

CODE OF VIRGINIA



Title 44

Military and Emergency Laws

Title 44 - MILITARY AND EMERGENCY LAWS

Chapter 1 - MILITARY LAWS OF VIRGINIA

Article 1 - CLASSIFICATION OF MILITIA

§ 44-1. Composition of militia.

The militia of the Commonwealth of Virginia shall consist of all able-bodied residents of the Commonwealth who are citizens of the United States and all other able-bodied persons resident in the Commonwealth who have declared their intention to become citizens of the United States, who are at least 16 years of age and, except as hereinafter provided, not more than 55 years of age. The militia shall be divided into three classes: the National Guard, which includes the Army National Guard and the Air National Guard; the Virginia Defense Force; and the unorganized militia.

1930, p. 948; 1942, p. 642; Michie Code 1942, § 2673(1); 1944, p. 24; 1958, c. 393; 1970, c. 662; 1973, c. 401; 1976, c. 399; 1979, c. 647; 1984, c. 765; 1989, c. 414; 2011, cc. [572](#), [586](#); 2015, c. [221](#).

§ 44-2. Composition of National Guard.

A. The National Guard shall consist of the regularly enlisted militia and of commissioned and warrant officers, who shall be residents of the Commonwealth of Virginia and shall fall within the age limits and qualifications as prescribed in existing or subsequently amended National Guard regulations (army and air), organized, armed and equipped as hereinafter provided. Upon original enlistment members of the National Guard shall not be less than 17 nor more than 55 years of age, or, in subsequent enlistments not more than 64 years of age.

B. Notwithstanding the above, persons otherwise qualified but residing outside the Commonwealth of Virginia, may enlist or serve as commissioned or warrant officers in the National Guard.

1930, p. 948; Michie Code 1942, § 2673(2); 1958, c. 393; 1976, c. 399; 1979, c. 647; 2011, cc. [572](#), [586](#).

§ 44-2.1. Repealed.

Repealed by Acts 1989, c. 414.

§ 44-3. Repealed.

Repealed by Acts 2015, c. [221](#), cl. 2.

§ 44-4. Composition of unorganized militia.

The unorganized militia shall consist of all able-bodied persons as set out in § [44-1](#), except such as may be included in §§ [44-2](#) and [44-54.6](#) and except such as may be exempted as hereinafter provided.

1930, p. 949; Michie Code 1942, § 2673(4); 1970, c. 662; 1973, c. 401; 1984, c. 765; 2015, c. [221](#).

§ 44-5. Exemptions from militia duty.

In addition to those exempted by the laws of the United States, the following persons shall be exempt from military duty under a state call:

1. The officers, judicial and executive, of the governments of the United States and the Commonwealth of Virginia;
2. The members of the General Assembly of the Commonwealth of Virginia and of the Congress of the United States;
3. Persons in the active military or naval services of the United States;
4. Persons employed by the United States in the transmission of the mail;
5. The judges and clerks of courts of record;
6. The mayor and councilmen of incorporated cities and towns;
7. Members of the governing bodies of counties;
8. Sheriffs, United States district attorneys, attorneys for the Commonwealth and city attorneys;
9. Marine pilots;
10. All persons who because of religious belief shall claim exemption from military service, if the conscientious holding of such belief by such person shall be established under such regulations as the President of the United States shall prescribe, shall be exempted from militia service in any capacity that the President shall declare to be combatant; and
11. Such other persons as may be designated by the Governor in the best interests of the public and of the Commonwealth.

1930, p. 949; Michie Code 1942, § 2673(5); 1958, c. 393; 1976, c. 399; 2011, cc. [572](#), [586](#).

§ 44-6. Maintenance of other troops.

In time of peace the Commonwealth shall maintain only such troops as may be authorized by the President of the United States; but nothing in this chapter shall be construed as limiting the rights of the Commonwealth in the use of the Virginia National Guard or Virginia Defense Force within or without its borders in time of peace and nothing contained in this chapter shall prevent the organization and maintenance of State Police or constabulary.

1930, p. 949; Michie Code 1942, § 2673(6); 1958, c. 393; 1984, c. 765; 2011, cc. [572](#), [586](#).

§ 44-7. Repealed.

Repealed by Acts 2015, c. [221](#), cl. 2.

Article 2 - GENERAL ADMINISTRATIVE OFFICERS

§ 44-8. Governor as Commander in Chief.

The Governor shall be Commander in Chief of the armed forces of the Commonwealth, and shall have power to employ such forces to repel invasion, suppress insurrection, and enforce the execution of the laws.

1930, p. 950; Michie Code 1942, § 2673(8); R. P. 1948, § 44-8; 1958, c. 393; 1964, c. 227.

§ 44-9. Commander in Chief to prescribe regulations.

The Commander in Chief shall have the power, and it shall be his duty, from time to time, to issue such orders and to prescribe such regulations relating to the organization of the armed forces of the Commonwealth as will cause the same at all times to conform to the federal requirements of the United States government relating thereto.

1930, p. 950; Michie Code 1942, § 2673(9); R. P. 1948, § 44-9; 1958, c. 393.

§ 44-9.1. Censorship of certain sermons prohibited.

Notwithstanding any contrary provisions of law, the religious content of sermons, homilies, preaching, religious messages, or other speeches within religious services made by chaplains of the Virginia National Guard while in Title 32 or State Active Duty status or of the Virginia Defense Force shall not be censored or restricted by any state government official or agency, so long as (i) the religious content offered is not in any way a precursor of, introduction to, or part of any official ceremony, gathering, or formation that is not part of the religious service; (ii) the content does not urge disobedience of lawful orders; and (iii) members of the National Guard or Defense Force are not required to attend the service or event where such content is delivered.

2015, c. [283](#).

§ 44-10. Divisions of military staff.

The military staff shall be divided into (a) the personal staff of the Governor and (b) the administrative staff.

The personal staff of the Governor shall be constituted as now prescribed by law.

The administrative staff shall be as is authorized by the Secretary of Defense of the United States and shall perform such duties as the commander in chief may direct.

1930, p. 950; Michie Code 1942, § 2673(10); R. P. 1948, § 44-10; 1958, c. 393.

§ 44-11. Department of Military Affairs; Adjutant General.

There is hereby created the Department of Military Affairs to which is transferred all of the functions, powers and duties of the former Division of Military Affairs.

The Governor shall appoint an Adjutant General with the rank of brigadier general, major general or lieutenant general as the Governor may prescribe, subject to confirmation by the General Assembly if in session, and if not in session, then at its next succeeding session. The Adjutant General shall not hold the rank of lieutenant general unless such rank is federally recognized. The Adjutant General shall be in direct charge of the Department of Military Affairs and shall be responsible to the Governor and commander in chief for the proper performance of his duties. All the powers conferred and the

duties imposed by law upon the Adjutant General shall be exercised or performed by him under the direction and control of the Governor. The Adjutant General shall serve at the pleasure of the Governor for a term coincident with that of the Governor. No person shall be appointed Adjutant General who shall not have had at least ten years' commissioned service in the Virginia National Guard in at least field grade. The Adjutant General, while serving as such, may be a member of the Virginia National Guard.

The Adjutant General shall receive a salary prescribed by law.

1927, p. 106; 1930, p. 951; Michie Code 1942, §§ 585(62), 2673(12); 1948, p. 48; R. P. 1948, § 44-11; 1964, c. 227.

§ 44-11.1. Duties of the Department of Military Affairs.

A. The Department of Military Affairs shall support the objectives of the Governor and federal authorities by:

1. Administering and employing the Virginia Militia, as set forth in § [44-1](#);
2. Integrating into state operations all supporting Department of Defense capabilities and those forces provided by supporting states in a Title 32 or State Active Duty status;
3. Providing for the safety of citizens of the Commonwealth by maintaining order and public safety and assisting in counter-drug efforts, in cooperation with Virginia State Police and local law-enforcement agencies;
4. Preparing and executing contingency plans to provide for a timely and capable response to chemical, biological, radiological, nuclear, or explosive incidents;
5. Preparing and executing contingency plans necessary for the provision of homeland defense;
6. Ensuring the support to families of service members of the Virginia National Guard;
7. Administering a state at-risk program for youth; and
8. Recruiting a force sufficiently manned and trained to accomplish the above duties.

B. The Department of Military Affairs shall perform such other duties as may be designated by the Governor.

2007, cc. [127](#), [728](#).

§ 44-12. Repealed.

Repealed by Acts 2004, c. [12](#).

§ 44-13. Powers of Adjutant General.

As head of the Department of Military Affairs, the Adjutant General shall have command of all of the militia of the Commonwealth, subject to the orders of the Governor as Commander in Chief, and shall distribute all orders from the Governor pertaining to the military service and shall perform all duties imposed upon him or that Department by this title in the manner prescribed by law.

1927, p. 106; 1930, p. 951; Michie Code 1942, §§ 585(62), 2673(13); R. P. 1948, § 44-13; 1958, c. 393; 1989, c. 414.

§ 44-13.1. Virginia National Guard Morale, Welfare, and Recreation Program established.

The Adjutant General is authorized to establish a Virginia National Guard Morale, Welfare, and Recreation Program (the MWR Program) to provide leisure, recreation, and lodging opportunities for Virginia National Guard members and their families, Virginia Defense Force members and their families, employees of the Department of Military Affairs and their families, and other users of Department facilities as authorized by the Adjutant General.

2016, c. [622](#).

§ 44-13.2. Administration of the MWR Program.

The Adjutant General may authorize the MWR Program to (i) contract for goods and services; (ii) hire employees; and (iii) receive funds from patrons in exchange for goods or services provided within the MWR Program. The Adjutant General is authorized to establish MWR Program facilities throughout the Commonwealth that, in the Adjutant General's judgment, are necessary for military purposes. The Adjutant General shall promulgate regulations to govern the operation of the MWR Program. The Adjutant General may appoint a director for the MWR Program. The Adjutant General shall establish a system of bookkeeping, accounting, and auditing procedures for the proper handling of funds derived from the MWR Program's operations.

2016, c. [622](#).

§ 44-13.3. Virginia National Guard MWR Fund.

There is created within the state treasury a special nonreverting fund to be known as the Virginia National Guard MWR Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All (i) proceeds collected under the MWR Program and (ii) donations made to the Virginia National Guard MWR Program shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys from the Fund shall be used for the enhancement of morale, welfare, and recreation and the administration of the MWR Program, including paying the costs of (a) salaries of MWR Program employees; (b) public liability insurance, when needed; (c) infrastructure improvements on military property used in support of the MWR Program; and (d) any other expenses considered necessary in furtherance of the MWR Program by the Adjutant General. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Adjutant General.

2016, c. [622](#).

§ 44-13.4. Risk management.

The MWR Program shall be eligible to participate in the state risk management pool. The MWR Program shall procure separate insurance policies to cover liability associated with activities and

operations not otherwise covered in the state risk management pool or by the Division of Risk Management.

2016, c. [622](#).

§ 44-14. Expenditures for Department.

