional employee within the administrative offices of the school division who reports directly to the division superintendent and who is not a school-based instructional or administrative employee.

D. Upon the expiration of the exclusion period for an expulsion or a withdrawal of admission,

which period shall not be more than one year established by the school board, committee thereof, or superintendent or his designee, as the case may be at the relevant hearing, the student may petition re-petition the school board for admission. For the purposes of this section, "one year" shall mean 365 calendar days. If the petition for admission is rejected, the school board shall identify the length of the continuing exclusion period and the subsequent date upon which such student may re-petition the school board for admission.

*D. The school board may permit students excluded pursuant to this section to attend an alternative education program provided by the school board for the term of such exclusion.*

*§ 22.1-277.2:1. Disciplinary authority of school boards under certain circumstances.*

*A. A school board may, in accordance with the procedures set forth in this article, require any student who has been (i) charged with an offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or intentional injury to another person; (ii) found guilty or not innocent of an offense relating to the Commonwealth's laws on weapons, alcohol, or drugs, or of a crime that resulted in or could have resulted in injury to others, or for which the disposition ordered by a court is required to be disclosed to the superintendent of the school division pursuant to § 16.1-305.1; (iii) found to have committed a serious offense or repeated offenses in violation of school board policies; (iv) suspended pursuant to § 22.1-277.05; or (v) expelled pursuant to §§ 22.1-277.06, 22.1-277.07, or § 22.1-277.08, or subsection B of § 22.1-277, to attend an alternative education program. A school board may require such student to attend such programs regardless of where the crime occurred. School boards may require any student who has been found, in accordance with the procedures set forth in this article, to have been in possession of, or under the influence of, drugs or alcohol on a school bus, on school property, or at a school-sponsored activity in violation of school board policies, to undergo evaluation for drug or alcohol abuse, or both, and, if recommended by the evaluator and with the consent of the student's parent, to participate in a treatment program.*

*As used in this section, the term "charged" means that a petition or warrant has been filed or is pending against a pupil.*

*B. A school board may adopt regulations authorizing the division superintendent or his designee to require students to attend an alternative education program consistent with the provisions of subsection A after (i) written notice to the student and his parent that the student will be required to attend an alternative education program and (ii) notice of the opportunity for the student or his parent to participate in a hearing to be conducted by the division superintendent or his designee regarding such placement. The decision of the superintendent or his designee regarding such alternative education placement shall be final unless altered by the school board, upon timely written petition, as established in regulation, by the student or his parent, for a review of the record by the school board.*

*§ 22.1-279.3. Parental responsibility and involvement requirements.*

*A. Each parent of a student enrolled in a public school has a duty to assist the school in enforcing the standards of student conduct and attendance in order that education may be conducted in an atmosphere free of disruption and threat to persons or property, and supportive of individual rights.*

*B. A school board shall provide opportunities for parental and community involvement in every school in the school division.*

*C. Within one calendar month of the opening of school, each school board shall, simultaneously with any other materials customarily distributed at that time, send to the parents of each enrolled student (i) a notice of the requirements of this section and (ii) a copy of the school board's standards of student conduct. These materials shall include a notice to the parents that by signing the statement of receipt, parents shall not be deemed to waive, but to expressly reserve, their rights protected by the constitutions or laws of the United States or the Commonwealth and that a parent shall have the right to express disagreement with a school's or school division's policies or decisions.*

*Each parent of a student shall sign and return to the school in which the student is enrolled a statement acknowledging the receipt of the school board's standards of student conduct and the notice of the requirements of this section. Each school shall maintain records of such signed statements.*

*D. The school principal may request the student's parent or parents, if both parents have legal and physical custody of such student, to meet with the principal or his designee to review the school*

board's standards of student conduct and the parent's or parents' responsibility to participate with the school in disciplining the student and maintaining order, and to discuss improvement of the child's behavior and educational progress.

E. In accordance with ~~§ 22.1-277~~ *the due process procedures set forth in this article* and the guidelines required by ~~§ 22.1-278~~ 22.1-279.6, the school principal may notify the parents of any student who violates a school board policy when such violation could result in the student's suspension, whether or not the school administration has imposed such disciplinary action. The notice shall state (i) the date and particulars of the violation; (ii) the obligation of the parent to take actions to assist the school in improving the student's behavior; and (iii) that, if the student is suspended, the parent may be required to accompany the student to meet with school officials.

F. No suspended student shall be admitted to the regular school program until such student and his parent have met with school officials to discuss improvement of the student's behavior, unless the school principal or his designee determines that readmission, without parent conference, is appropriate for the student.

G. Upon the failure of a parent to comply with the provisions of this section, the school board may, by petition to the juvenile and domestic relations court, proceed against such parent for willful and unreasonable refusal to participate in efforts to improve the student's behavior, as follows:

1. If the court finds that the parent has willfully and unreasonably failed to meet, pursuant to a request of the principal as set forth in subsection D of this section, to review the school board's standards of student conduct and the parent's responsibility to assist the school in disciplining the student and maintaining order, and to discuss improvement of the child's behavior and educational progress, it may order the parent to so meet; or

2. If the court finds that a parent has willfully and unreasonably failed to accompany a suspended student to meet with school officials pursuant to subsection F, or upon the student's receiving a second suspension or being expelled, it may order (i) the student or his parent, or both, to participate in such programs or such treatment as the court deems appropriate to improve the student's behavior, including participation in parenting counseling or a mentoring program, as appropriate or (ii) the student or his parent, or both, to be subject to such conditions and limitations as the court deems appropriate for the supervision, care, and rehabilitation of the student or his parent. In addition, the court may order the parent to pay a civil penalty not to exceed \$500.

H. The civil penalties established pursuant to this section shall be enforceable in the juvenile and domestic relations court in which the student's school is located and shall be paid into a fund maintained by the appropriate local governing body to support programs or treatments designed to improve the behavior of students as described in subdivision G 2. Upon the failure to pay the civil penalties imposed by this section, the attorney for the appropriate county, city, or town shall enforce the collection of such civil penalties.

I. All references in this section to the juvenile and domestic relations court shall be also deemed to mean any successor in interest of such court.

*§ 22.1-279.3:1. Reports of certain acts to school authorities.*

*A. Reports shall be made to the principal or his designee on all incidents involving (i) the assault, assault and battery, sexual assault, death, shooting, stabbing, cutting, or wounding of any person on a school bus, on school property, or at a school-sponsored activity; (ii) any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity; (iii) any threats against school personnel while on a school bus, on school property or at a school-sponsored activity; (iv) the illegal carrying of a firearm onto school property; (v) any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in § 18.2-85, or explosive or incendiary devices, as defined in § 18.2-433.1, or chemical bombs, as described in § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; or (vi) any threats or false threats to bomb, as described in § 18.2-83, made against school personnel or involving school property or school buses.*

*B. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of Chapter 11 of Title 16.1, local law-enforcement authorities may report, and the principal or his designee may receive such reports, on offenses, wherever committed, by students enrolled at the school if the offense would be a felony if committed by an adult or would be a violation of the Drug Control Act (§ 54.1-3400 et seq.)*

and occurred on a school bus, on school property, or at a school-sponsored activity, or would be an adult misdemeanor involving any incidents described in clauses (i) through (v) of subsection A.

C. The principal or his designee shall submit a report of all incidents required or authorized to be reported pursuant to this section to the superintendent of the school division. The division superintendent shall annually report all such incidents to the Department of Education for the purpose of recording the frequency of such incidents on forms that shall be provided by the Department and shall make such information available to the public. A division superintendent who knowingly fails to comply or secure compliance with the reporting requirements of this subsection shall be subject to the sanctions authorized in § 22.1-65. A principal who knowingly fails to comply or secure compliance with the reporting requirements of this section shall be subject to sanctions prescribed by the local school board, which may include, but need not be limited to, demotion or dismissal.

The principal or his designee shall also notify the parent of any student involved in an incident required by subsection A or authorized by subsection B to be reported, regardless of whether disciplinary action is taken against such student or the nature of the disciplinary action. Such notice shall relate to only the relevant student's involvement and shall not include information concerning other students.

Whenever any student commits any reportable incident as set forth in this section, such student shall be required to participate in such prevention and intervention activities as deemed appropriate by the superintendent or his designee. Prevention and intervention activities shall be identified in the local school division's drug and violence prevention plans developed pursuant to the federal Improving America's Schools Act of 1994 (Title IV - Safe and Drug-Free Schools and Communities Act).

D. The principal shall immediately report to the local law-enforcement agency any act enumerated in subsection A that may constitute a criminal offense.

E. A statement providing a procedure and the purpose for the requirements of this section shall be included in the policy manual of all school divisions.

The Board of Education shall promulgate regulations to implement this section, including, but not limited to, establishing reporting dates and report formats.

F. For the purposes of this section, "parent" or "parents" means any parent, guardian or other person having control or charge of a child.

G. This section shall not be construed to diminish the authority of the Board of Education or the Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

§ 22.1-279.6. Guidelines for school board policies; school board regulations governing student conduct.

A. The Board of Education shall establish guidelines and develop model student conduct policies to aid local school boards in the implementation of such policies. The guidelines shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others and dissemination of such policies to students, their parents, and school personnel; and (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies. In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, in accordance with the requirements of this section, regulations governing student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include, in the regulations governing student conduct,

*procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.*

*Each school board shall include, in its standards of student conduct, prohibitions against profane or obscene language or conduct.*

*A school board may regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures pursuant to this article to which students violating such regulations will be subject.*

*C. The Board of Education shall establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), in accordance with § 22.1-277.07, to be effective on July 1, 1995.*

*This subsection shall not be construed to diminish the authority of the Board of Education or the Governor concerning decisions on whether, or the extent to which, Virginia shall participate in the federal Improving America's Schools Act of 1994, or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.*

*§ 22.1-279.7. Guidelines for student searches.*

*The Board of Education shall develop, in consultation with the Office of the Attorney General, guidelines for school boards for the conduct of student searches, including random locker searches and strip searches, consistent with relevant state and federal laws and constitutional principles.*

*Effective for the 2001-2002 school year, school boards shall adopt and revise, in accordance with the requirements of this section, regulations governing student searches that are consistent with the guidelines of the Board.*

*§ 22.1-279.8. School safety audits and school crisis and emergency management plans required.*

*A. For the purposes of this section, unless the context requires otherwise:*

*"School crisis and emergency management plan" means the essential procedures, operations, and assignments required to prevent, manage, and respond to a critical event or emergency, including natural disasters involving fire, flood, or severe weather; loss or disruption of power, water, communications or shelter; bus or other accidents; medical emergencies; student or staff member deaths; explosions; bomb threats; gun, knife or other weapons threats; spills or exposures to hazardous substances; the presence of unauthorized persons or trespassers; the loss, disappearance or kidnapping of a student; hostage situations; violence on school property or at school activities; and other incidents posing a serious threat of harm to students, personnel, or facilities.*

*"School safety audit" means a written assessment of the safety conditions in each public school to (i) identify and, if necessary, develop solutions for physical safety concerns, including building security issues and (ii) identify and evaluate any patterns of student safety concerns occurring on school property or at school-sponsored events. Solutions and responses may include recommendations for structural adjustments, changes in school safety procedures, and revisions to the school board's standards for student conduct.*

*B. The Superintendent of Public Instruction shall develop a list of items to be reviewed and evaluated in the school safety audits required by this section. Each local school board shall require all schools under its supervisory control to conduct school safety audits as defined in this section and consistent with such list. Each school shall maintain a copy of the school safety audit within the office of the school principal and shall make a copy of such report available for review upon written request.*

*C. The school board may establish a school safety audit committee to consist of representatives of parents, teachers, local law-enforcement agencies, judicial and public safety personnel, and the community at large. The school safety audit committee shall evaluate, in accordance with the directions of the local school board, the safety of each school and submit a plan for improving school safety at a public meeting of the local school board.*

*D. Each school board shall ensure that every school that it supervises shall develop a written school crisis and emergency management plan, consistent with the definition provided in this section. The Department of Education shall provide technical assistance to the school divisions of the*

*Commonwealth in the development of the school crisis and emergency management plans.*

*Upon consultation with local school boards and division superintendents, the Board of Education shall develop, and may revise as it deems necessary, a model school crisis and emergency management plan for the purpose of assisting the public schools in Virginia in developing viable, effective crisis and emergency management plans.*

*§ 22.1-279.9. Development of programs to prevent crime and violence.*

*All school boards shall develop, in cooperation with the local law-enforcement agencies, juvenile and domestic relations court judges and personnel, parents, and the community at large, programs to prevent violence and crime on school property and at school-sponsored events. Activities designed to prevent the recurrence of violence and crime may include such interventions as school crime lines, peer mediation, conflict resolution, community service requirements, and any program focused on demonstrating the consequences of violence and crime. School boards are encouraged to develop and use a network of volunteer services in implementing these prevention activities.*

*§ 22.1-280.4. School board action regarding destruction of property.*

*A school board may take action against a pupil or the pupil's parent for any actual loss, breakage, or destruction of or failure to return property, owned by or under the control of the school board, caused or committed by such pupil in pursuit of his studies. Such action may include seeking reimbursement from a pupil or pupil's parent for any such loss, breakage, or destruction of or failure to return school property.*

**2. That §§ 22.1-276, 22.1-277.01, 22.1-277.01:1, 22.1-277.01:2, 22.1-277.02, 22.1-277.02:1, 22.1-277.03, 22.1-277.1, 22.1-278, 22.1-278.1, 22.1-278.2, 22.1-278.3, 22.1-279.5, 22.1-280.1, and 22.1-280.3 of the Code of Virginia are repealed.**

*Appendix C*

**School Student Disciplinary Reports**

## Summary Disciplinary Case Offenses

- ◆ 470 (6%) of the total students had six incidents reported as part of the sanctioned offense.

Offense Category	Incident 1	Incident 2	Incident 3	Incident 4	Incident 5	Incident 6
<b>Attendance Violations</b>	<b>415</b> (5.5%)	<b>355</b>	<b>289</b>	<b>218</b>	<b>146</b>	<b>86</b>
<b>Rules Violations</b>	<b>1,019</b> (13.6%)	<b>662</b>	<b>395</b>	<b>234</b>	<b>170</b>	<b>104</b>
<i>Tobacco Products</i>	124	135	86	50	38	21
<i>Disruption</i>	828	474	262	165	114	80
<i>Communication Devices</i>	7	8	4	4	5	0
<i>Other Rules Violations</i>	60	45	43	15	13	3
<b>Conflict Violations</b>	<b>1,114</b> (14.8%)	<b>1,211</b>	<b>911</b>	<b>495</b>	<b>303</b>	<b>176</b>
<i>Disrespect</i>	368	328	246	132	76	44
<i>Insubordination</i>	435	574	412	243	155	79
<i>Profanity</i>	311	309	253	120	72	53
<b>Fighting Violations</b>	<b>617</b> (8.2%)	<b>259</b>	<b>119</b>	<b>90</b>	<b>55</b>	<b>31</b>
<b>Law Violations</b>	<b>4,236</b> (56.4%)	<b>870</b>	<b>273</b>	<b>115</b>	<b>67</b>	<b>63</b>
<i>Aggravated Assault/Malicious Wounding</i>	775	90	30	13	11	10
<i>Alcohol</i>	197	56	32	4	1	2
<i>Arson/Bombs</i>	210	17	5	3	2	3
<i>Schedule I &amp; II Drugs</i>	57	16	4	4	1	3
<i>Over the Counter Medicine</i>	20	11	2	0	0	2
<i>Marijuana</i>	660	134	16	11	3	1
<i>Other Drug Violations</i>	166	61	15	3	2	1
<i>Sexual Offenses</i>	207	35	12	20	7	2
<i>Theft or Burglary</i>	132	34	17	3	4	7
<i>Weapons</i>	805	75	21	5	4	13
<i>Threats</i>	849	275	82	35	22	12
<i>Property Violations</i>	65	25	17	4	3	5
<i>Other Law Violations</i>	93	41	20	10	7	2
<b>Miscellaneous Violations</b>	<b>87</b> (1.2%)	<b>55</b>	<b>38</b>	<b>21</b>	<b>14</b>	<b>9</b>
<b>Missing/Unknown Codes</b>	<b>25</b> (.3%)	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>
<b>Total</b>	<b>7,513</b>	<b>3,413</b>	<b>2,026</b>	<b>1,173</b>	<b>755</b>	<b>470</b>

Source: Virginia Commission on Youth HJR 242 Study, 1999.



*Appendix D*

**School Resource Officer Grants FY 2002**

**Attachment 3:  
DCJS Grants to Local Law Enforcement for School Resource Officers  
FY 2002**

<b>Program</b>	<b>Grant Number</b>	<b>Grant Total</b>	<b>Positions</b>	<b>School</b>
Albemarle Co PD	02-C3377AD01	\$45,786.00	1	Jackson Burley MS
Alleghany Co SO	02-C3328FR01	\$22,021.00	1	Alleghany HS
Alleghany Co SO	02-A3820FR01	\$32,829.00	1	Clifton View MS
Amherst Co SO	02-C3357AD01	\$34,680.00	1	Monielson MS
Amherst Co SO	02-C3318FR01	\$33,857.00	1	Amherst HS
Appomattox Co SO	02-C3345AD01	\$32,705.33	1	Appomattox MS
Appomattox Co SO	02-C3346AD01	\$32,705.33	1	Appomattox HS
Augusta Co SO	02-C3336AD01	\$32,765.33	1	Riverheads HS
Augusta Co SO	02-C3325FR01	\$33,150.00	1	Stuart's Draft HS
Bedford Co SO	02-C3300FR01	\$31,679.00	1	Staunton River HS
Bedford Co SO	02-B3654FR01	\$36,447.00	1	Staunton River MS
Bedford Co SO	02-A3826FR01	\$36,627.00	1	Forest MS
Bluefield Town PD	02-A3802FR01	\$32,612.00	1	Graham HS
Bristol City PD	02-C3327FR01	\$31,212.00	1	Virginia MS
Bristol City PD	02-A3823FR01	\$40,359.00	1	Virginia HS
Brunswick Co SA (SO)	02-C3332FR01	\$35,128.00	1	J.S. Russell Jr. HS
Brunswick Co SO	02-B3673FR01	\$38,442.00	1	Brunswick Sr. HS
Buchanan Co SO	02-B3674FR01	\$116,859.00	3	Garden HS
Buchanan Co SO	02-B3674FR01			Grundy HS
Buchanan Co SO	02-B3674FR01			Hurley HS
Campbell Co SO	02-C3322FR01	\$31,136.00	1	Brookville HS
Campbell Co SO	02-C3393AD01	\$32,225.33	1	Brookville MS
Caroline Co SO	02-C3311FR01	\$39,022.00	1	Caroline Co HS
Caroline Co SO	02-C3399AD01	\$33,114.67	1	Caroline Co MS
Carroll Co SO	02-A3808FR01	\$30,813.00	1	Carroll Co MS
Charlotte Co SO	02-C3370AD01	\$28,748.00	1	Randolph Henry HS
Chesterfield Co PD	02-C3395AD01	\$39,653.00	1	Turning Point Acad MS