All payments and disbursements payable out of the appropriation to the Department of Military Affairs shall be made by the State Treasurer upon warrants of the Comptroller issued upon vouchers signed by the Adjutant General or such person as the Adjutant General may designate for such purpose. Expenditures not specifically provided for but manifestly for the benefit of the military service may be made by the Adjutant General with the written approval of the Governor.

1930, p. 950; Michie Code 1942, § 2673(11); 1944, p. 24; R. P. 1948, § 44-13; 2004, c. [12](#).

§ 44-15. Reports to Secretary of Defense.

The Adjutant General shall make such returns and reports to the Secretary of Defense, or to such officers as he may designate, at such times and in such form as may from time to time be prescribed.

1930, p. 951; Michie Code 1942, § 2673(13); R. P. 1948, § 44-14; 1958, c. 393.

§ 44-16. Records of Adjutant General.

The Adjutant General shall keep a record of all officers and enlisted personnel, and shall also keep all records and papers required by law or regulations to be filed therein.

1930, p. 951; Michie Code 1942, § 2673(13); R. P. 1948, § 44-15; 1970, c. 662; 2011, cc. [572](#), [586](#).

§ 44-17. Regulations as to reports and care of property.

The Adjutant General is empowered to make such regulations pertaining to the preparation and rendering of reports and returns and to the care and preservation of public property as in his opinion the conditions demand, such regulations to be operative and in force when promulgated in the form of general orders, circulars, circular letters, or other regulations and documents.

1930, p. 951; Michie Code 1942, § 2673(13); R. P. 1948, § 44-17; 1964, c. 227.

§ 44-18. Repealed.

Repealed by Acts 2015, c. [221](#), cl. 2.

§ 44-19. Adjutant General to have charge of military property.

The Adjutant General shall have charge and care of all state military property and all United States military property issued to the Commonwealth of Virginia, and shall cause to be kept an accurate and careful account of all receipts and issues of the same. He shall require to be kept careful memoranda of all public military property on hand in the state arsenal or storehouses, and in the possession of the several organizations of the Virginia National Guard or issued to the Virginia Defense Force, and shall guard such property against injury and loss to the extent of his ability. He shall require every accountable and responsible officer of the National Guard to account for every deficiency in public military property in his possession immediately after such deficiency is discovered. The Adjutant General shall have the care and control of the state military reservation near Virginia Beach, and of such other

real estate as the Commonwealth may acquire for military purposes, and it shall be the duty of the Adjutant General to provide for the proper care of such property and buildings thereon. For the maintenance, upkeep and improvement of the military reservation or reservations, the Adjutant General may expend from the appropriation to the Department of Military Affairs such amounts as may be necessary.

1930, pp. 950, 952; Michie Code 1942, §§ 2673(11), 2673(13); 1944, p. 24; R. P. 1948, § 44-19; 1958, c. 393; 1989, c. 414; 2011, cc. [572](#), [586](#).

§ 44-20. Deputy Adjutant General (Army and Air) and Assistant Adjutant General (Army); assistants and clerical forces of Adjutant General.

The Adjutant General shall have a Deputy Adjutant General (Air), a Deputy Adjutant General (Army) and an Assistant Adjutant General (Army) whose grades shall not exceed that of brigadier general and he shall have other assistants and such clerical forces as may be necessary who shall serve at the pleasure of the Adjutant General, subject to the provisions of general law, and shall perform such duties as he may assign them. The Adjutant General shall have such other clerks and employees as may be necessary for the administration of his office.

1930, p. 952; Michie Code 1942, § 2673(13); R.P. 1948, § 44-20; 1964, c. 227; 1979, c. 504; 1983, c. 74.

§ 44-21. Bonds of Adjutant General and fiscal clerks.

The Adjutant General and his fiscal clerks shall be bonded in accordance with § [2.2-1840](#).

1930, p. 952; Michie Code 1942, § 2673(13); R. P. 1948, § 44-21; 1964, c. 227; 2011, cc. [572](#), [586](#); 2021, Sp. Sess. I, c. [152](#).

§ 44-22. Auditing accounts of Adjutant General.

The office and accounts of the Adjutant General pertaining to the Commonwealth of Virginia shall be audited by the direction of the Governor in the same manner as the office and accounts of other state officers are audited, as provided by law.

1930, p. 952; Michie Code 1942, § 2673(13); R. P. 1948, § 44-22.

§ 44-23. Repealed.

Repealed by Acts 1984, c. 734.

§ 44-24. United States Property and Fiscal Officer.

The Governor shall appoint, designate or detail, subject to the approval of the Secretary of Defense, an officer of the National Guard of the Commonwealth to serve as a United States Property and Fiscal Officer. Any officer of the National Guard who has been so appointed and is serving as United States Property and Fiscal Officer, may be removed for just cause by the Governor with the approval of the Secretary of Defense. The Adjutant General is hereby declared ineligible to serve as United States Property and Fiscal Officer. The duties and remuneration of said United States Property and Fiscal

Officer shall be such as are prescribed by existing or subsequently amended regulations of the armed forces of the United States.

1930, p. 952; Michie Code 1942, § 2673(14); R. P. 1948, § 44-24; 1958, c. 393.

§ 44-24.1. Repealed.

Repealed by Acts 2015, c. [221](#), cl. 2.

Article 3 - NATIONAL GUARD IN GENERAL

§ 44-25. Organization; composition of units.

Except as otherwise specifically provided by the laws of the United States, the organization of the National Guard, including the composition of all units thereof, shall be the same as that prescribed for the active army, air force and navy, subject in time of peace to such general exceptions as may be authorized by the Secretary of Defense.

1930, p. 952; Michie Code 1942, § 2673(15); 1958, c. 393; 1964, c. 227.

§ 44-26. Location of units and headquarters.

The Governor shall determine and fix the location of the units and headquarters of the National Guard within the Commonwealth.

1930, p. 953; Michie Code 1942, § 2673(16); 1958, c. 393.

§ 44-27. Appointment and promotion of officers.

All officers of the National Guard shall be appointed and commissioned by the Governor, through the Adjutant General.

Within the organization, insofar as practicable, all appointments and promotions shall be based on professional qualifications, efficiency, length of service in grade, length of commissioned service, and demonstrated command and staff ability at the appropriate level, and will be effected only when an appropriate vacancy exists in the applicable table of organization and equipment or table of organization or distribution.

1930, p. 953; Michie Code 1942, § 2673(17); 1958, c. 393; 1964, c. 227; 1970, c. 662; 2011, cc. [572](#), [586](#).

§ 44-28. Qualifications of commanding or staff officers.

No person shall be appointed a commanding or staff officer unless such person shall have had federally recognized commissioned military service, nor shall any officer be appointed who fails to qualify as to fitness for military service under such regulations as the Secretary of Defense shall prescribe. Such officers may hold their positions until they have reached the age or length of service as prescribed in existing or subsequently amended National Guard regulations, unless separated from the service prior to that time by reason of resignation, disability, withdrawal or termination of federal recognition or commission, or upon finding of a legally convened court-martial.

1930, p. 953; Michie Code 1942, § 2673(18); 1958, c. 393; 1970, c. 662.

§ 44-29. Qualifications of National Guard officers.

The qualifications of National Guard officers shall be as prescribed in current and subsequently amended National Guard regulations.

1930, p. 953; Michie Code 1942, § 2673(19); 1958, c. 393.

§ 44-30. Tests as to fitness for officers; examining board.

No person shall hereafter be appointed an officer of the National Guard unless such person first shall have successfully passed such tests as to physical, moral, and professional fitness as the President shall prescribe. The examination to determine such qualifications for commission shall be conducted by a board of three commissioned officers appointed by the Secretary of Defense from the active army or the National Guard, or both.

1930, p. 954; Michie Code 1942, § 2673(20); 1958, c. 393; 1964, c. 227; 1970, c. 662.

§ 44-31. Relative rank of officers.

Relative rank among officers of the same grade shall be determined according to current and subsequently amended Department of Defense and National Guard regulations.

1930, p. 954; Michie Code 1942, § 2673(21); 1964, c. 227.

§ 44-32. Oath of National Guard officers.

Commissioned officers of the National Guard shall take and subscribe to the following oath of office:

"I..... do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the Commonwealth of Virginia, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and of the Governor of the Commonwealth of Virginia; that I make this obligation freely, without mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of..... in the National Guard of the United States and of the Commonwealth of Virginia, upon which I am about to enter; so help me God."

1930, p. 954; Michie Code 1942, § 2673(22); 1958, c. 393.

§ 44-32.1. Administration of oaths of office and enlistment.

Any duly commissioned officer or warrant officer of the Virginia National Guard or any commissioned officer of any of the armed services of the United States may administer the oaths of office and enlistment to prospective officers and enlisted personnel desirous of becoming members of the Virginia National Guard and the National Guard of the United States. Any duly commissioned officer of the Virginia Defense Force, when called into service by the Governor, may administer oaths to prospective officers and enlisted personnel desirous of becoming members of the Virginia Defense Force.

1947, p. 143; Michie Suppl. 1948, § 2673(22a); 1958, c. 393; 1979, c. 647; 2011, cc. [572](#), [586](#).

§ 44-33. Elimination and disposition of officers.

At any time the moral character, capacity, and general fitness for the service of any National Guard officer may be determined by an efficiency board of three commissioned officers senior in rank to the officer whose fitness for service shall be under investigation, said board to be appointed by the Adjutant General and convened on his order. If the findings of such board be unfavorable to such officer and be approved by the Adjutant General, such officer shall be discharged. Commissions of officers of the National Guard may be vacated upon resignation, if approved by the Adjutant General, absence without leave for three months, upon the recommendation of an efficiency board, pursuant to sentence of a court-martial, upon physical disqualification, when convicted of a felony in a civil court, when appointed or inducted into the armed forces of the United States, when federal recognition is withdrawn from such officer or from the unit to which assigned, upon reaching maximum age limitation, and when it has been determined that an officer is subversive or disloyal. Officers of the Virginia National Guard rendered surplus by the disbandment of their organization shall be placed in another unit, providing an appropriate vacancy exists, otherwise such officers shall be separated from the Virginia National Guard and automatically revert to the reserve.

1930, p. 954; Michie Code 1942, § 2673(23); 1958, c. 393; 1964, c. 227; 1970, c. 662.

§ 44-34. Repealed.

Repealed by Acts 1958, c. 393.

§ 44-35. Enlistments in National Guard.

Enlistments in the National Guard shall be as prescribed in existing or subsequently amended National Guard regulations.

1930, p. 954; Michie Code 1942, § 2673(25); 1958, c. 393.

§ 44-36. Enlistment contract and oath.

Enlisted persons shall not be recognized as members of the National Guard until they shall have signed an enlistment contract and taken and subscribed to the oath of enlistment prescribed by present or subsequently amended National Guard regulations; or such oath of enlistment as shall be prescribed by the Governor of Virginia for members of the Virginia Defense Force.