**Attachment 3:  
DCJS Grants to Local Law Enforcement for School Resource Officers  
FY 2002**

<b>Program</b>	<b>Grant Number</b>	<b>Grant Total</b>	<b>Positions</b>	<b>School</b>
Chesterfield Co PD	02-A3811FR01	\$42,775.00	1	Lloyd Byrd HS
Chilhowie Town PD	02-B3660FR01	\$30,776.00	1	Chilhowie HS
Colonial Heights PD	02-B3337AD01	\$41,444.00	1	Colonial Heights HS
Covington City PD	02-A3818FR01	\$41,279.00	1	Covington HS
Craig Co SO	02-B3665FR01	\$37,416.00	1	Craig Co MS/HS
Culpeper Co SO	02-C3355AD01	\$38,350.67	1	Culpeper Co HS
Culpeper Co SO	02-A3810FR01	\$43,970.00	1	Culpeper Co MS
Cumberland Co SO	02-B3670FR01	\$40,181.00	1	Cumberland HS
Danville City PD	02-C3378AD01	\$28,800.00	1	Geo. Wash. HS
Dickenson Co SO	02-A3824FR01	\$35,511.00	1	Clinchco Voc. HS
Dickenson Co SO	02-C3335AD01	\$29,308.00	1	Ervinton HS
Dickenson Co SO	02-B3682FR01	\$35,511.00	1	Clintwood HS
Dinwiddie Co SO	02-A3814FR01	\$36,850.00	1	Dinwiddie HS
Dublin Town PD	02-C3340AD01	\$31,200.00	1	Dublin MS
Essex Co SO	02-D3109AD01	\$35,128.00	1	Essex HS
Essex Co SO	02-A3807FR01	\$30,704.00	1	Essex Ms
Fairfax City PD	02-B3663FR01	\$50,000.00	1	Sidney Lanier MS
Floyd Co SO	02-C3326FR01	\$35,410.00	1	Floyd Co HS
Fluvanna Co SO	02-B3667FR01	\$30,618.00	1	Fluvanna Co HS
Franklin City PD	02-C3324FR01	\$31,061.00	1	Franklin Cy HS
Frederick Co SO	02-C3384AD01	\$33,854.67	1	Aylor MS
Fredericksburg PD	02-A3819FR01	\$45,170.00	1	James Monroe HS
Galax City PD	02-C3341AD01	\$30,238.67	1	Galax HS
Giles Co SO	02-C3313FR01	\$33,395.00	1	Giles HS
Glen Lyn Town PD	02-C3388AD01	\$25,926.67	1	Narrows HS
Goochland Co SO	02-C3365AD01	\$35,886.67	1	Goochland HS
Greene Co SO	02-B3662FR01	\$21,303.00	1	William Monroe HS

**Attachment 3:  
DCJS Grants to Local Law Enforcement for School Resource Officers  
FY 2002**

<b>Program</b>	<b>Grant Number</b>	<b>Grant Total</b>	<b>Positions</b>	<b>School</b>
Halifax Town PD	02-C3382AD01	\$31,226.00	1	Halifax Co Career Ctr.
Harrisonburg City PD	02-C3329FR01	\$33,327.00	1	Thom.Harrison MS
Haysi Town PD	02-C3403AD01	\$27,603.00	1	Haysi HS
Henry Co SO	02-C3342AD01	\$37,018.00	1	Bassett HS
James City Co PD	02-C3392AD01	\$32,690.00	1	Lafayette HS
James City Co PD	02-A3806FR01	\$45,173.00	1	James Blair MS
King and Queen Co SO	02-A3822FR01	\$35,128.00	1	Central High School
King George Co SO	02-C3404AD01	\$45,594.00	1	King George MS
Lee Co SO	02-C3387AD01	\$34,956.00	1	Lee HS
Leesburg Town PD	02-C3353AD01	\$49,100.00	1	Loudoun Co HS
Loudoun Co SO	02-C3320FR01	\$41,168.00	1	Potomac Falls HS
Loudoun Co SO	02-C3351AD01	\$44,162.67	1	Loudoun Valley Co HS
Louisa Co SO	02-C3330FR01	\$35,251.00	1	Louisa Co HS
Lunenburg Co SO	02-A3821FR01	\$38,519.00	1	Central HS
Lunenburg Co SO	02-B3681FR01	\$38,519.00	1	Central HS
Lynchburg City PD	02-C3305FR01	\$42,447.00	1	Dunbar MS
Lynchburg City PD	02-A3825FR01	\$43,887.00	1	Heritage HS
Martinsville City PD	02-A3815FR01	\$46,304.00	1	Martinsville MS
Mathews Co SO	02-C3401AD01	\$32,000.00	1	Mathews HS
Mecklenburg Co SO	02-B3669FR01	\$70,179.00	2	Bluestone MS
Mecklenburg Co SO				Bluestone Senior HS
Montgomery Co SO	02-B3700FR01	\$72,418.00	2	Auburn HS
Montgomery Co SO				Eastern Montgomery HS
Nelson Co SO	02-C3321FR01	\$34,277.00	1	Nelson Co HS
Newport News City PD	02-C3398AD01	\$45,782.67	1	Crittendon MS
Norfolk City PD	02-C3309AD01	\$41,806.00	1	Maury HS
Northampton Co SO	02-C3333AD01	\$32,720.00	1	Northampton HS

**Attachment 3:  
DCJS Grants to Local Law Enforcement for School Resource Officers  
FY 2002**

<b>Program</b>	<b>Grant Number</b>	<b>Grant Total</b>	<b>Positions</b>	<b>School</b>
Northampton Co SO	02-C3364AD01	\$32,202.67	1	Northampton MS
Norton City SO	02-D3104AD01	\$51,310.67	1	John Burton HS
Orange Co SO	02-B3671FR01	\$37,441.00	1	Orange Co HS
Patrick Co SO	02-C3359AD01	\$42,822.00	1	Patrick HS
Pennington Gap Twn PD	02-C3385AD01	\$26,650.67	1	Pennington Gap MS
Petersburg City PD	02-C3331FR01	\$38,326.00	1	Petersburg HS
Pittsylvania Co SO	02-C3361AD01	\$50,000.00	2	Tunstall Sr. HS
Pittsylvania Co SO				Gretna HS
Pittsylvania Co SO	02-B3664FR01	\$30,821.00	1	Dan River HS
Pound Town PD	02-B3650FR01	\$40,857.00	1	Pound MS/HS
Powhatan Co SO	02-C3338AD01	\$39,958.67	1	Pocahontas MS
Powhatan Co SO	02-C3317FR01	\$37,807.00	1	Powhatan HS
Prince George PD	02-C3306FR01	\$36,250.00	1	Prince George HS
Prince George PD	02-C3397AD01	\$36,009.33	1	JEJ Moore MS
Prince William Co PD	02-C3386AD01	\$49,680.00	1	Brentsville District HS
Pulaski Town PD	02-C3372AD01	\$39,562.67	1	Pulaski MS
Radford City PD	02-A3805FR01	\$39,208.00	1	Radford HS
Richmond City PD	02-A3813FR01	\$49,830.00	1	Hugenot HS
Richmond City PD	02-B3668FR01	\$49,830.00	1	Henderson MS
Roanoke Co PD	02-B3651FR01	\$43,927.00	1	Caves Spring Jr. HS
Roanoke Co PD	02-B3692FR01	\$41,037.00	1	Northside MS
Roanoke Co PD	02-B3691FR01	\$43,927.00	1	Hidden Valley Jr. HS
Roanoke Co PD	02-B3693FR01	\$43,927.00	1	Williamburg Byrd MS
Rockbridge Co SO	02-C3343AD01	\$34,024.00	1	Rockbridge Co. HS
Rockbridge Co SO	02-C3323FR01	\$32,004.00	1	Rockbridge Co. MS
Rockingham Co SO	02-C3319FR02	\$68,046.00	2	Montevideo MS
Rockingham Co SO				Montevideo MS

**Attachment 3:  
DCJS Grants to Local Law Enforcement for School Resource Officers  
FY 2002**

<b>Program</b>	<b>Grant Number</b>	<b>Grant Total</b>	<b>Positions</b>	<b>School</b>
Russell Co SO	02-C3316FR01	\$30,465.00	1	Honaker HS
Russell Co SO	02-C3373AD01	\$30,405.33	1	Lebanon MS
Russell Co SO	02-B3655FR01	\$33,206.00	1	Lebanon HS
Saint Paul Town PD.	02-C3396AD01	\$28,908.00	1	St. Paul HS
Saltville Town PD	02-C3390AD01	\$23,241.33	1	Northwood HS
Smyth Co SO	02-C3352AD01	\$30,009.33	1	Marion Sr HS
Smyth Co SO	02-B3672FR01	\$31,757.00	1	Northwood MS
Smyth Co SO	02-B3676FR01	\$31,757.00	1	Marion MS
South Boston Town PD	02-C3381AD01	\$36,663.00	1	Halifax Co HS
Southampton Co SO	02-B3656FR01	\$33,677.00	1	Southampton HS
Stafford Co SO	02-C3314FR01	\$33,556.00	1	Brook Point HS
Staunton City PD	02-C3366FR01	\$47,192.00	1	Shelborne MS
Staunton City PD	02-C3312FR01	\$41,481.00	1	Robert E. Lee HS
Strasburg Town PD	02-C3394AD01	\$35,604.00	1	Strasburg HS
Sussex Co SO	02-C3380AD01	\$32,264.00	1	Sussex Central HS
Tazewell Co SO	02-C3371AD01	\$33,738.67	1	Richlands Senior HS
Warren Co SO	02-C3315FR01	\$68,173.00	2	Warren Co HS
Warren Co SO				Warren Co MS
Washington Co SO	02-C3391AD01	\$50,000.00	2	John Battle HS
Washington Co SO				Patrick Henry HS
Westmoreland Co SO	02-C3369AD01	\$33,212.00	1	Wash.and Lee HS
Wise Co SO	02-C3308FR01	\$29,898.00	1	Coeburn HS
Wise Co SO	02-B3657FR01	\$33,647.00	1	J.J. Kelly HS
Wise Co SO	02-A3827FR01	\$37,430.00	1	Powell Valley HS
Wythe Co SO	02-D3089AD01	\$84,245.00	3	Fort Chiswell HS
Wythe Co SO				Fort Chiswell HS
Wythe Co SO				Rural Retreat MS/HS

**Attachment 3:  
DCJS Grants to Local Law Enforcement for School Resource Officers  
FY 2002**

<b>Program</b>	<b>Grant Number</b>	<b>Grant Total</b>	<b>Positions</b>	<b>School</b>
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John G. Schuiteman, Ph.D. - 371-0864 – September 5, 2001





*Appendix E*

**School Division Security Officer Survey**



# VIRGINIA STATE CRIME COMMISSION

## HJR 542 SCHOOL DIVISION SURVEY ON SCHOOL SECURITY OFFICERS

Section 9-125 of the *Code of Virginia* authorizes the Virginia State Crime Commission to study and make recommendations on all areas of public safety in the Commonwealth. The 2001 Session of the Virginia General Assembly enacted House Joint Resolution 542 requesting the Virginia State Crime Commission to conduct a comprehensive study of school safety and security officers in Virginia schools. As part of this study, the Commission is surveying all school division safety coordinators to collect information on issues related to school security officers employed by local school divisions to maintain security in schools.

Please return the survey by **August 31, 2001**. If you have any questions, contact Kimberly J. Echelberger, Senior Policy Analyst, at (804) 225-4534. The General Assembly and the Virginia State Crime Commission thank you for your assistance in this important study effort.

### SCHOOL SECURITY OFFICER DEFINITION

*For the purpose of this survey, a School Security Officer is defined as an individual who is employed by the local School Board and is responsible solely for ensuring the safety, security and welfare of all students, faculty, staff and visitors in an assigned school. School Security Officers are employed by the local school division for the singular purpose of maintaining order and discipline, preventing crime, investigating criminal acts, and detaining and apprehending persons violating the law or school board policies on school premises.*

*A School Security Officer is not a sworn police officer or sheriff's deputy hired by the local law enforcement department and working in a school building.*

1. Select which of the following types of school security programs your division maintains. *(Please check one.)*

- Full-time school security program with a division coordinator and division employed school security officers.  
*(If this is your division program type, proceed to questions 2 and 3 and Section I below.)*
- Division does not have a full-time school security program using school safety officers.  
*(If this is your division program type, proceed to Section II on page 10.)*
- Division uses only contract security firms to do school security program.  
*(If this is your division program type, proceed to Section III on page 11.)*

2. Does your division employ more than one type of school security officer (i.e. different supervisory responsibilities or levels of qualifications)? *(Please check one.)*

- Yes *(If YES, proceed to question 2A.)*
- No *(If NO, proceed to question 3.)*

2A. Provide the level(s)/type(s) of security officers employed by your division and explain the differences between positions. *(Please explain.)*

3. What is the title used for school security officers in your division? *(Please list.)*

## SECTION I: FULL-TIME SCHOOL SECURITY PROGRAMS

**STOP.** This section of the survey is only to be completed by school divisions having a full-time school security program with a division coordinator and division employed school security officers hired solely for security purposes. If you do not have this type of program please refer to question #1 above for the appropriate section of the survey for you to complete.

### PART A. Full-time School Security Officer Positions

4. How many full-time security officers were employed by your school division during the 2000/01 school year? *(Please provide the number FTE positions.)*

\_\_\_\_\_ Full-time Officers

5. Provide the average compensation paid to full-time school security officers in your division. *(Please provide either the annual salary or hourly rate.)*

\$ \_\_\_\_\_, \_\_\_\_\_ .00 Per Year      OR      \$ \_\_\_\_\_ .00 Per Hour

5A. Which of the following benefits do the full-time school security officers receive? *(Please check all that apply.)*

- Health Insurance
- Annual/Vacation Leave
- Holiday Leave
- Sick Leave
- Disability Leave
- Retirement
- Other \_\_\_\_\_ *(Explain.)*

6. Which of the following job criteria are used by your school division when employing full-time school security officers? *(Please check all that apply.)*

- Physical Examination
- Physical Fitness Test
- Background/Reference Checks *(i.e. community/employer references)*
- Criminal History Checks (VCIN/NCIC)
- Drug Screening at Job Entry
- Periodic or Random Drug Screening after Employment
- Psychological Testing
- Educational Requirements *(Check the educational requirements that apply)*
  - GED or High School Diploma
  - College Degree
  - Other \_\_\_\_\_
- Writing Samples
- U.S. Citizenship
- Other \_\_\_\_\_ *(Explain.)*

7. Do all full-time school security officers in your division act with the same level of legal authority? *(Please check one.)*

- Yes *(If YES, proceed to question 7A.)*
- No *(If NO, proceed to question 7B.)*

7A. What legal authority do the full-time school security officers in your division act under? *(Please check one.)*

- Conservators of the Peace Appointed with Police Powers (§15.2-1737 and §19.2-13)
- Conservators of the Peace (§19.2-13)
- Other \_\_\_\_\_ *(Explain.)*
- Do Not Know

7B. Explain the different levels of legal authority used by some of the full-time school security officers and not others. *(Please explain.)*

8. Do all full-time school security officers in your division act under the same standard of action? *(Please check one.)*

- Yes *(If YES, proceed to question 8A.)*
- No *(If NO, proceed to question 8B.)*

8A. What standard of action do the full-time school security officers in your division act under? *(Please check one.)*

- Reasonable Suspicion
- Probable Cause
- Other \_\_\_\_\_ *(Explain.)*
- Do Not Know

8B. Explain the different standards of action used by some of the full-time school security officers and not others. *(Please explain.)*

## **PART B. Part-time School Security Officer Positions**

9. Does your school division employ part-time school security officers? *(Please check one.)*

- Yes *(If YES, proceed to questions 10-14.)*
- No *(If NO, proceed to question 15 in Part C on page 5.)*

10. How many part-time security officers were employed by your school division during the 2000/01 school year? *(Please provide the number part-time positions.)*

\_\_\_\_ Part-time Officers

10A. How many hours, on average, did the part-time school security officers work each day during the 2000/01 School year? *(Please provide the number of hours per day).*

\_\_\_\_ Hours Per Day

11. Provide the average compensation paid to the part-time school security officers in your division. *(Please provide either the annual salary or hourly rate.)*

\$ \_\_\_\_\_ .00 Per Year

OR

\$ \_\_\_\_\_ .00 Per Hour

11A. Which of the following benefits do the part-time school security officers receive? (Please check all that apply.)

- Health Insurance
- Annual/Vacation Leave
- Holiday Leave
- Sick Leave
- Disability Leave
- Retirement
- Other \_\_\_\_\_ (Explain.)

12. Which of the following job criteria are used by your school division when employing part-time school security officers? (Please check all that apply.)

- Physical Examination
- Physical Fitness Test
- Background/Reference Checks (i.e. community/employer references)
- Criminal History Checks (VCIN/NCIC)
- Drug Screening at Job Entry
- Periodic or Random Drug Screening after Employment
- Psychological Testing
- Educational Requirements (Check the educational requirements that apply)  
GED or High School Diploma  College Degree  Other \_\_\_\_\_
- Writing Samples
- U.S. Citizenship
- Other \_\_\_\_\_ (Explain.)

13. Do all part-time school security officers in your division act with the same level of legal authority? (Please check one.)

- Yes (If YES, proceed to question 13A.)
- No (If NO, proceed to question 13B.)

13A. What legal authority do the part-time school security officers in your division act under? (Please check one.)

- Conservators of the Peace Appointed with Police Powers (§15.2-1737 or §19.2-13)
- Conservators of the Peace Without Police Powers (§19.2-13)
- Other \_\_\_\_\_ (Explain.)
- Do Not Know

13B. Explain the different levels of legal authority used by some of the full-time school security officers and not others. (Please explain.)

14. Do all part-time school security officers in your division act under the same standard of action? (Please check one.)

- Yes (If YES, proceed to question 14A.)
- No (If NO, proceed to question 14B.)

14A. What standard of action do the part-time school security officers in your division act under? *(Please check one.)*

- Reasonable Suspicion
- Probable Cause
- Other \_\_\_\_\_ *(Explain.)*
- Do Not Know

14B. Explain the different standards of action used by some of the part-time school security officers and not others. *(Please explain.)*

### **PART C. Substitute School Security Officer Positions**

15. Does your school division employ substitute school security officers? *(Please check one.)*

- Yes *(If YES, proceed to questions 16-21.)*
- No *(If NO, proceed to Part D, question 22.)*

16. How many substitute security officers were employed by your school division during the 2000/01 school year? *(Please provide the number of substitute positions.)*

\_\_\_\_\_ Substitute Officers

16A. How many days were substitute school security officers used during the 2000/01 school year? *(Please provide the number of total days during the year.)*

\_\_\_\_\_ Days

17. Provide the average compensation paid to the substitute school security officers in your division. *(Please provide either the daily salary or hourly rate.)*

\$ \_\_\_\_\_ .00 Per Day      OR      \$ \_\_\_\_\_ .00 Per Hour

18. Do the substitute school security officers in your division receive employment benefits? *(Please check one.)*

- Yes *(If YES, proceed to question 18A.)*
- No *(If NO, proceed to question 19.)*

18A. Which of the following benefits do the substitute school security officers receive? *(Please check all that apply.)*

- Health Insurance
- Annual/Vacation Leave
- Holiday Leave
- Sick Leave
- Disability Leave
- Retirement
- Other \_\_\_\_\_ *(Explain.)*

19. Which of the following job criteria are used by your school division when employing substitute school security officers? *(Please check all that apply.)*

- Physical Exam
- Physical Fitness Test
- Background/Reference Checks *(i.e. community/employer references)*
- Criminal History Checks (VCIN/NCIC)
- Drug Screening at Job Entry
- Periodic or Random Drug Screening after Employment
- Psychological Testing
- Educational Requirements *(Check the educational requirements that apply)*
  - GED or High School Diploma
  - College Degree
  - Other \_\_\_\_\_
- Writing Samples
- U.S. Citizenship
- Other \_\_\_\_\_ *(Explain.)*

20. Do all substitute school security officers in your division act with the same level of legal authority? *(Please check one.)*

- Yes *(If YES, proceed to question 20A.)*
- No *(If NO, proceed to question 20B.)*

20A. What legal authority do the substitute school security officers in your division act under? *(Please check one.)*

- Conservators of the Peace Appointed with Police Powers (§15.2-1737 and §19.2-13)
- Conservators of the Peace (§19.2-13)
- Other \_\_\_\_\_ *(Explain.)*
- Do Not Know

20B. Explain the different levels of legal authority used by some of the substitute school security officers and not others. *(Please explain.)*

21. Do all substitute school security officers in your division act under the same standard of action? *(Please check one.)*

- Yes *(If YES, proceed to question 21A.)*
- No *(If NO, proceed to question 21B.)*

21A. What standard of action do the substitute school security officers in your division act under? *(Please check one.)*

- Reasonable Suspicion
- Probable Cause
- Other \_\_\_\_\_ *(Explain.)*
- Do Not Know

21B. Explain the different standards of action used by some of the substitute school security officers and not others. *(Please explain.)*

**PART D. Full-time School Security Program Components**

22. Which of the following types of equipment are authorized for use by the school security officers in your division? *(Please check all that apply.)*