1930, p. 955; Michie Code 1942, § 2673(26); 1958, c. 393; 2011, cc. [572](#), [586](#).

§ 44-37. Discharge of enlisted persons.

An enlisted person discharged from service in the Virginia National Guard shall receive a discharge in writing. The form and classification of such discharge shall be as prescribed by existing or subsequently amended National Guard regulations.

1930, p. 955; Michie Code 1942, § 2673(27); 1958, c. 393.

§ 44-38. Membership continued in National Guard after termination of federal service.

When inducted into the active military service of the United States and thereafter discharged or separated from the armed forces, all persons so inducted and thereafter discharged or separated shall resume their membership in the Virginia National Guard and shall continue to serve therein as though their service had not been so interrupted.

1930, p. 955; Michie Code 1942, § 2673(28); 1958, c. 393.

§ 44-39. Uniforms, arms and equipment.

The National Guard shall, as far as practicable, be uniformed, armed, and equipped with the same type of uniform, arms, and equipment as are or shall be provided for the armed forces of the United States.

1930, p. 955; Michie Code 1942, § 2673(29); 1958, c. 393.

§ 44-39.1. Possession of handguns by members at National Guard facilities.

To the extent permitted by federal law and by the terms of any contract between the Virginia National Guard and a privately owned facility, any member of the Virginia National Guard who possesses a valid concealed handgun permit issued pursuant to Article 6.1 (§ [18.2-307.1](#) et seq.) of Chapter 7 of Title 18.2 shall be permitted to possess a concealed handgun owned by such member at all facilities of the Virginia National Guard and at all privately owned facilities under contract with the Virginia National Guard. Nothing herein precludes the commanding officer of any member from prohibiting such member from possessing a concealed handgun while such member is participating in any training or other exercises where the commanding officer determines that (i) such possession would interfere with the conduct of such training or other exercises, (ii) such possession may result in mission impairment, or (iii) the member is unfit to carry a handgun.

2016, c. [740](#).

§ 44-40. Discipline and training.

The discipline and training of the Virginia National Guard shall conform to that of the Armed Forces of the United States, and to that end, the Manual for Courts-Martial, United States, including but not limited to the Uniform Code of Military Justice as now existing or subsequently amended, is hereby incorporated as a part of the military laws of Virginia except where in conflict with other provisions of this chapter. Officers and soldiers of the National Guard shall have such powers in the performance of their duty under this title as officers and soldiers of the active armed services have in the performance of like duty under the Uniform Code of Military Justice and Manual for Courts-Martial, United States. However, should a person commit an offense punishable under the criminal laws of Virginia, then prosecution under the criminal laws shall bar prosecution under this chapter. The Adjutant General shall by regulation adapt to state usage the provisions and terminology of the Manual for Courts-Martial, United States, including but not limited to the Uniform Code of Military Justice.

1930, p. 955; Michie Code 1942, § 2673(30); 1958, c. 393; 1976, c. 399; 1984, c. 7; 1987, c. 32.

§ 44-40.01. Nonjudicial disciplinary proceedings.

Service members of the Virginia National Guard, not in federal service, are subject to nonjudicial punishment pursuant to Part V of the Manual for Courts-Martial, United States. A commander's authority to impose nonjudicial punishment shall not include the authority to impose correctional custody, arrest in quarters, restriction, or extra duties. Reduction in rank shall not be imposed if the service member has more than 10 years of military service and is in the rank of E-5 or above. When nonjudicial punishment is to be imposed by a commanding officer of the rank of major or above, a service member shall not be allowed to demand trial by court-martial in lieu of nonjudicial punishment. Service members shall retain all appeal rights available under the Manual for Courts-Martial, and the appeal shall include a review for abuse of discretion and legal sufficiency of the evidence.

2015, c. [194](#).

§ 44-40.1. Persons subject to the Virginia military laws.

All members of the Virginia National Guard are subject to the military laws of Virginia when under orders to be present for duty under Title 32 of the United States Code or while in a state active duty status.

1976, c. 399; 2011, cc. [572](#), [586](#).

§ 44-40.2. Administration of oaths and taking of sworn statements by commissioned officers.

In addition to those powers set forth in § [44-40](#), commissioned officers in the Virginia National Guard may administer oaths and take sworn statements in connection with any investigation required by law or regulation pertaining to the Virginia National Guard in the performance of their duties.

1987, c. 32.

§ 44-41. Armory drills, inactive training, annual active duty training, etc.

Training, including inactive training, armory drills, annual active duty for training, active duty training and other exercises, shall be conducted in accordance with existing or subsequently amended National Guard regulations.

1930, p. 955; Michie Code 1942, § 2673(31); 1958, c. 393; 1964, c. 227.

§ 44-41.1. Failure to report; etc.

If any person, being an active member of the Virginia National Guard, in violation of valid orders, fails to initially report to his appointed place of duty at the appointed time of duty under Title 32 of the United States Code or for state active duty, or having initially reported absents himself without leave, he shall be guilty of a Class 4 misdemeanor. A warrant for such offense may be sworn by any officer of the unit to which the soldier or airman who failed to report, or absented himself, is assigned. Any such warrant shall be withdrawn upon the written request of the soldier or airman's commanding officer.

1977, c. 315; 1978, c. 342; 1983, c. 65; 1984, c. 206; 2011, cc. [72](#), [108](#).

§ 44-41.2. Sharing of information with Virginia Employment Commission upon separation.

The Adjutant General shall, in consultation with the Commissioner of the Virginia Employment Commission, establish a program under which the Department of Military Affairs shall, upon request of a

member of the Virginia National Guard, provide information on the member to the Virginia Employment Commission, including (i) the individual's name; (ii) the date, or anticipated date, of the individual's discharge, separation, or release from the Virginia National Guard; (iii) the characterization, or anticipated characterization, of the individual's discharge from the Virginia National Guard; (iv) the individual's level of education; (v) contact information for the individual; (vi) the individual's military job classification and list of military training and certifications; (vii) the individual's civilian skills, training, and certification, as self-selected by the individual; and (viii) the industry, employment sector, profession, or other career classification, as self-identified by the individual, in which the individual will seek employment.

Nothing in this section shall be construed to limit the collection and maintenance of information for records required to be kept by the Virginia Employment Commission pursuant to [16VAC5-32-10](#) or pursuant to any other regulation adopted in accordance with § [60.2-111](#).

2014, cc. [42](#), [302](#).

Article 4 - NATIONAL GUARD COURTS-MARTIAL

§ 44-42. Kinds of courts-martial; how constituted and powers.

In the National Guard not in federal service, there shall be special and summary courts-martial, constituted like similar courts of the army and the air force. They shall have the jurisdiction and powers, except as to punishments, and shall follow the forms and procedures provided for such courts as are enumerated in the Manual for Courts-Martial United States.

1930, p. 956; Michie Code 1942, § 2673(32); 1976, c. 399; 2011, cc. [572](#), [586](#).

§ 44-43. Repealed.

Repealed by Acts 2011, cc. [572](#) and [586](#), cl. 2.

§ 44-44. Special courts-martial.

A. In the National Guard for servicemembers on orders for duty under Title 32 of the United States Code or state active duty, the first commanding officer in the rank of colonel or above may convene special courts-martial.

B. A special court-martial may not try a commissioned officer.

C. A special court-martial shall have the authority to impose any of the following fines and penalties:

1. A fine of not more than \$1,000;
2. Forfeiture of two-thirds pay per month for six months;
3. A reprimand;
4. Bad Conduct discharge;
5. Restriction to limits;
6. Imposition of extra duty;

7. Confinement for not more than three months;
8. Reduction of enlisted persons one or more pay grades; or
9. Any combination of these punishments.

1930, p. 956; Michie Code 1942, § 2673(34); 1958, c. 393; 1964, c. 227; 1976, c. 399; 1977, c. 74; 2011, cc. [572](#), [586](#).

§ 44-45. Summary courts-martial.

A. In the National Guard for servicemembers on orders for duty under Title 32 of the United States Code or active state duty, the first commanding officer in the rank of lieutenant colonel or above may convene a summary court-martial, consisting of one commissioned officer. Proceedings conducted under the provisions of this section shall be informal.

B. A summary court-martial shall have the authority to impose fines of not more than \$500, to impose forfeitures of two-thirds pay for one month, to restrict to limits, to impose extra duty, to require confinement for not more than seven days, and to reduce enlisted persons one or more pay grades.

1930, p. 956; Michie Code 1942, § 2673(35); 1958, c. 393; 1964, c. 227; 1976, c. 399; 1977, c. 74; 2011, cc. [572](#), [586](#).

§ 44-46. Repealed.

Repealed by Acts 1977, c. 74.

§ 44-46.1. Military judges.

A military judge shall be a commissioned officer of the National Guard, shall be so assigned as a legal officer, shall be admitted to the practice of law, and shall be certified for such duty by the Adjutant General.

The Adjutant General shall designate a military judge on a case-by-case basis to preside over courts-martial of the Virginia National Guard.

1976, c. 399; 2011, cc. [572](#), [586](#).

§ 44-47. Process and procedure.

In the Virginia National Guard military judges whenever they sit on a military court, and otherwise presidents of courts-martial and summary court officers, shall have power to issue warrants to arrest accused persons and to bring them before the court for trial whenever such persons shall have disobeyed an order in writing from the convening authority to appear before such court, a copy of the charge or charges having been delivered to the accused with such order, and to issue commitments in carrying out sentences of confinement, and to issue subpoenas and subpoenas duces tecum, and to enforce by attachment attendance of witnesses and the production of books and papers, and to sentence for a refusal to be sworn or to answer as provided in actions before civil courts. They shall also have power to punish for contempt occurring in the presence of the court.

1930, p. 957; Michie Code 1942, § 2673(37); 1976, c. 399; 2011, cc. [572](#), [586](#).

§ 44-48. Review of judgments of courts-martial; procedure.

Judgments of special and summary courts-martial shall be subject to review by the Adjutant General only, except that sentences of Bad Conduct discharge shall also be subject to review by the Governor; and such judgments may be affirmed, set aside or modified; provided, however, no higher or greater sentence, punishment, penalty, fine or forfeiture than that imposed by the court-martial shall be approved; otherwise trials and proceedings, including nonjudicial punishment, pretrial proceedings, post-trial proceedings, search and seizure proceedings and proceedings by all courts and boards, including review proceedings, shall be in accordance with the Manual for Courts-Martial United States, as now existing or subsequently amended, procedure for courts of inquiry, and retiring boards, and other procedures under military law, as may from time to time be prescribed by the appropriate secretary of the respective services.

1930, p. 957; Michie Code 1942, § 2673(38); 1964, c. 227; 1976, c. 399; 2011, cc. [572](#), [586](#).

§ 44-49. Where sentences executed.

All sentences to confinement imposed by any military court of this Commonwealth shall be executed in such penal institutions of the Commonwealth as may be appropriate for similar terms of confinement sentenced for violations of criminal laws of the Commonwealth.

1930, p. 957; Michie Code 1942, § 2673(39); 1958, c. 393; 1964, c. 227; 1976, c. 399.

§ 44-50. How process and sentence executed.

All processes and sentences of any of the military courts of this Commonwealth shall be executed by any sheriff, deputy sheriff, sergeant, or police officer into whose hands the same may be placed for service or execution, and such officer shall make return thereof to the officer issuing or imposing the same. Such service or execution of process or sentence shall be made by such officer without tender or advancement of fee therefor, but all costs in such cases shall be paid from funds appropriated for military purposes. The actual necessary expenses of conveying a prisoner from one county or city in the Commonwealth to another, when the same is authorized and directed by the Adjutant General of the Commonwealth, shall be paid from the military fund of the Commonwealth upon a warrant approved by the Adjutant General.

1930, p. 957; Michie Code 1942, § 2673(40); 1958, c. 393; 1976, c. 399.

§ 44-51. Certificates.

Where any sentence to fine or imprisonment shall be imposed by any military court of this Commonwealth, it shall be the duty of the military judge whenever one sits on such court, and otherwise the president of the court or summary court officer, upon the approval of the findings and sentence of such court, to make out and sign a certificate entitling the case, giving the name of the accused, the date and place of trial, the date of approval of sentence, the amount of fine, or manner, place, and duration of confinement, and deliver such certificate to the sheriff, or deputy sheriff, sergeant or police officer of the county, city or town wherein the sentence is to be executed; and it shall thereupon be the duty of such officer to carry such sentence into execution in the manner prescribed by law for the

collection of fines or commitments to service of terms of imprisonment in criminal cases determined in the courts of this Commonwealth.

1930, p. 957; Michie Code 1942, § 2673(41); 1958, c. 393; 1976, c. 399.

§ 44-52. Repealed.

Repealed by Acts 2011, cc. [572](#) and [586](#), cl. 2.

§ 44-53. Collection of fines.

For the purpose of collecting any fines or penalties imposed by a court-martial, the military judge whenever one sits on such court, and otherwise the president of the court, or the summary court officer, shall, within fifteen days after the fines or penalties have been imposed and approved, make a list of all the persons fined, describing them distinctly, and showing the sums imposed as fines or penalties on each person, and shall draw his warrant, under his official signature, directed to any marshal of the court, or to the sheriff, sergeant, or any policeman of any city or county, as the case may be, thereby commanding him to levy such fines or penalties, together with the costs, on the goods and chattels of such delinquent, and the warrant shall thereupon have the force and effect of fieri facias, but such delinquent shall not be entitled to the benefit of any exemption law of this Commonwealth, as against such warrant and the lien thereof. In default of sufficient personal property to satisfy the same, the officer executing the same shall make report accordingly to the drawing authority of the warrant which may then require the fined person to show whether or not he possesses sufficient property to satisfy the fine and if such property is found to exist and the fined person fails to deliver it over the executing officer shall be ordered to take the body of the delinquent and convey him to the jail of the city or county in which he may be found, whose jailer shall closely confine him without bail until the fine or penalty and jailer's fees be paid. No such imprisonment shall extend beyond the period of ten days.

1930, p. 958; Michie Code 1942, § 2673(44); 1976, c. 399; 1977, c. 74.

§ 44-54. Disposition of fines.

All fines imposed by courts-martial or other military courts, whether collected by such courts or by the civil authorities, shall be turned over by the courts or by the civil officer collecting the same to the Adjutant General, who shall keep an accurate account of the same. The Adjutant General, after deducting the costs of holding the courts and the collection of the fines, shall annually turn the balance in to the treasury of the Commonwealth, to be placed to the credit of the Literary Fund.

1930, p. 958; Michie Code 1942, § 2673(43); 1958, c. 393.

Article 4.1 - NATIONAL GUARD MUTUAL ASSISTANCE COMPACT

§ 44-54.1. Compact enacted into law; terms.

The National Guard Mutual Assistance Compact is hereby enacted into law and entered into by the Commonwealth of Virginia with all other states legally joining therein, in the form substantially as follows:

NATIONAL GUARD MUTUAL ASSISTANCE COMPACT

Article I. Purposes.

The purposes of this compact are to:

1. Provide for mutual aid among the party states in the utilization of the national guard to cope with emergencies.
2. Permit and encourage a high degree of flexibility in the deployment of national guard forces in the interest of efficiency.
3. Maximize the effectiveness of the national guard in those situations which call for its utilization under this compact.
4. Provide protection for the rights of national guard personnel when serving in other states on emergency duty.

Article II. Entry into Force and Withdrawal.

(a) This compact shall enter into force when enacted into law by any two states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states.

Article III. Mutual Aid.

(a) As used in this article:

1. "Emergency" means an occurrence or condition, temporary in nature, in which police and other public safety officials and locally available national guard forces are, or may reasonably be expected to be, unable to cope with substantial and imminent danger to the public safety.
2. "Requesting state" means the state whose governor requests assistance in coping with an emergency.
3. "Responding state" means the state furnishing aid, or requested to furnish aid.

(b) Upon request of the governor of a party state for assistance in an emergency, the governor of a responding state shall have authority under this compact to send without the borders of his state and place under the temporary command of the appropriate national guard or other military authorities of the requesting state all or any part of the national guard forces of his state as he may deem necessary, and the exercise of his discretion in this regard shall be conclusive.

(c) The governor of a party state may withhold the national guard forces of his state from such use and recall any forces or part or member thereof previously deployed in a requesting state.

(d) Whenever national guard forces of any party state are engaged in another state in carrying out the purposes of this compact, the members thereof so engaged shall have the same powers, duties, rights, privileges and immunities as members of national guard forces in such other state. The requesting state shall save members of the national guard forces of responding states harmless from civil liability for acts or omissions in good faith which occur in the performance of their duty while engaged in carrying out the purposes of this compact, whether the responding forces are serving the requesting state within its borders or are in transit to or from such service.

(e) Subject to the provisions of paragraphs (f), (g) and (h) of this article, all liability that may arise under the laws of the requesting state, the responding state, or a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(f) Any responding state rendering aid pursuant to this compact shall be reimbursed by the requesting state for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of the materials, transportation and maintenance of national guard personnel and equipment incurred in connection with such request: Provided, that nothing herein contained shall prevent any responding state from assuming such loss, damage, expense or other cost.

(g) Each party state shall provide, in the same amounts and manner as if they were on duty within their state, for the pay and allowances of the personnel of its national guard units while engaged without the state pursuant to this compact and while going to and returning from such duty pursuant to this compact. Such pay and allowances shall be deemed items of expense reimbursable under paragraph (f) by the requesting state.

(h) Each party state providing for the payment of compensation and death benefits to injured members and the representatives of deceased members of its national guard forces in case such members sustain injuries or are killed within their own state, shall provide for the payment of compensation and death benefits in the same manner and on the same terms in case such members sustain injury or are killed while rendering aid pursuant to this compact. Such compensation and death benefits shall be deemed items of expense reimbursable pursuant to paragraph (f) of this article.

Article IV. Delegation.

Nothing in this compact shall be construed to prevent the governor of a party state from delegating any of his responsibilities or authority respecting the national guard, provided that such delegation is otherwise in accordance with law. For purposes of this compact, however, the governor shall not delegate the power to request assistance from another state.

Article V. Limitations.

Nothing in this compact shall:

1. Expand or add to the functions of the national guard, except with respect to the jurisdictions within which such functions may be performed.

2. Authorize or permit national guard units to be placed under the field command of any person not having the military or national guard rank or status required by law for the field command position in question.

Article VI. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

1968, c. 36.

§ 44-54.2. Payment of liability of State pursuant to Article III (f) of compact.

Upon presentation of a claim therefor by an appropriate authority of a state whose national guard forces have aided this State pursuant to the compact, any liability of this State pursuant to Article III (f) of the compact shall be paid out of funds appropriated to the Department of Military Affairs.

1968, c. 36; 1980, c. 221.

§ 44-54.3. Members of National Guard deemed to be in state service when engaged pursuant to compact.

In accordance with Article III (h) of the compact, members of the National Guard forces of this Commonwealth shall be deemed to be in state service at all times when engaged pursuant to this compact, and shall be entitled to all rights and benefits provided pursuant to this title as amended.

1968, c. 36.

Article 4.2 - VIRGINIA DEFENSE FORCE

§ 44-54.4. Organization; definitions.

The Virginia Defense Force with a targeted membership of at least 1,200 shall be organized within and subject to the control of the Department of Military Affairs.

When called to state active duty, the mission of the Virginia Defense Force shall be to (i) provide for an adequately trained organized reserve militia to assume control of Virginia National Guard facilities and to secure any federal and state property left in place in the event of the mobilization of the Virginia National Guard, (ii) assist in the mobilization of the Virginia National Guard, (iii) support the Virginia National Guard in providing family assistance to military dependents within the Commonwealth in the event of the mobilization of the Virginia National Guard, and (iv) provide a military force to respond to the call of the Governor in those circumstances described in § [44-75.1](#).

Nothing in this article shall be construed as authorizing the Virginia Defense Force or any part thereof to be called, ordered or in any manner drafted by federal authorities into the military service of the United States. However, no person by reason of his enlistment or appointment in the Virginia Defense Force shall be exempted from military service under any law of the United States.

Members of the Virginia Defense Force may serve in either of the following duty statuses:

1. "Training duty," which is the normal service and training performed by the Virginia Defense Force in order to be prepared for state active duty, and which includes but is not limited to organization, administration, recruiting, maintenance of equipment, armory drills, annual duty training, and training exercises.

2. "State active duty," which is the performance of actual military service for the Commonwealth when called by the Governor or his designee to active duty in service of the Commonwealth in accordance with Article 7 (§ [44-75.1](#) et seq.).

"Military duty" and "military service," as used in this title, shall include the activities of the members of the Virginia Defense Force while in training duty and state active duty status.

1989, c. 414; 2011, cc. [572](#), [586](#); 2016, c. [614](#).

§ 44-54.5. Composition of units.

The organization and composition of units and force structure shall be as prescribed by the Adjutant General.

1989, c. 414.

§ 44-54.6. Members, appointment and enlistment.

The age limitations of § [44-1](#) to the contrary notwithstanding, the Virginia Defense Force shall consist of:

1. Such volunteers who of their own volition agree to service in conformity with regulations prescribed by the Adjutant General who are (i) residents of the Commonwealth or any contiguous state, (ii) at least 16, provided that any volunteer under the age of 18 shall have the written consent of at least one parent or guardian, and (iii) less than 65 years of age may join the Virginia Defense Force, except that the Adjutant General may, on a case-by-case basis, authorize volunteer members of the Virginia Defense Force to be accessed or retained beyond the age of 65 to the age of 75.

2. Such persons of the unorganized militia who may be drafted to fill the force structure of the Virginia Defense Force or who may be ordered out for active duty until released from such service.

The officers of the Virginia Defense Force shall be appointed by the Governor in conformity with regulations prescribed by the Adjutant General.