- Radios
- Metal Detectors
- Closed Circuit TVs
- Handcuffs
- Firearms
- Pepper Spray
- Alco-Synsors *(Breathalyzer)*
- Drug Testing Kits
- Body Armor
- Computers
- Other \_\_\_\_\_ *(Explain.)*
- Do Not Know

23. Choose the type of clothing worn by the school security officers in your division. *(Please check one.)*

- Uniform which identifies the School Security Officer *(Proceed to question 23A.)*
- Street/Plain Clothes *(Proceed to question 24.)*

23A. Which of the following are part of the school security officers uniform? *(Please check all that apply.)*

- Police Style Shield
- Police Style ID Pin
- Utility Belt

24. Does your school division have a Use of Force policy directing the action of school security officers? *(Please check one.)*

- Yes *(If YES, proceed to questions 24A and 24B.)*
- No *(If NO, proceed to question 25.)*

24A. If YES, what are the parameters of the Use of Force policy? *(Please explain.)*

24B. Has the Use of Force policy in your division been reviewed by legal counsel? *(Please check one.)*

- Yes
- No

25. Does your school division have an arrest policy directing the action of school security officers when a violation of the *Code of Virginia* has occurred on school property or at a school sponsored event? *(Please check one.)*

- Yes *(If YES, proceed to questions 25A and 25B.)*
- No *(If NO, proceed to question 26.)*



25A. If YES, what are the parameters of the arrest policy? *(Please explain.)*

25B. Has the arrest policy in your division been reviewed by legal counsel? *(Please check one.)*

- Yes  No

26. Which of the following areas of responsibility are assigned to the school security officers in your division? *(Please check all that apply.)*

- School Building Security
- School Building Safety Audits/Assessments
- Roving Security Patrols
- Crisis Response Team
- Monitor Alarm System/Closed Circuit TV
- On-site Patrols
- On-site Arrests for Law Violations
- Pursuit of Law Violators off School Property for School Based Violation
- Pursuit of Law Violations off School Property when Occurring as Part of a School Sponsored Event/Trip
- After Hours School Extra-Curricula Event Security (on and off school sites)
- Other \_\_\_\_\_ *(Explain.)*
- Do Not Know

**PART E. Training for School Security Officers**

27. Does your school division have job required training for school security officers at job entry? *(Please check one.)*

- Yes *(If YES, proceed to questions 27A and 27B.)*  
 No *(If NO, proceed to question 27C.)*

27A. Which of the following areas of training are received by each type of school security officer in your division at job entry? *(Please complete all areas of training that apply and provide the number of hours of training received in each area at job entry by the type of officer.)*

AREA OF TRAINING	Full-time School Security Officers	Part-time School Security Officers	Substitute School Security Officers
Legal Issues	___ Hours	___ Hours	___ Hours
Conflict Resolution	___ Hours	___ Hours	___ Hours
Adolescent Psychology	___ Hours	___ Hours	___ Hours
School Safety Audits/Assessments	___ Hours	___ Hours	___ Hours
Defensive Tactics	___ Hours	___ Hours	___ Hours
Use of Force	___ Hours	___ Hours	___ Hours
School Division Policies and Procedures	___ Hours	___ Hours	___ Hours
Communication Techniques	___ Hours	___ Hours	___ Hours
Other _____ <i>(Explain.)</i>	___ Hours	___ Hours	___ Hours
Other _____ <i>(Explain.)</i>	___ Hours	___ Hours	___ Hours

27B. Which of the following legal issues do school security officers in your division receive training in at the time of job entry? *(Please check all areas of training that apply by the type of officer receiving the training.)*

LEGAL ISSUES	Full-time School Security Officers	Part-time School Security Officers	Substitute School Security Officers
Powers of Arrest	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Search and Seizure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rules of Evidence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
U.S. and Virginia Constitutional Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Virginia Criminal Law	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Virginia Juvenile Delinquency and Status Offense Laws	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Special Education Law/Requirements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FERPA ( <i>Federal Education Rights and Privacy Act</i> )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other _____ ( <i>Explain.</i> )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other _____ ( <i>Explain.</i> )	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

27C. If job required training is not mandated at the time of job entry, is it provided later during the tenure of employment? *(Please check one.)*

Yes

No

28. Does your school division have continuing training for school security officers once employed? *(Please check one.)*

Yes *(If YES, proceed to question 28A.)*

No *(If NO, proceed to question 29.)*

28A. Which of the following areas of continuing training are received by each type of school security officer in your division? *(Please check all areas of training that apply by the type of officer receiving the training.)*

AREA OF TRAINING	Full-time School Security Officers	Part-time School Security Officers	Substitute School Security Officers
Legal Issues			
Conflict Resolution			
Adolescent Psychology			
School Safety Audits/Assessments			
Defensive Tactics			
Use of Force			
School Division Policies and Procedures			
Communication Techniques			
Other _____ ( <i>Explain.</i> )			
Other _____ ( <i>Explain.</i> )			

29. Please list each of the agencies/individuals who provided training to your division's school security officers during the 2000/01 school year. *(Please provide the names and title/organizations for each trainer).*

30. What was your division budget for training of school security officers during the 2000/01 School Year? *(Please list.)*

\$ \_\_\_\_\_ , \_\_\_\_\_ .00

31. Does your division have school resource officers, hired by the local police department or sheriff's office, also working in the division's schools? *(Please check one.)*

- Yes *(If YES, proceed to questions 31A through 32C.)*  
 No *(If NO, proceed to question Section IV on page 13.)*

31A. How many school resource officers were utilized in your division's schools during the 2000/01 school year? *(Please provide the number positions.)*

\_\_\_\_\_ Resource Officers

31B. Did your division have joint training with school safety officers and school resource officers during the 2000/01 school year. *(Please check one.)*

- Yes *(If YES, proceed to question 32C.)*  
 No *(If NO, proceed to question Section IV on page 13.)*

31C. If YES, please describe the types of training and the number of hours of training that was provided during the 2000/01 school year. *(Please explain.)*

⇒ Proceed to the Section IV on page 13 to complete the remainder of the survey.

## SECTION II: SCHOOL DIVISIONS WITHOUT FULL-TIME SCHOOL SECURITY PROGRAMS

**STOP.** This section of the survey is only to be completed by school divisions that **do not** have a full-time school security program with a division coordinator and division employed school security officers hired solely for security purposes.

32. Since your division does not have a full-time school security program, please explain how school security is maintained in the middle and high schools in your division. *(Please explain.)*

33. Which of the following are used to maintain school security in your division's middle and high schools? (Please check all that apply.)

- Instructional Staff in Each School
- Administrative Staff in Each School
- School Resource Officers
- Local Police or Sheriff's Office Personnel Not Hired as SROs
- Volunteers
- Private Security Officers/Firms
- Volunteers
- Other \_\_\_\_\_ (Explain.)
- Other \_\_\_\_\_ (Explain.)

34. What was your division budget for school security during the 2000/01 school year? (Please list.)  
 \$ \_\_\_\_\_, \_\_\_\_\_ .00

35. Do you think your division would benefit from having school security officers to augment the security services that are currently in place in the middle and high schools? (Please check one.)  
 Yes  No

⇒ Proceed to question 42 in Section IV on page 13 to complete the remainder of the survey.

**SECTION III: SCHOOL DIVISIONS USING CONTRACT SECURITY FIRMS**

**STOP.** This section of the survey is only to be completed by school divisions that utilized contract security firms hired solely for security purposes. If you **do not** have these contracts, proceed to question 42 in Section IV on page 13 to complete the survey.

36. How many security firms did the school division contract with during the 2000/01 school year? (Please list.)  
 \_\_\_\_\_ Firms

36A. Please provide a list of the security firms and the appropriation for each firm's contract for the 2000/01 school year? (Please provide the name, address and amount of contract for each firm; attach additional sheets if necessary).

Firm Name/Address	2000/01 Contract Appropriation

36B. How many total security officers were included in the contract(s)?  
 \_\_\_\_\_ Officers

37. Choose the type of clothing worn by the private security firm officers in your division. *(Please check one.)*

- Uniform which identifies the School Security Officer *(Proceed to question 37A.)*
- Street/Plain Clothes *(Proceed to question 38.)*

37A. Which of the following are part of the private security firm officers uniform? *(Please check all that apply.)*

- Police Style Shield
- Police Style ID Pin
- Utility Belt

38. Which of the following types of equipment are authorized for use by the private security firm officers working in your division? *(Please check all that apply.)*

- Radios
- Metal Detectors
- Pepper Spray
- Alco-Synsors *(Breathalyzer)*
- Body Armor
- Handcuffs
- Firearms
- Closed Circuit TVs
- Drug Testing Kits
- Computers
- Other \_\_\_\_\_ *(Explain.)*
- Do Not Know

39. Which of the following areas of responsibility are assigned to the private security firm officers working in your division? *(Please check all that apply.)*

- School Building Security
- School Building Safety Audits/Assessments
- Roving Security Patrols
- Crisis Response Team
- Monitor Alarm System/Closed Circuit TV
- On-site Patrols
- On-site Arrests for Law Violations
- Pursuit of Law Violators off School Property for School Based Violation
- Pursuit of Law Violations off School Property when Occurring as Part of a School Sponsored Event/Trip
- After Hours School Extra-Curricula Event Security
- Other \_\_\_\_\_ *(Explain.)*
- Do Not Know

40. Does your school division require school specific training for the private security firm officers as part of the contract? *(Please check one.)*

- Yes *(If YES, proceed to question 40A.)*
- No *(If NO, proceed to question 40B.)*

40A. Which of the following areas of training are required for private security firm officers as part of the contract? (Please complete the areas of training that apply and provide the number of hours of training received in each area.)

AREA OF TRAINING	Hours of Training Required by Contract
Legal Issues	___ Hours
Conflict Resolution	___ Hours
Adolescent Psychology	___ Hours
School Safety Audits/Assessments	___ Hours
Defensive Tactics	___ Hours
Use of Force	___ Hours
School Division Policies and Procedures	___ Hours
Communication Techniques	___ Hours
Other _____ (Explain.)	___ Hours
Other _____ (Explain.)	___ Hours

40B. If your division does not require school specific training as part of the contract, how does the division ensure the private security firm officers will work appropriately in the school environment? (Please explain.)

41. Please explain the reasons why the division decided to use private contract firms to provide school security. (Please explain.)

⇒ Proceed to the Section IV below to complete the remainder of the survey.