Enlisted members shall be enlisted and retained in conformity with regulations prescribed by the Adjutant General.

1989, c. 414; 1996, c. [70](#); 2011, cc. [572](#), [586](#); 2020, c. [488](#).

§ 44-54.7. Regulations.

Recruiting, enlistment, retention, organization, administration, equipment, facilities, training, discipline, discharge, dismissal, wearing of the uniform, appearance and standards of conduct shall be governed by regulations prescribed by the Adjutant General in conformity with this chapter and federal law and regulations pertaining to state defense forces. Such regulations shall, to the extent practicable, be consistent with regulations governing the Army National Guard.

1989, c. 414.

§ 44-54.8. Administration of oaths.

All commissioned officers of the Virginia Defense Force and such other persons or officials as the Adjutant General prescribes are hereby authorized and empowered to administer oaths and affirmations in all matters pertaining to and concerning the Virginia Defense Force, including but not limited to the enlistment of soldiers and the appointment of officers therein.

1989, c. 414; 2011, cc. [572](#), [586](#).

§ 44-54.9. Uniform; rank in precedence; command.

The Virginia Defense Force shall be uniformed and shall conform to standards of dress and appearance in accordance with regulations prescribed by the Adjutant General. The uniform and insignia of the Virginia Defense Force shall include distinctive devices identifying it as a state defense force and distinguishing it from the National Guard or the armed forces of the United States. The wearing of permanent military decorations awarded in the service of the armed forces of the United States or in the national guards of the several states is authorized.

The grade structure of the Virginia Defense Force, to the extent practicable, shall be the same as that prescribed for the Army National Guard.

1989, c. 414; 2011, cc. [572](#), [586](#).

§ 44-54.10. Discipline.

All members of the Virginia Defense Force on training duty or state active duty shall be subject to military discipline. Infractions of military discipline by members of the Virginia Defense Force on training duty or state active duty shall be punishable under the provisions of §§ [44-40](#) and [44-40.01](#).

1989, c. 414; 2011, cc. [572](#), [586](#); 2016, c. [339](#).

§ 44-54.11. Discharge; dismissal.

Upon expiration of the term of service for which appointed or enlisted, a member of the Virginia Defense Force shall be entitled to a discharge. However, no member shall be discharged by reason of expiration of his term of service while on state active duty.

A member of the Virginia Defense Force may be dismissed or discharged prior to the expiration of his term of service by sentence of a court-martial or for misconduct, inefficiency, unsatisfactory participation, personal hardship or for the convenience of the Commonwealth. Discharge proceedings shall be prescribed by the Adjutant General.

The Adjutant General may prescribe appropriate discharge certificates reflecting the character of the member's service.

1989, c. 414; 2011, cc. [572](#), [586](#).

§ 44-54.12. Arms, equipment and facilities.

The Virginia Defense Force, to the extent authorized by the Governor and funded by the General Assembly, shall be equipped as needed for training and for state active duty. The Adjutant General, by regulation or otherwise, may authorize the use of privately owned real and personal property if deemed in the best interest of the Commonwealth.

To the extent permitted by federal law and contracts with the federal government or localities and to the extent that space is available, the Adjutant General in his discretion may authorize the use of armories and other facilities of the National Guard, other state facilities under his control, and all or portions of privately owned facilities under contract for the storage and maintenance of arms, equipment and supplies of the Virginia Defense Force and for the assembly, drill, training and instruction of its members.

Members of the Virginia Defense Force shall not be armed with firearms during the performance of training duty or state active duty, except under circumstances and in instances authorized by the Governor.

1989, c. 414; 2011, cc. [572](#), [586](#).

Article 5 - NAVAL MILITIA IN GENERAL

§§ 44-55 through 44-66. Repealed.

Repealed by Acts 2015, c. [221](#), cl. 2.

Article 6 - NAVAL MILITIA COURTS-MARTIAL

§§ 44-67 through 44-74. Repealed.

Repealed by Acts 2015, c. [221](#), cl. 2.

Article 7 - REGULATIONS AS TO ACTIVE SERVICE

§ 44-75. Repealed.

Repealed by Acts 1988, c. 352.

§ 44-75.1. Militia state active duty.

A. The Governor or his designee may call forth the militia or any part thereof to state active duty for service in any of the following circumstances:

1. In the event of invasion or insurrection or imminent threat of either;
2. When any combination of persons becomes so powerful as to obstruct the execution of laws in any part of this Commonwealth;

3. When the Governor determines that a state agency or agencies having law-enforcement responsibilities are in need of assistance to perform particular law-enforcement functions, which functions he shall specify in his call to the militia;
4. In the event of flood, hurricane, fire or other forms of natural or man-made disaster wherein human life, public or private property, or the environment is imperiled;
5. In emergencies of lesser magnitude than those described in subdivision 4, including but not limited to the disruption of vital public services, wherein the use of militia personnel or equipment would be of assistance to one or more departments, agencies, institutions, or political subdivisions of the Commonwealth;
6. When the Governor determines that the National Guard and its assets would be of valuable assistance to state, local or federal agencies having a drug law-enforcement function to combat the flow of or use of illegal drugs in the Commonwealth, he may provide for the National Guard or any part thereof to support drug interdiction, counterdrug and demand reduction activities within the Commonwealth, or outside the Commonwealth under the National Guard Mutual Assistance Counterdrug Activities Compact. In calling forth the National Guard under this section, the Governor shall specify the type of support that the National Guard shall undertake with state, local or federal law-enforcement agencies. Once called forth by the Governor, the National Guard is also specifically authorized to enter into mutual assistance and support agreements with any law-enforcement agencies, state or federal, operating within or outside this Commonwealth so long as those activities are consistent with the Governor's call. All activities undertaken by the National Guard in the areas of drug interdiction, counterdrug and drug demand reduction shall be reported by the Adjutant General's office to the Governor and reviewed by the Governor no less frequently than every three months; and
7. When the Governor or his designee, in consultation with the Adjutant General, determines that the militia or any part thereof is in need of specific training to be prepared for being called forth for any of the circumstances expressed in subdivisions 1 through 6 above. Such training may be conducted with a state or federal agency or agencies having the capability or responsibility to coordinate or assist with any of the circumstances set forth in subdivisions 1 through 6 above.

B. The Virginia National Guard shall be designated as a state law-enforcement agency for the sole purpose of receiving property and revenues pursuant to 18 U.S.C. § 981 (e) (2), 19 U.S.C. § 1616a, and 21 U.S.C. § 881 (e) (1) (A).

1988, c. 352; 1993, c. 932; 1995, c. [49](#); 1996, cc. [71](#), [805](#).

§ 44-75.1:1. Compact enacted into law; terms.

The National Guard Mutual Assistance Counterdrug Activities Compact is hereby enacted into law and entered into by the Commonwealth of Virginia with all other states legally joining therein, in the form substantially as follows:

INTERSTATE COMPACT ON NATIONAL GUARD COUNTERDRUG OPERATIONS

ARTICLE I. PURPOSE.

The purposes of this compact are to:

1. Provide for mutual assistance and support among the party states in the utilization of the National Guard in drug interdiction, counterdrug and demand reduction activities.
2. Permit the National Guard of this Commonwealth to enter into mutual assistance and support agreements, on the basis of need, with one or more law-enforcement agencies operating within this Commonwealth, for activities within this Commonwealth, or with a National Guard of one or more other states, whether said activities are within or without this Commonwealth in order to facilitate and coordinate efficient, cooperative enforcement efforts directed toward drug interdiction, counterdrug activities, and demand reduction.
3. Permit the National Guard of this Commonwealth to act as a requesting or a responding state as defined within this compact and to ensure the prompt and effective delivery of National Guard personnel, assets, and services to agencies or areas that are in need of increased support and presence.
4. Permit and encourage a high degree of flexibility in the deployment of National Guard forces in the interest of efficiency.
5. Maximize the effectiveness of the National Guard in those situations which call for its utilization under this compact.
6. Provide protection for the rights of National Guard personnel when performing duty in other states in counterdrug activities.
7. Ensure uniformity of state laws in the area of National Guard involvement in interstate counterdrug activities by incorporating said uniform laws within the compact.

ARTICLE II. ENTRY INTO FORCE AND WITHDRAWAL.

- A. This compact shall enter into force when enacted by any two states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.
- B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states.

ARTICLE III. MUTUAL ASSISTANCE AND SUPPORT.

- A. As used in this article:

"Demand reduction" means providing available National Guard personnel, equipment, support and coordination to federal, state, local and civic organizations, institutions, and agencies for the purposes of the prevention of drug abuse and the reduction in the demand for illegal drugs.

"Drug interdiction and counterdrug activities" means the use of National Guard personnel, while not in federal service, in any law-enforcement support activities that are intended to reduce the supply or use of illegal drugs in the United States. These activities include, but are not limited to:

1. Providing information obtained, during either the normal course of military training or operations or during counterdrug activities, to federal, state or local law-enforcement officials that may be relevant to a violation of any federal or state law within the jurisdiction of such officials;
2. Making available any equipment, including associated supplies or spare parts, base facilities, or research facilities of the National Guard to any federal, state or local civilian law-enforcement official for law-enforcement purposes, in accordance with other applicable laws or regulations;
3. Providing available National Guard personnel to train federal, state or local civilian law-enforcement personnel in the operation and maintenance of equipment, including equipment made available above, in accordance with other applicable laws;
4. Providing available National Guard personnel to operate and maintain equipment provided to federal, state or local law-enforcement officials pursuant to activities defined and referred to in this compact;
5. Operating and maintaining equipment and facilities of the National Guard or other law-enforcement agencies used for the purposes of drug interdiction and counterdrug activities;
6. Providing available National Guard personnel to operate equipment for the detection, monitoring and communication of the movement of air, land and sea traffic; to facilitate communications in connection with law-enforcement programs; to provide transportation for civilian law-enforcement personnel; and to operate bases of operations for civilian law-enforcement personnel;
7. Providing available National Guard personnel, equipment and support for administrative, interpretive, analytic or other purposes; and
8. Providing available National Guard personnel and equipment to aid federal, state and local officials and agencies otherwise involved in the prosecution or incarceration of individuals processed within the criminal justice system who have been arrested for criminal acts involving the use, distribution or transportation of controlled substances as defined in 21 U.S.C. § 801 et seq. or otherwise by law, in accordance with other applicable law.

"Law-enforcement agency" means a lawfully established federal, state, or local public agency that is responsible for the prevention and detection of crime and the enforcement of penal, traffic, regulatory, game, immigration, postal, customs or controlled substances laws.

"Mutual assistance and support agreement" or "agreement" means an agreement between the National Guard of this Commonwealth and one or more law-enforcement agencies or between the National Guard of this Commonwealth and the National Guard of one or more other states, consistent with the purposes of this compact.

"Official" means the appointed, elected, designated or otherwise duly selected representative of an agency, institution or organization authorized to conduct those activities for which support is requested.

"Party state" refers to a state that has lawfully enacted this compact.

"Requesting state" means the party state whose governor requested assistance in the area of counterdrug activities.

"Responding state" means the party state furnishing assistance, or requested to furnish assistance, in the area of counterdrug activities.

"State" means each of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a territory or possession of the United States.

B. Upon the request of a governor of a party state for assistance in the area of drug interdiction, counterdrug and demand reduction activities, the governor of a responding state shall have authority under this compact to send without the borders of his state and place under the temporary operational control of the appropriate National Guard or other military authority of the requesting state, for the purposes of providing such requested assistance, all or any part of the National Guard forces of his state as he may deem necessary, and the exercise of his discretion in this regard shall be conclusive.

C. The governor of a party state may, within his discretion, withhold the National Guard forces of his state from such use and recall any forces or part or member thereof previously deployed in a requesting state.

D. The National Guard of this Commonwealth is hereby authorized to engage in counterdrug activities and demand reduction.

E. The Adjutant General of this Commonwealth, in order to further the purposes of this compact, may enter into a mutual assistance and support agreement with one or more law-enforcement agencies of this Commonwealth, including federal law-enforcement agencies operating within this Commonwealth, or with the National Guard of one or more other party states to provide personnel, assets, and services in the area of counterdrug activities and demand reduction, provided that all parties to the agreement are not specifically prohibited by law to perform said activities.

The agreement shall set forth the powers, rights, and obligations of the parties to the agreement, where applicable, as follows:

1. Its duration;
2. The organization, composition, and nature of any separate legal entity created thereby;
3. The purpose of the agreement;
4. The manner of financing the agreement and establishing and maintaining its budget;
5. The method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;
6. A provision for administering the agreement, which may include creation of a joint board responsible for such administration;

7. The manner of acquiring, holding, and disposing of real and personal property used in this agreement, if necessary;
8. The minimum standards for National Guard personnel implementing the provisions of this agreement;
9. The minimum insurance required of each party to the agreement, as necessary;
10. The chain of command or delegation of authority to be followed by National Guard personnel acting under the provisions of the agreement;
11. The duties and authority that the National Guard personnel of each party state may exercise; and
12. Any other necessary and proper matters.

Agreements prepared under the provisions of this compact are exempt from any general law pertaining to intergovernmental agreements.

F. As a condition precedent to an agreement becoming effective under this article, the agreement must be submitted to and receive the approval of the Office of the Attorney General of Virginia. The Attorney General of Virginia may delegate his approval authority to the appropriate attorney for the Virginia National Guard subject to those conditions which he decides are appropriate. Such delegation must be in writing.

1. The Attorney General, or his agent for the Virginia National Guard as stated above, shall approve an agreement submitted to him under this article unless he finds that it is not in proper form, does not meet the requirements set forth in this article, or otherwise does not conform to the laws of Virginia. If the Attorney General disapproves an agreement, he shall provide a written explanation to the Adjutant General of the National Guard.

2. If the Attorney General, or his authorized agent, does not disapprove an agreement within thirty days after its submission to him, it shall be considered approved by him.

G. Whenever National Guard forces of any party state are engaged in the performance of their duties, in the area of drug interdiction, counterdrug and demand reduction activities, pursuant to orders, they shall not be held personally liable for any acts or omissions which occur during the performance of their duty.

ARTICLE IV. RESPONSIBILITIES.

A. Nothing in this compact shall be construed as a waiver of any benefits, privileges, immunities, or rights otherwise provided for National Guard personnel performing duty pursuant to Title 32 of the United States Code nor shall anything in this compact be construed as a waiver of coverage provided for under the Federal Tort Claims Act. In the event that National Guard personnel performing counterdrug activities do not receive rights, benefits, privileges and immunities otherwise provided for National Guard personnel as stated above, the following provisions shall apply:

1. Whenever National Guard forces of any responding state are engaged in another state in carrying out the purposes of this compact, the members thereof so engaged shall have the same powers, duties, rights, privileges and immunities as members of National Guard forces of the requesting state. The requesting state shall save and hold members of the National Guard forces of responding states harmless from civil liability, except as otherwise provided herein, for acts or omissions which occur in the performance of their duties while engaged in carrying out the purposes of this compact, whether the responding forces are serving the requesting state within the borders of the responding state or are attached to the requesting state for purposes of operational control.

2. Subject to the provisions of subdivisions 3, 4, and 5 of this section, all liability that may arise under the laws of the requesting state or the responding state, in connection with a request for assistance or support, shall be assumed and borne by the requesting state.

3. Any responding state rendering aid or assistance pursuant to this compact shall be reimbursed by the requesting state for any loss or damage to, or expense incurred in the operation of, any equipment answering a request for aid and for the cost of the materials, transportation and maintenance of National Guard personnel and equipment incurred in connection with such request; however, nothing herein contained shall prevent any responding state from assuming such loss, damage, expense, or other cost.

4. Unless there is a written agreement to the contrary, each party state shall provide, in the same amounts and manner as if its National Guard units were on duty within their own state, for pay and allowances of personnel of its National Guard units while engaged without the state pursuant to this compact and while going to and returning from such duty pursuant to this compact.

5. Each party state providing for the payment of compensation and death benefits to injured members and the representatives of deceased members of its National Guard forces, in case such members sustain injuries or are killed within their own state, shall provide for the payment of compensation and death benefits in the same manner and on the same terms in the event such members sustain injury or are killed while rendering assistance or support pursuant to this compact. Such benefits and compensation shall be deemed items of expense reimbursable pursuant to subdivision 3 of this section.

B. Officers and enlisted personnel of the National Guard performing duties subject to proper orders pursuant to this compact shall be subject to and governed by the provisions of their home state code of military justice whether they are performing duties within or without their home state. In the event that any National Guard member commits, or is suspected of committing, a criminal offense while performing duties pursuant to this compact without his home state, he may be returned immediately to his home state and the home state shall be responsible for any disciplinary action to be taken. However, nothing in this section shall abrogate the general criminal jurisdiction of the state in which the offense occurred.

ARTICLE V. DELEGATION.

Nothing in this compact shall be construed to prevent the governor of a party state from delegating any of his responsibilities or authority respecting the National Guard, provided that such delegation is otherwise in accordance with law. For purposes of this compact, however, the governor shall not delegate the power to request assistance from another state.

ARTICLE VI. LIMITATIONS.

Nothing in this compact shall:

1. Authorize or permit National Guard units or personnel to be placed under the operational control of any person not having the National Guard rank or status required by law for the command in question.
2. Deprive a properly convened court of jurisdiction over an offense or a defendant merely because of the fact that the National Guard, while performing duties pursuant to this compact, was utilized in achieving an arrest or indictment.
3. Authorize the National Guard to directly engage in the personal apprehension, arrest and incarceration of any individual or the physical search and seizure of any person. The National Guard may indirectly support any such law-enforcement activities by an otherwise appropriate law-enforcement agency. The National Guard may engage in direct or indirect legal searches and seizures of any property through the use of aerial surveillance, provided that appropriate law-enforcement agents are present to provide supervision of such activity.

ARTICLE VII. CONSTRUCTION AND SEVERABILITY.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and, if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of the United States or of any state or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or the circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

1993, c. 932; 1996, cc. [153](#), [566](#).

§ 44-75.2. Militia training duty.

Subject to the direction and orders of the Governor, the Adjutant General shall provide for the training and administration of the National Guard and the Virginia Defense Force and shall require the members of the National Guard and the Virginia Defense Force to attend such training when scheduled. Members of the National Guard may assist on an unpaid, volunteer basis in the training and administration of the Virginia Defense Force. Whether training in a paid or unpaid status, members of the National Guard and Virginia Defense Force shall at all times be subject to the orders of their respective commanders.

1988, c. 352; 2011, cc. [572](#), [586](#).

§ 44-76. Transportation, equipment and support of militia.

Whenever the Governor shall call forth the militia, whether by virtue of the Constitution or of § [44-75.1](#), he shall issue such orders and take such measures for procuring and transporting the elements thereof as to him shall seem best; and for their accommodation, equipment and support, he shall appoint such a staff as to him shall seem proper.

1930, p. 962; Michie Code 1942, § 2673(62); 1958, c. 393.

§ 44-77. Orders to officers and appointment of rendezvous.

Such orders shall be sent to such officers and in such manner as the Governor may deem expedient, with a notification of the place of rendezvous; and the officers to whom the orders are sent shall proceed immediately to execute the same.

1930, p. 962; Michie Code 1942, § 2673(63).

§ 44-78. Repealed.

Repealed by Acts 1988, c. 352.

§ 44-78.1. Request for assistance by localities.

In the event of the circumstances described in subdivision A 2, 4 or 5 of § [44-75.1](#) arise within a county, city or town of the Commonwealth, either the governing body or the chief law-enforcement officer of the county, city or town may call upon the Governor for assistance from the militia. The Governor may call forth the militia or any part thereof to provide such assistance as he may deem proper in responding to such circumstances, but in all instances the militia shall remain subject to military command and not to civilian authorities of the county, city or town receiving assistance.

1988, c. 352.

§ 44-79. Repealed.

Repealed by Acts 1988, c. 352.

§ 44-80. Order in which classes of militia called into service.

The National Guard, the Virginia Defense Force, and the unorganized militia or any part thereof may be ordered into service by the Governor in such order as he determines.

1930, p. 963; Michie Code 1942, § 2673(66); 1964, c. 227; 1989, c. 414; 2011, cc. [572](#), [586](#); 2015, c. [221](#).

§ 44-81. Length of service when called out.

The National Guard, the Virginia Defense Force, or the unorganized militia, when called into service by the Governor, shall serve for such time as, in the Governor's judgment, may be necessary.

1930, p. 963; Michie Code 1942, § 2673(67); 1958, c. 393; 1989, c. 414; 1993, c. 112; 2011, cc. [572](#), [586](#); 2015, c. [221](#).

§ 44-82. How troops paid while in service; transportation to be furnished; movement of troops and supplies not to be delayed.

All officers and enlisted personnel of the National Guard or Virginia Defense Force, whenever called out in aid of the civil authorities, shall receive the compensation herein provided, and such compensation, and the necessary expenses incurred in furnishing supplies, subsistence, quartering, and transporting troops, shall be paid no later than 10 work days after the receipt of required payroll documentation by the Payroll Services Bureau of the Department of Accounts by the State Treasurer. Such payments shall be made on warrants to be drawn by the Comptroller, on the State Treasurer, upon certificates of the officer in actual command of the troops, and upon payrolls prepared according to such forms as the state regulations shall prescribe. Such payrolls and certificates are to be transmitted to the Adjutant General through the regular military channels, and he shall approve them before such warrants shall be drawn. The Comptroller and the State Treasurer are hereby authorized and directed to draw the warrants and make the payments herein provided for in accordance with current or subsequently amended pay and allowances of United States armed forces.

The several transportation companies in this Commonwealth shall furnish transportation for troops so called out, stores, munitions and equipments, upon application of the officer in actual command, accompanied by a certificate from him of the number of personnel to be carried and their destination, and a copy of the order calling them out. For such transportation the transportation company shall be entitled to receive compensation from the Commonwealth.