**SECTION IV: SCHOOL DIVISIONS SECURITY NEEDS**

42. Should there be uniform training and certification requirements for school security officers statewide? (Please check one.)

- Yes (If YES, proceed to question 42A.)
- No (If NO, proceed to question 42B.)

42A. If YES, why should there be uniform training and certification requirements? (Please explain.)

42B. If NO, why should training and certification of school security officers not be uniform statewide? *(Please explain.)*

43. Has the State provided your school division with sufficient technical assistance and resources to deal with school security and safety issues? *(Please check one.)*

Yes

No

43A. In which areas could the State provide more assistance to your division as it deals with school security and safety issues? *(Please explain.)*

44. Are there additional factors, not mentioned in this survey, that should be considered when determining the qualifications, training and certification requirements of school security officers statewide? *(Please explain.)*

The following space is for you to address any issues or concerns you may have regarding the school security officers and school security issues in the Commonwealth. Please feel free to attach additional pages as necessary.

**PLEASE RETURN THE COMPLETED SURVEY BY AUGUST 31, 2001 TO:**

Kimberly J. Echelberger, Senior Policy Analyst  
Virginia State Crime Commission  
General Assembly Building, Suite 915  
910 Capitol Street  
Richmond, Virginia 23219

FAX (804) 786-7872  
Phone (804) 225-4534

*Appendix F*

**Crime Commission Request for Opinion**





# COMMONWEALTH of VIRGINIA

## VIRGINIA STATE CRIME COMMISSION

Senator Ken Stolle  
Chairman

August 17, 2001

Rich Savage  
Director

Honorable Randolph A. Beales  
Attorney General of Virginia  
900 E. Main Street  
Richmond, VA 23219

Dear General Beales:

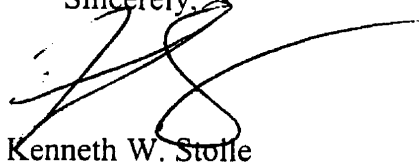
During the 2001 Session, the General Assembly passed House Joint Resolution 542 directing the Virginia State Crime Commission to conduct a study of school safety and security officers. It has come to our attention, during the course of our work on this study, that local school divisions are having school division safety officers appointed as conservators of the peace with special police powers. Sections 15.2-1737 and 19.2-13 of the *Code of Virginia* authorize the Circuit Court of a locality to appoint conservators of the peace with special police powers, and certain school divisions are making use of one or the other of these Code provisions to have their safety officers made conservators. However, in all instances, these "conservator" school safety officers are remaining employees of the local school division.

The United States Supreme Court in New Jersey v. T.L.O., 469 U.S. 325 (1985), ruled that while school officials cannot disregard the Fourth Amendment, nevertheless, they may conduct limited searches using only a "reasonableness" standard, without the need for either a search warrant or meeting a "probable cause" standard. This decision did not address the appropriate standard to be used for searches when the school official is also a law enforcement officer. Whereas, conservators under sections 15.2-1737 and 19.2-13 have law enforcement powers, it is not clear whether "conservator" school safety officers must meet the warrant requirements of the Fourth Amendment before conducting searches, or whether, pursuant to the T.L.O. decision, they need only satisfy a standard of "reasonableness under the circumstances."

As Chairman of the Virginia State Crime Commission, I am writing to request a formal opinion on whether the school safety officers, sworn as conservators, remain in the legal capacity of school officials and can operate under the T.L.O. reasonableness standard, or if they are considered law enforcement officials and must operate under a probable cause standard for searches and arrests.

Thank you for your assistance with this request. I look forward to a timely response from your office.

Sincerely,

A handwritten signature in black ink, appearing to be 'KS', with a long horizontal flourish extending to the right.

Kenneth W. Stolle  
Chairman



*Appendix G*

**Attorney General's Opinion**



# COMMONWEALTH of VIRGINIA

Office of the Attorney General

Richmond 23219

November 30, 2001

Randolph A. Beales  
Attorney General

900 East Main Street  
Richmond, Virginia 23219  
804 - 786 - 2071  
804 - 371 - 6946 TDD

The Honorable Kenneth W. Stolle  
Member, Senate of Virginia  
607 Lynnhaven Parkway, Suite 200  
Virginia Beach, Virginia 23452-7313

My dear Senator Stolle:

You inquire regarding the legal standard to be applied to searches conducted by school safety officers who have been appointed conservators of the peace with special police powers. You specifically ask whether such school officials may conduct limited searches on school premises under the reasonableness standard articulated by the Supreme Court of the United States in the case of *New Jersey v. T.L.O.*<sup>1</sup> If not, you ask whether such school officials must have probable cause to conduct searches or make arrests.

You advise that the 2001 Session of the General Assembly enacted House Joint Resolution 542, directing the Virginia State Crime Commission to conduct a study of school safety specialists and security officers.<sup>2</sup> You state that the Commission has been advised that the circuit courts in local school divisions are appointing school safety officers as conservators of the peace with special police powers. You note that the school safety officers appointed as conservators of the peace remain employees of the local school division.

You relate that the Crime Commission has been advised that the *T.L.O.* case holds that, while school officials cannot disregard the requirements of the Fourth Amendment to the United States Constitution, they may conduct limited searches using only a reasonableness standard. Furthermore, the Commission has been advised that this case did not address the appropriate standard to be used for searches when the school official is also a law-enforcement officer. You relate that it is not clear to the Commission whether school safety officers appointed as conservators of the peace must meet the warrant requirements of the Fourth Amendment before conducting searches.

Section 15.2-1737(A) of the *Code of Virginia* authorizes the circuit court for any locality to appoint special police officers<sup>3</sup> for a locality within the court's jurisdiction. Special police officers so appointed "have the general power, authority and duties of other peace officers."<sup>4</sup> Section 19.2-13(A)

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<sup>1</sup>469 U.S. 325 (1985).

<sup>2</sup>2001 Va. Acts H.J. Res. 542, at 1654.

<sup>3</sup>Section 15.2-1737(A) provides that special police officers appointed by a local circuit court "shall be conservators of the peace under the supervision of the person or agency making application for the appointment."

<sup>4</sup>*Williams v. Commonwealth*, 142 Va. 667, 669, 128 S.E. 572, 573 (1925).

also authorizes the circuit court to appoint one or more special conservators of the peace to serve a term designated by the court not to exceed four years under any one appointment. Conservators of the peace have general powers of arrest.<sup>5</sup>

The Fourth Amendment to the Constitution of the United States provides that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated." "Searches and seizures carried out by school officials are governed by the same Fourth Amendment principles that apply in other contexts."<sup>6</sup> "To be reasonable under the Fourth Amendment, a search ordinarily must be based on individualized suspicion of wrongdoing."<sup>7</sup> The Supreme Court of the United States usually requires that a search be undertaken only pursuant to a warrant and supported by probable cause.<sup>8</sup> The inappropriateness of the probable cause standard for reviewing anything other than the criminal investigatory function, however, has been made clear by the Court in a number of contexts. When the purpose of a Fourth Amendment search is not to discover evidence of crime, but is intended to serve some "special needs, beyond the normal need for law enforcement,"<sup>9</sup> a reasonable, articulable suspicion may be all that is necessary to pass constitutional muster.<sup>10</sup> The supervision and operation of schools present "'special needs' beyond normal law enforcement that may justify departures from the usual warrant and probable-cause requirements."<sup>11</sup>

The Supreme Court of the United States established in the *T.L.O.* case a "reasonableness" standard for searches conducted in the school context. The standard is less restrictive than the general "probable cause" standard applied in most other search and seizure contexts. The Court envisioned a balancing process in which the need to search is weighed against the invasion which the search entails.<sup>12</sup> "On one side of the balance are arrayed the individual's legitimate expectations of privacy and personal security; on the other, the government's need for effective methods to deal with breaches of public order."<sup>13</sup> The Court recognized that "maintaining security and order in the schools requires a certain degree of flexibility in school disciplinary procedures, and ... preserv[es] the informality of the student-teacher relationship."<sup>14</sup> Consequently, an "accommodation of the privacy interests of school children with the substantial need of teachers and administrators for freedom to maintain order in the schools does not require strict adherence to the requirement that searches be based on probable cause."<sup>15</sup>

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<sup>5</sup>See VA. CODE ANN. § 15.2-1745 (Michie Repl. Vol. 1997); *Williams*, 142 Va. at 670, 128 S.E. at 573.

<sup>6</sup>*DesRoches by DesRoches v. Caprio*, 156 F.3d 571, 574 (4<sup>th</sup> Cir. 1998) (citing *New Jersey v. T.L.O.*, 469 U.S. at 337).

<sup>7</sup>*Chandler v. Miller*, 520 U.S. 305, 313 (1997).

<sup>8</sup>See *Griffin v. Wisconsin*, 483 U.S. 868, 873 (1987).

<sup>9</sup>*T.L.O.*, 469 U.S. at 351 (BLACKMUN, J., concurring).

<sup>10</sup>"While 'reasonable suspicion' is a less demanding standard than probable cause ..., the Fourth Amendment requires at least a minimal level of objective justification." *Illinois v. Wardlow*, 528 U.S. 119, 123 (2000).

<sup>11</sup>*Griffin*, 483 U.S. at 873-74 (upholding warrantless search of probationer's home by probation officer where founded upon "reasonable grounds" to believe that contraband was present).

<sup>12</sup>469 U.S. at 337.

<sup>13</sup>*Id.*

<sup>14</sup>*Id.* at 340.

<sup>15</sup>*Id.* at 341.