Transportation of troops and military supplies shall be as speedy as possible and have the right-of-way over all passenger and freight traffic on transportation lines within the Commonwealth, and failure to furnish transportation when called upon, or unnecessary delay in transporting such troops and supplies, shall be punishable by a fine of not less than \$1,000 or more than \$10,000.

1930, p. 963; Michie Code 1942, § 2673(68); 1958, c. 393; 1973, c. 401; 2011, cc. [572](#), [586](#); 2015, c. [221](#).

§ 44-83. Pay and allowance of members.

Notwithstanding any other provision of law, when called into state active duty, not in the service of the United States, members of the National Guard and members of the Virginia Defense Force shall receive pay and allowances equal to their rank and years of service, as determined by the Department of Military Affairs. The Adjutant General may increase state active duty pay on an annual basis by a rate not to exceed the most recent percentage increase in basic pay for members of the Armed Forces.

1930, p. 964; Michie Code 1942, § 2673(69); 1958, c. 393; 1988, c. 352; 2011, cc. [572](#), [586](#); 2016, c. [341](#); 2020, c. [832](#).

§ 44-84. Regulations enforced on actual service.

Whenever any portion of the militia shall be called into service to execute the law, suppress riot or insurrection, or to repel invasion, the military justice opinions as set forth in Article 4 (§ [44-42](#) et seq.) of this chapter, and the regulations prescribed for the National Guard of the United States, and the regulations issued thereunder, shall be enforced and regarded as a part of this chapter until such forces shall be duly relieved from such duty.

1930, p. 964; Michie Code 1942, § 2673(70); 1958, c. 393.

Article 8 - UNORGANIZED MILITIA

§ 44-85. Regulations and penalties.

Whenever any part of the unorganized militia is ordered out, it shall be governed by the same rules and regulations and be subject to the same penalties as the National Guard.

1930, p. 965; Michie Code 1942, § 2673(71); 2015, c. [221](#).

§ 44-86. When ordered out for service.

The commander in chief may at any time, in order to execute the law, suppress riots or insurrections, or repel invasion, or aid in any form of disaster wherein the lives or property of citizens are imperiled or may be imperiled, order out the National Guard and the inactive National Guard or any parts thereof, or the whole or any part of the unorganized militia. When the militia of this Commonwealth, or a part thereof, is called forth under the Constitution and laws of the United States, the Governor shall order out for service the National Guard, or such part thereof as may be necessary; and he may likewise order out such a part of the unorganized militia as he may deem necessary. During the absence of organizations of the National Guard in the service of the United States, their state designations shall not be given to new organizations.

1930, p. 965; Michie Code 1942, § 2673(72); 1958, c. 393.

§ 44-87. Manner of ordering out for service.

The Governor shall, when ordering out the unorganized militia, designate the number to be so called. He may order them out either by calling for volunteers or by draft.

1930, p. 965; Michie Code 1942, § 2673(73); 1944, p. 25; 1958, c. 393; 1984, c. 765.

§ 44-88. Incorporation into the Virginia Defense Force.

Whenever the Governor orders out the unorganized militia or any part thereof, it shall be incorporated into the Virginia Defense Force until relieved from service.

1944, p. 25; Michie Suppl. 1946, § 2673(73); 1984, c. 765; 2011, cc. [572](#), [586](#).

§ 44-89. Draft of unorganized militia.

If the unorganized militia is ordered out by draft, the Governor shall designate the persons in each county and city to make the draft, and prescribe rules and regulations for conducting the same.

1930, p. 965; Michie Code 1942, § 2673(74).

§ 44-90. Punishment for failure to appear.

Every member of the militia ordered out for duty, or who shall volunteer or be drafted, who does not appear at the time and place ordered, shall be liable to such punishment as a court-martial may direct.

1930, p. 965; Michie Code 1942, § 2673(75); 1958, c. 393.

Article 9 - PAY OF MILITIA

§§ 44-91, 44-92. Repealed.

Repealed by Acts 1958, c. 393.

Article 10 - Privileges of United States Reserve, National Guard, and Naval Militia

§ 44-93. Leaves of absence for employees of Commonwealth or political subdivisions.

A. All officers and employees of the Commonwealth or of any political subdivision of the Commonwealth who are former members of the armed services or members of the organized reserve forces of any of the armed services of the United States or National Guard shall be entitled to leaves of absence from their respective duties, without loss of seniority, accrued leave, or efficiency rating, on all days during which they are engaged in federally funded military duty, to include training duty, or when called forth by the Governor pursuant to the provisions of § [44-75.1](#) or § [44-78.1](#).

There shall be no loss of regular employer pay during such leaves of absence, except that paid leaves of absence for federally funded military duty, to include training duty, shall not exceed 21 workdays per federal fiscal year, and except that no officers or employees shall receive paid leave for more than 21 workdays per federally funded tour of active military duty.

When relieved from such duty, they shall be restored to positions held by them when ordered to duty. If the office or position has been abolished or otherwise has ceased to exist during such leave of absence, they shall be reinstated in a position of like seniority, status and pay, if the position exists, or in a comparable vacant position for which they are qualified, unless to do so would be unreasonable.

For the purposes of this section, with respect to employees of the Commonwealth or its political subdivisions who do not normally work approximately equal workdays on five or more days of each calendar week, the term "workday" shall mean 1/260 of the total working hours such employee would be scheduled to work during an entire federal fiscal year, not taking into account any state holidays, annual leave, military leave, or other absences. Where such employee returns from federally funded military duty and the eight-hour rest period required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. § 4301 et seq.) overlaps such employee's scheduled work shift, the employee shall receive paid military leave to the extent of such overlap.

B. In addition to the provisions of subsection A, any local government may pay such employee when activated for federally funded military duty all or any portion of the difference between his regular pay and the military pay received during all or any part of the term of active federally funded duty.

1930, p. 966; Michie Code 1942, § 2673(78); 1958, c. 393; 1964, c. 227; 1966, c. 295; 1968, c. 503; 1983, c. 590; 1984, c. 540; 1985, c. 103; 1986, c. 611; 1989, cc. 414, 474; 1991, c. 653; 2002, cc. [212](#), [354](#); 2006, c. [621](#); 2015, c. [221](#); 2022, c. [430](#).

§ 44-93.1. Supplement of military pay and additional life insurance benefits for employees of Commonwealth or political subdivisions.

A. In addition to the paid military leave provisions of § [44-93](#), the Commonwealth or any political subdivision of the Commonwealth may supplement the military pay of its officers and employees who are reservists or national guard members called to federally funded military duty in an amount necessary to bring their total salary, inclusive of their base military pay, to the level earned at the time they were called to federally funded military duty. The employer may also, in its discretion, continue to provide any health insurance and other existing benefits to such officers and employees.

B. In addition to any other benefit provided by law, if an employee of the Commonwealth or of any political subdivision has been called to federal active duty services under Title 10 of the United States Code, the Commonwealth shall provide an additional death benefit in the amount of \$20,000 to be paid if the employee is killed in action in any armed conflict while serving with any reserve component of the Army, Navy, Marine Corps, Air Force, or Coast Guard or with any unit of these respective services of the United States.

2002, c. [354](#); 2005, cc. [907](#), [910](#).

§ 44-93.2. Leaves of absence from nongovernmental employment.

A member of the Virginia National Guard or Virginia Defense Force, or a person who is a member of the National Guard of another state and who is otherwise employed in the Commonwealth, called to state active duty or military duty pursuant to Title 32 of the United States Code shall have the right to take leave without pay from his nongovernmental employment. No member of the National Guard or Virginia Defense Force, or person who is a member of the National Guard of another state, shall be forced to use or exhaust his vacation or other accrued leaves from his nongovernmental employment for a period of active service. The choice of leave shall be solely within the discretion of the member.

2002, c. [354](#); 2007, cc. [167](#), [214](#); 2011, cc. [572](#), [586](#); 2015, c. [221](#); 2016, c. [327](#); 2018, c. [216](#).

§ 44-93.3. Reemployment rights.

Upon honorable release from state active duty or military duty pursuant to Title 32 of the United States Code, a member of the Virginia National Guard or Virginia Defense Force, or a person who is a member of the National Guard of another state and who was previously employed in the Commonwealth, shall make written application to his previous employer for reemployment within (i) 14 days of his release from duty or from hospitalization following release if the length of the member's absence by reason of service in the uniformed services does not exceed 180 days or (ii) 90 days of his release from duty or from hospitalization following release if the length of the member's absence by reason of service in the uniformed services exceeds 180 days. When released from such duty, they shall be restored to positions held by them when ordered to duty. If the office or position has been abolished or otherwise has ceased to exist during such leave of absence, they shall be reinstated in a position of like seniority, status and pay if the position exists, or to a comparable vacant position for which they are qualified, unless to do so would be unreasonable. This section shall not apply when the cumulative length of the absence and of all previous absences from a position of employment with that employer by reason of service in the uniformed services exceeds five years.

2002, c. [354](#); 2007, cc. [167](#), [214](#); 2010, c. [253](#); 2011, cc. [572](#), [586](#); 2015, c. [221](#); 2016, c. [327](#); 2018, c. [216](#).

§ 44-93.4. Discrimination against persons who serve in the Virginia National Guard, Virginia Defense Force, or National Guard of another state and acts of reprisal prohibited.

A. A member of the Virginia National Guard or Virginia Defense Force, or a person who is a member of the National Guard of another state, who performs, has performed, applies to perform, or has an obligation to perform state active duty or military duty pursuant to Title 32 of the United States Code shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer within the Commonwealth on the basis of that membership, application for membership, performance of service, application for service, or obligation.

B. A person shall be considered to have denied a member of the Virginia National Guard or Virginia Defense Force, or a person who is a member of the National Guard of another state, initial employment, reemployment, retention in employment, promotion, or a benefit of employment within the Commonwealth in violation of this section if the member's membership, application for membership, performance of service, application for service, or obligation for service is a motivating factor in that person's action, unless the person can prove by the greater weight of the evidence that the same unfavorable action would have taken place in the absence of the member's membership, application for membership, performance of service, application for service, or obligation for service.

2002, c. [354](#); 2007, cc. [167](#), [214](#); 2011, cc. [572](#), [586](#); 2015, c. [221](#); 2016, c. [327](#); 2018, c. [216](#).

§ 44-93.5. Penalties for denial.

If any employer fails or refuses to comply with the provisions of §§ [44-93](#), [44-93.2](#), [44-93.3](#) and [44-93.4](#), the circuit court having jurisdiction over the employer's place of business may, upon the filing of a motion, petition, or other appropriate pleading by the employee, require the employer to comply with §§ [44-93](#), [44-93.2](#), [44-93.3](#) and [44-93.4](#) and to compensate the employee for any loss of wages or benefits and reasonable attorney fees and costs incurred by reason of the employer's unlawful failure or refusal. Upon request of the affected employee, the Attorney General may represent personally or through one of his assistants, such employee denied the benefits of §§ [44-93](#), [44-93.2](#), [44-93.3](#) and [44-93.4](#) while in the performance of state active duty.