School officials, therefore, must have reasonable suspicion that a student is engaged in some illegal activity before they can search the student's personal belongings.<sup>16</sup> The standard is met where the officials reasonably suspect a student has violated "either the law or the rules of the school" and the subsequent search is "reasonably related to the objectives of the search and not excessively intrusive."<sup>17</sup> The "reasonableness" standard is designed, as the United States Supreme Court has stated, to "spare teachers and school administrators the necessity of schooling themselves in the niceties of probable cause and permit them to regulate their conduct according to the dictates of reason and common sense."<sup>18</sup>

In the context of investigating the violation of a school regulation by a teacher or school official and not the perpetration of a crime, the invasion of a suspected student's Fourth Amendment rights is assessed only in terms of general reasonableness, not probable cause. The *T.L.O.* case, however, considered "only searches carried out by school authorities acting alone and on their own authority."<sup>19</sup> The case did not present the "question of the appropriate standard for assessing the legality of searches conducted by school officials in conjunction with or at the behest of law enforcement agencies."<sup>20</sup> Consequently, the Court expressed "no opinion on that question."<sup>21</sup>

Clearly, teachers and school officials have an interest in the provision of an education and the maintenance of school discipline. In conducting a search at school in furtherance of these interests, such officials should be concerned with locating and confiscating anything that may be disruptive to the provision of education and the maintenance of discipline. In the course of such a search, evidence may be acquired that ultimately may be considered to have been reasonably obtained and therefore usable in a criminal prosecution or in an adjudication of delinquency.

In conducting searches, law-enforcement officers seek to find evidence of crime. Given the responsibility of the police to find evidence of crime, the standard of probable cause of an actual arrest must be met to justify any search under the Fourth Amendment.<sup>22</sup> In the case of *Brinegar v. United States*, the Supreme Court of the United States explained:

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<sup>16</sup>See, e.g., *United States v. Place*, 462 U.S. 696, 703 (1983) (agreeing that, where authorities possess specific and articulable facts warranting reasonable belief that traveler's luggage contains narcotics, governmental interest in seizing luggage briefly to pursue further investigation is substantial).

<sup>17</sup>469 U.S. at 342; accord *Vernonia School Dist. 47J v. Acton*, 515 U.S. 646 (1995) (upholding school district's decision to implement random urinalysis drug testing of student athletes); *DesRoches*, 156 F.3d at 571 (holding that school official's proposed search of student's backpack for missing tennis shoes belonging to another student was reasonable under Fourth Amendment).

<sup>18</sup>469 U.S. at 343.

<sup>19</sup>*Id.* at 341 n.7.

<sup>20</sup>*Id.*

<sup>21</sup>*Id.*

<sup>22</sup>"Probable cause exists where 'the facts and circumstances within [the arresting officers'] knowledge and of which they had reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief that' an offense has been or is being committed." *Draper v. United States*, 358 U.S. 307, 313 (1959) (quoting *Carroll v. United States*, 267 U.S. 132, 162 (1925)).

The Honorable Kenneth W. Stolle

November 30, 2001

Page 4

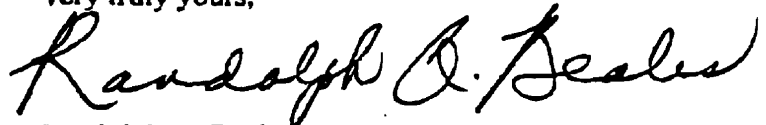
These long-prevailing standards seek to safeguard citizens from rash and unreasonable interferences with privacy and from unfounded charges of crime. They also seek to give fair leeway for enforcing the law in the community's protection. Because many situations which confront officers in the course of executing their duties are more or less ambiguous, room must be allowed for some mistakes on their part. But the mistakes must be those of reasonable men, acting on facts leading sensibly to their conclusions of probability. The rule of probable cause is a practical, nontechnical conception affording the best compromise that has been found for accommodating these often opposing interests. Requiring more would unduly hamper law enforcement. To allow less would be to leave law-abiding citizens at the mercy of the officers' whim or caprice.<sup>23</sup>

Consequently, when a school safety officer conducts a search as a conservator of the peace with special police powers, he is clearly acting in his law-enforcement capacity. Should such officer conduct a search seeking evidence of crime, it is my view that the standard of probable cause of an actual arrest must be met to justify the search. A court has not, however, considered the matter. Ultimately, therefore, the determination whether the situation you present is governed by a reasonable standard or a standard requiring probable cause depends on a complete and detailed set of facts. Indeed, the reasonableness of any Fourth Amendment search conducted in a school necessarily depends on the facts of each particular case.<sup>24</sup>

Accordingly, while I am unable to render a definitive opinion due to a lack of knowledge of all the pertinent and particular facts in a particular case, it is my general opinion that all school searches conducted by a school safety officer as a school official must be assessed in terms of general reasonableness. When such searches are conducted by a school safety officer as a conservator of the peace with special police powers seeking evidence of crime, it must be assessed in terms of probable cause.

With kindest regards, I am

Very truly yours,



Randolph A. Beales  
Attorney General

1:18/01-089

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<sup>23</sup>338 U.S. 160, 176 (1949).

<sup>24</sup>1989 Op. Va. Att'y Gen. 204, 206 (discussing reasonableness of school board's adoption of policy requiring drug testing before readmitting students expelled for drug offenses).





*Appendix H*

**Proposed Legislation**

2002 SESSION

022272228

SENATE BILL NO. 295

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HOUSE BILL NO. 498

Offered January 9, 2002

Prefiled January 8, 2002

A BILL to amend and reenact §§ 9.1-101, 9.1-102, 9.1-110, 9.1-184, 15.2-1737, and 19.2-13 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 22.1-280.2:1, relating to school safety personnel.

Patrons—Hamilton, Albo, Kilgore and Moran; Senators: Howell, Norment and Stolle

8  
9  
10

Referred to Committee on Militia, Police and Public Safety

11 Be it enacted by the General Assembly of Virginia:

121. That §§ 9.1-101, 9.1-102, 9.1-110, 9.1-184, 15.2-1737, and 19.2-13 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 22.1-280.2:1 as follows:

15 § 9.1-101. Definitions.

16 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:

18 "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.

22 "Board" means the Criminal Justice Services Board.

23 "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.

25 "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.

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

34 "Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which has its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so and (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities employs officers appointed under § 15.2-1737, or special conservators of the peace or special policemen appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers, special conservators or special policemen to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.) of this chapter, but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities.

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

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

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

53 "Dissemination" means any transfer of information, whether orally, in writing, or by electronic

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54 means. The term shall not include access to the information by officers or employees of a criminal  
55 justice agency maintaining the information who have both a need and right to know the information.

56 "Law-enforcement officer" means any full-time or part-time employee of a police department or  
57 sheriff's office which is a part of or administered by the Commonwealth or any political subdivision  
58 thereof, and who is responsible for the prevention and detection of crime and the enforcement of the  
59 penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the  
60 Department of Alcoholic Beverage Control; (ii) police agent appointed under the provisions of  
61 § 56-353; (iii) officer of the Virginia Marine Patrol; (iv) game warden who is a full-time sworn  
62 member of the enforcement division of the Department of Game and Inland Fisheries; (v) agent,  
63 investigator, or inspector appointed under § 56-334; or (vi) investigator who is a full-time sworn  
64 member of the security division of the State Lottery Department. Part-time employees are those  
65 compensated officers who are not full-time employees as defined by the employing police department  
66 or sheriff's office. Full-time sworn members of the enforcement division of the Department of Motor  
67 Vehicles meeting the Department of Criminal Justice Services qualifications shall be deemed to be  
68 "law-enforcement officers" when fulfilling their duties pursuant to § 46.2-217.

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

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

77 § 9.1-102. Powers and duties of the Board and the Department.

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

80 1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the  
81 administration of (i) this chapter including the authority to require the submission of reports and  
82 information by law-enforcement officers within the Commonwealth or (ii) §§ 18.2-268.6, 18.2-268.9,  
83 19.2-188.1, 19.2-310.5 and for any provisions of the Code as they relate to the responsibilities of the  
84 Division of Forensic Science. Any proposed regulations concerning the privacy, confidentiality, and  
85 security of criminal justice information shall be submitted for review and comment to any board,  
86 commission, or committee or other body which may be established by the General Assembly to  
87 regulate the privacy, confidentiality, and security of information collected and maintained by the  
88 Commonwealth or any political subdivision thereof;

89 2. Establish compulsory minimum training standards subsequent to employment as a  
90 law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and  
91 establish the time required for completion of such training;

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

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

97 5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize  
98 radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in  
99 § 46.2-882 and establish the time required for completion of the training and (ii) compulsory  
100 minimum qualifications for certification and recertification of instructors who provide such training;

101 6. Establish compulsory training courses for law-enforcement officers in laws and procedures  
102 relating to entrapment, search and seizure, evidence, and techniques of report writing, which training  
103 shall be completed by law-enforcement officers who have not completed the compulsory training  
104 standards set out in subdivision 2, prior to assignment of any such officers to undercover investigation  
105 work. Failure to complete the training shall not, for that reason, constitute grounds to exclude  
106 otherwise properly admissible testimony or other evidence from such officer resulting from any  
107 undercover investigation;

- 108 7. Establish compulsory minimum entry level, in-service and advanced training standards for those  
109 persons designated to provide courthouse and courtroom security pursuant to the provisions of  
110 § 53.1-120, and to establish the time required for completion of such training;
- 111 8. Establish compulsory minimum entry level, in-service and advanced training standards for  
112 deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the  
113 time required for the completion of such training;
- 114 9. Establish compulsory minimum entry-level, in-service, and advanced training standards for  
115 persons employed as deputy sheriffs and jail officers by local criminal justice agencies and for  
116 correctional officers employed by the Department of Corrections under the provisions of Title 53.1,  
117 and establish the time required for completion of such training;
- 118 10. Establish compulsory minimum training standards for all dispatchers employed by or in any  
119 local or state government agency, whose duties include the dispatching of law-enforcement personnel.  
120 Such training standards shall apply only to dispatchers hired on or after July 1, 1988;
- 121 11. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other  
122 state and federal governmental agencies, and with universities, colleges, community colleges, and  
123 other institutions, whether located in or outside the Commonwealth, concerning the development of  
124 police training schools and programs or courses of instruction;
- 125 12. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth,  
126 for school operation for the specific purpose of training law-enforcement officers; but this shall not  
127 prevent the holding of any such school whether approved or not;
- 128 13. Establish and maintain police training programs through such agencies and institutions as the  
129 Board deems appropriate;
- 130 14. Establish compulsory minimum qualifications of certification and recertification for instructors  
131 in criminal justice training schools approved by the Department;
- 132 15. Conduct and stimulate research by public and private agencies which shall be designed to  
133 improve police administration and law enforcement;
- 134 16. Make recommendations concerning any matter within its purview pursuant to this chapter;
- 135 17. Coordinate its activities with those of any interstate system for the exchange of criminal  
136 history record information, nominate one or more of its members to serve upon the council or  
137 committee of any such system, and participate when and as deemed appropriate in any such system's  
138 activities and programs;
- 139 18. Conduct inquiries and investigations it deems appropriate to carry out its functions under this  
140 chapter and, in conducting such inquiries and investigations, may require any criminal justice agency  
141 to submit information, reports, and statistical data with respect to its policy and operation of  
142 information systems or with respect to its collection, storage, dissemination, and usage of criminal  
143 history record information and correctional status information, and such criminal justice agencies shall  
144 submit such information, reports, and data as are reasonably required;
- 145 19. Conduct audits as required by § 9.1-131;
- 146 20. Conduct a continuing study and review of questions of individual privacy and confidentiality  
147 of criminal history record information and correctional status information;
- 148 21. Advise criminal justice agencies and initiate educational programs for such agencies with  
149 respect to matters of privacy, confidentiality, and security as they pertain to criminal history record  
150 information and correctional status information;
- 151 22. Maintain a liaison with any board, commission, committee, or other body which may be  
152 established by law, executive order, or resolution to regulate the privacy and security of information  
153 collected by the Commonwealth or any political subdivision thereof;
- 154 23. Adopt regulations establishing guidelines and standards for the collection, storage, and  
155 dissemination of criminal history record information and correctional status information, and the  
156 privacy, confidentiality, and security thereof necessary to implement state and federal statutes,  
157 regulations, and court orders;
- 158 24. Operate a statewide criminal justice research center, which shall maintain an integrated  
159 criminal justice information system, produce reports, provide technical assistance to state and local  
160 criminal justice data system users, and provide analysis and interpretation of criminal justice statistical  
161 information;

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

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

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

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

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

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

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

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

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

203 34. Adopt and administer reasonable regulations for the planning and implementation of programs  
204 and activities and for the allocation, expenditure and subgranting of funds available to the  
205 Commonwealth and to units of general local government, and for carrying out the purposes of this  
206 chapter and the powers and duties set forth herein;

207 35. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

208 36. Provide forensic laboratory services as detailed in Article 2 (§ 9.1-117 et seq.) of this chapter;

209 37. Establish training standards and publish a model policy for law-enforcement personnel in the  
210 handling of family abuse cases;

211 38. Establish training standards and publish a model policy for law-enforcement personnel in  
212 communicating with and facilitating the safe return of individuals diagnosed with Alzheimer's disease;

213 39. Establish compulsory training standards for basic training and the recertification of  
214 law-enforcement officers to ensure sensitivity to and awareness of cultural diversity;

215 40. Review and evaluate community policing programs in the Commonwealth, and recommend

216 where necessary statewide operating procedures, guidelines, and standards which strengthen and  
217 improve such programs;

218 41. (Effective until July 1, 2005) Assist, as necessary, in the administration of the Live In Our  
219 Community Police Housing Program and Fund established pursuant to Chapter 8.1 (§ 36-140.1 et  
220 seq.) of Title 36;

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

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

237 44. *Establish, in consultation with the Department of Education and the Virginia State Crime*  
238 *Commission, compulsory minimum standards for employment and job-entry and in-service training*  
239 *curricula and certification requirements for school security officers, which training and certification*  
240 *shall be administered by the Virginia Center for School Safety pursuant to § 9.1-184. Such training*  
241 *standards shall include, but shall not be limited to, the role and responsibility of school security*  
242 *officers, relevant state and federal laws, school and personal liability issues, security awareness in the*  
243 *school environment, mediation and conflict resolution, disaster and emergency response, and student*  
244 *behavioral dynamics. The Department shall establish an advisory committee consisting of local school*  
245 *board representatives and school security personnel to assist in the development of these standards*  
246 *and certification requirements; and*

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

249 § 9.1-110. School Resource Officer Grants Program and Fund.

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

258 Subject to the authority of the Board to provide for its disbursement, the Fund shall be disbursed  
259 to award matching grants to local law-enforcement agencies and local school boards that have  
260 established a collaborative agreement to employ uniformed school resource officers, *as defined in*  
261 *§ 9.1-102*, in middle and high schools within the relevant school division. The Board may disburse  
262 annually up to five percent of the Fund for the training of the school resource officers. School  
263 resource officers shall be certified law-enforcement officers and shall be employed to help ensure  
264 safety, to prevent truancy and violence in schools, and to enforce school board rules and codes of  
265 student conduct.

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

270 officers as it deems necessary and appropriate.

271 § 9.1-184. Virginia Center for School Safety created; duties.

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

274 1. Provide training for Virginia public school personnel in school safety and the effective  
275 identification of students who may be at risk for violent behavior and in need of special services or  
276 assistance;

277 2. Serve as a resource and referral center for Virginia school divisions by conducting research,  
278 sponsoring workshops, and providing information regarding current school safety concerns, such as  
279 conflict management and peer mediation, school facility design and technology, current state and  
280 federal statutory and regulatory school safety requirements, and legal and constitutional issues  
281 regarding school safety and individual rights;

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

284 4. Collect, analyze, and disseminate various Virginia school safety data, including school safety  
285 audit information submitted to it pursuant to § 22.1-279.8, collected by the Department;

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

288 6. Provide technical assistance to Virginia school divisions in the development and implementation  
289 of initiatives promoting school safety; and

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

294 8. Provide training for and certification of school security officers, as defined in § 9.1-102 and  
295 consistent with § 9.1-110.

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

298 § 15.2-1737. Circuit courts may appoint special police officers.

299 A. The circuit court for any locality may, upon the application of, and a showing of a necessity  
300 for the security of property or the peace by, the sheriff or chief of police, appoint special police  
301 officers for a locality within its jurisdiction. *Effective July 1, 2002, no person employed by a local*  
302 *school board as a school security officer, as defined in 9.1-101, shall be eligible for appointment as a*  
303 *special police officer for purposes of maintaining safety in a public school in the Commonwealth.*

304 The special police officers shall be suitable and discreet persons and shall serve as such for such  
305 length of time as the court may designate, but not exceeding four years under any one appointment.  
306 Such person or persons so appointed shall be conservators of the peace under the supervision of the  
307 person or agency making application for the appointment, who shall likewise be civilly liable for any  
308 wrongful action or conduct committed by the appointee while within the scope of his employment.

309 B. The court shall, prior to appointment, order the applicant to conduct a background investigation,  
310 in accordance with clause A (ii) of § 15.2-1705 of each prospective appointee who is not a  
311 law-enforcement officer as defined in § 9-169.

312 § 19.2-13. Special conservators of the peace; authority; jurisdiction; bond; liability of employers.

313 A. Upon the application of any corporation authorized to do business in the Commonwealth or the  
314 owner, proprietor or authorized custodian of any place within the Commonwealth and the showing of  
315 a necessity for the security of property or the peace, a circuit court judge of any county or city, in his  
316 discretion, may appoint one or more special conservators of the peace who shall serve as such for  
317 such length of time as the court may designate, but not exceeding four years under any one  
318 appointment. The order of appointment may provide that a special conservator of the peace shall have  
319 all the powers, functions, duties, responsibilities and authority of any other conservator of the peace  
320 within such geographical limitations as the court may deem appropriate, whenever such special  
321 conservator of the peace is engaged in the performance of his duties as such. The order may also  
322 provide that the special conservator of the peace is a "law-enforcement officer" for the purposes of  
323 §§ 37.1-67.01 and 37.1-67.1. Prior to granting an application for appointment, the circuit court shall



324 order the local law-enforcement agency to conduct a background investigation, in accordance with  
325 § 15.2-1705 (ii), of the prospective appointee and file a report of such investigation with the court  
326 unless the prospective appointee is a police officer as defined in § 9.1-101. The local law-enforcement  
327 agency may charge the prospective appointee a reasonable fee not to exceed the lesser of the actual  
328 cost to the local law-enforcement agency or \$300 for the time and costs expended in preparing the  
329 investigative report.

330 When the application is made by a corporation, the circuit court shall specify in the order of  
331 appointment the geographic jurisdiction of the special conservator of the peace, and this jurisdiction  
332 may include any or all counties and cities of the Commonwealth wherein the corporation does  
333 business. The clerk of the appointing circuit court shall certify a copy of the order of appointment to  
334 the circuit court of every jurisdiction specified in said order, and each special conservator of the peace  
335 so appointed on application of a corporation shall present his credentials to the chief of police or  
336 sheriff of all such jurisdictions.

337 Every person initially appointed on or after July 1, 1996, as a special conservator of the peace  
338 pursuant to the provisions of this section, before entering upon the duties of such office, shall be  
339 required by the court to enter into a bond with approved security before the clerk of the circuit court  
340 of the county or city wherein such duties are to be performed, in the penalty of such sum as may be  
341 fixed by the court, conditioned upon the faithful performance of such duties. Such bond shall be  
342 conditioned upon the faithful performance of such duties in any locality in which he is authorized to  
343 act pursuant to the order of the court. No such bond shall be required, however, if such person so  
344 appointed has met the minimum entry-level law-enforcement training requirements established by the  
345 Department of Criminal Justice Services under § 9.1-102 within three years of the date of initial  
346 appointment or has been employed as a law-enforcement officer as defined by § 9.1-101 within the  
347 preceding three years.

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

352 *Effective July 1, 2002, no person employed by a local school board as a school security officer, as*  
353 *defined in 9.1-101, shall be eligible for appointment as a conservator for purposes of maintaining*  
354 *safety in a public school in the Commonwealth.*

355 B. The court may limit or prohibit the carrying of weapons by any special conservator of the  
356 peace initially appointed on or after July 1, 1996, while the appointee is within the scope of his  
357 employment as such. If the order of appointment does not prohibit the carrying of weapons, the court  
358 may require that the appointee meet the minimum entry training requirements established by the  
359 Department of Criminal Justice Service under § 9-170 for law-enforcement officers within twelve  
360 months of his appointment.

361 *§ 22.1-280.2:1. Employment of school safety personnel.*

362 *Local school boards may employ school security officers and school resource officers, as defined*  
363 *in § 9.1-101 and for the purposes set forth therein.*

364 **2. That the training and employment standards required by § 9.1-184 shall be applicable to**  
365 **persons employed as school security officers on and after September 15, 2003.**