2002, c. [354](#); 2004, c. [147](#); 2007, cc. [167](#), [214](#).

§ 44-94. Exemption from jury duty.

The active officers and members of the National Guard shall be exempt from serving on juries in civil and criminal cases upon presentation to the clerk of the court of a certificate of such membership signed by the commanding officer of the unit of which the person summoned for jury service is a member.

1930, p. 966; Michie Code 1942, § 2673(79); 2015, c. [221](#).

§ 44-95. Repealed.

Repealed by Acts 1958, c. 393.

§ 44-96. Military property exempt from levy and sale.

The uniforms, arms, and equipment required by law or regulations of every commissioned and warrant officer and every enlisted person of the Virginia National Guard and Virginia Defense Force shall be exempt from sale under any execution, distress, or other process for debt and taxes.

1930, p. 966; Michie Code 1942, § 2673(81); 1958, c. 393; 1984, c. 765; 2011, cc. [572](#), [586](#); 2015, c. [221](#).

§ 44-97. Exemption from arrest.

No person belonging to the Virginia National Guard or Virginia Defense Force shall be arrested on any process issued by or from any civil officer or court, except in cases of felony or breach of the peace, while going to, remaining at or returning from any place at which he may be required to attend for military duty; nor in any case whatsoever while actually engaged in the performance of his military duties, except with the consent of his commanding officer.

1930, p. 966; Michie Code 1942, § 2673(82); 1984, c. 765; 2015, c. [221](#).

§ 44-97.1. Continuance or time for filing pleading, etc., where party or attorney is on active duty.

Any party to or attorney in an action or proceeding in any court, including the Supreme Court of Virginia, commission, or other tribunal having judicial or quasi-judicial powers or jurisdiction who has been ordered to participate in state active duty, annual active duty for training, or temporary active duty in the reserve forces of any of the armed services of the United States or National Guard shall be entitled to a continuance, not to exceed three weeks, as a matter of right during the period of such duty, provided the continuance is requested at least four days prior to the first day for which the continuance is sought. The period required by any statute or rule for the filing of any pleading or the performance of any act relating thereto shall be extended for seven days after such active duty, provided a request is made four days prior to the date the pleading or act is due. The failure of any court, commission, or other tribunal to allow such continuance when requested to do so or the returning of such filing or act during the period hereinabove specified shall constitute reversible error. This section shall not prevent the granting of temporary injunctive relief or the dissolution or extension of a temporary injunction, but the right to such relief shall remain in the sound discretion of the court or other such tribunal.

1981, c. 288; 1990, c. 790; 2011, cc. [572](#), [586](#); 2015, c. [221](#).

§ 44-98. Interference with employment of members of Virginia National Guard or Virginia Defense Force.

A person who, either by himself or with another, deprives a member of the Virginia National Guard or Virginia Defense Force of his employment, or prevents, by himself or another, such member being employed, or obstructs or annoys such member or his employer at his trade, business, or employment, because such member of such organization is such member, or dissuades any person from enlistment in the Virginia National Guard or Virginia Defense Force by threat or injury to him in his trade, business, or employment in case he shall so enlist, shall be guilty of a misdemeanor and on conviction

thereof shall be fined in a sum not exceeding \$500, or imprisonment in jail not more than 30 days, or shall suffer both fine and imprisonment.

1930, p. 967; Michie Code 1942, § 2673(83); 1958, c. 393; 1984, c. 765; 2011, cc. [572](#), [586](#); 2015, c. [221](#).

§ 44-99. Organizations may own property; suits.

Companies or other organizations of the Virginia National Guard and Virginia Defense Force shall have the right to own and keep real and personal property necessary for their use, which shall belong to and be under control of the active members of the unit; and the commanding officer of any unit shall have the right and power to maintain any suit, in his own name, to recover for the use of the unit any debts or effects belonging to the unit, or damages for the injury thereof; and no suit pending in his name shall be abated by his ceasing to be the commanding officer of the unit; but upon motion of the commander succeeding him, such commander shall be admitted to prosecute the suit in like manner and with like effect as if it had been originally instituted by him. Armories owned by such units shall be exempt from all state, county and municipal taxation.

1930, p. 967; Michie Code 1942, § 2673(84); 1958, c. 393; 1984, c. 765; 2011, cc. [572](#), [586](#); 2015, c. [221](#).

§ 44-100. No action allowed on account of military duties; counsel for members sued or prosecuted.

No action or proceeding shall be prosecuted or maintained against a member of a military court, or officer or person acting under its authority or reviewing its proceedings, on account of the approval or imposition or execution of any sentence, or the imposition or collection of fine or penalty, or the execution of any warrant, writ, execution, process, or mandate of a military court, nor shall any member of the Virginia National Guard or Virginia Defense Force be liable to civil action or suit or criminal prosecution for any act done while in the discharge of his military duty.

If any member of the Virginia National Guard or Virginia Defense Force is sued civilly or arrested, indicted, or otherwise prosecuted for any act committed in the discharge of his official duty while on state duty, the Adjutant General may employ special counsel approved by the Attorney General to defend such member. The compensation for special counsel employed pursuant to this section shall, subject to the approval by the Attorney General, be paid out of the funds appropriated for the administration of the Department of Military Affairs.

1930, p. 967; Michie Code 1942, § 2673(85); 1972, c. 416; 1973, c. 401; 1984, c. 765; 2011, cc. [572](#), [586](#); 2015, c. [221](#).

§ 44-101. Repealed.

Repealed by Acts 1958, c. 544.

§ 44-102. Commission not to vacate civil office.

Any citizen of the Commonwealth may accept and hold a commission in the Virginia National Guard and receive pay therefrom or a commission in the Virginia Defense Force or armed forces reserve of the United States, without thereby vacating any civil office or position or commission held by him; and

the acceptance or holding of any such commission, and receiving pay therefrom shall not constitute such holding of an office of trust and profit under the government of the Commonwealth and of the United States as shall be incompatible with the holding of any civil office, legislative or judicial, or position or commission under the government of the Commonwealth.

1930, p. 968; Michie Code 1942, § 2673(87); 1958, c. 393; 1984, c. 765; 2011, cc. [572](#), [586](#).

§ 44-102.1. Rights, benefits and protections upon call to active duty; contract termination.

A. Any right, benefit, or protection that may accrue to a member of the Virginia National Guard under the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.), as a result of a call to federal active duty service under Title 10 of the United States Code shall be extended to a member of the Virginia National Guard called to active duty service under Title 32 of the United States Code, or to state active duty by the Governor, if the active duty orders are for a period of 30 consecutive days or more. In addition, if a member of the Virginia National Guard is called to state active duty by the Governor, the employer shall ensure that the member has the option of continuing, at the member's expense, his health care coverage, life insurance, or long-term care insurance.

B. Any member of the United States Armed Forces or Virginia National Guard who receives permanent change of station orders or has received temporary duty orders in excess of three months' duration, his spouse, or his dependent may, at any time prior to the conclusion of his period of service, terminate without penalty a contract for the following services:

1. Telecommunications services;
2. Internet services;
3. Television services;
4. Athletic club or gym memberships;
5. Satellite radio services; or
6. Service for an alarm system as defined in § [15.2-911](#).

It shall be a violation of the Virginia Consumer Protection Act (§ [59.1-196](#) et seq.) for a service provider to fail to comply with the provisions of this subsection.

2003, c. [769](#); 2010, cc. [811](#), [861](#); 2011, cc. [572](#), [586](#); 2017, c. [293](#).

§ 44-102.1:1. Benefits upon call to active duty under a state of emergency; health care premiums.

A. As used in this section:

"Department" means the Department of Military Affairs.

"Service member" means a member of the Virginia National Guard or the Virginia Defense Force.

"State of emergency" has the same meaning as provided in § [44-146.16](#).

B. If the Governor has declared a state of emergency that activated the Virginia National Guard or the Virginia Defense Force, then the Department is authorized to pay, for any service member who has

served under such activation for a period of at least 14 consecutive days, the portion of the premium for such service member's health care coverage previously paid by the service member's employer, provided that the service member provides satisfactory evidence to the Department demonstrating that (i) immediately prior to being called to state active duty, the service member was employed and received health care coverage through his employer, (ii) the employer paid a premium to maintain the service member's health care coverage, and (iii) as a result of the service member's state active duty status, the employer is no longer paying such premium.

C. Any payment made by the Department pursuant to this section shall cover only the portion of the premium previously paid by the service member's employer from day 15 of the service member's state active duty until the date the service member is discharged from state active duty. Such payments may also cover dependents of the service member.

D. The Department may use the sum sufficient identified in the relevant state of emergency declaration for any payment authorized by this section.

E. The Department shall establish policies, procedures, and protocols to implement and record any payment authorized by this section.

F. On or before November 1, 2022, and annually thereafter, the Department shall report to the Secretary of Veterans and Defense Affairs all payments made pursuant to this section.

G. Nothing in this section shall create a legal cause of action against the Commonwealth or the Department.

2022, cc. [372](#), [373](#).

§ 44-102.2. Virginia Military Family Relief Fund established.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Military Family Relief Fund (the Fund). The Fund shall be established on the books of the Comptroller and administered by the Office of the Adjutant General for the purposes set forth herein. All moneys as may be appropriated by the General Assembly, private gifts, grants, or donations contributed to the Fund, and revenues received by the Commonwealth for the Fund pursuant to § [58.1-344.3](#) shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of assisting members of the Virginia National Guard and Virginia residents who are members of the reserves of the armed forces of the United States who have been called to extended federal active duty for periods in excess of 90 days and missions in support of Virginia civil authorities, including state active duty and federal defense support to civil authority missions, for periods in excess of 30 days, and their families, with living expenses including, but not limited to food, housing, utilities, and medical services. Assistance may be provided from the Fund from the date of entry into active duty until 180 days after release from

active duty. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Adjutant General.

B. The Adjutant General shall submit an annual report to the Governor and the chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations of the General Assembly. The report shall detail:

1. The expenditures of the Fund, including the amount of awards provided from the Fund to each branch of service, the amount of individual and family assistance provided, the qualifications of the recipients, and the balance available in the Fund for future disbursements; and
2. The name, address, rank, branch of service, deployment location, and amount of financial assistance provided to each recipient. The information provided under this subdivision that identifies a recipient or members of the recipient's family or the deployment location of any member of the Virginia National Guard or the reserves of the armed forces of the United States shall be confidential and shall not be subject to public disclosure.

2006, cc. [103](#), [479](#); 2007, cc. [73](#), [911](#); 2015, c. [320](#).

Article 11 - CARE OF MILITARY PROPERTY

§ 44-103. Deposit in armories or headquarters for safekeeping.

All arms, equipment and ordnance stores, which shall be furnished to the several commands under the provisions of this chapter, shall be deposited in the armories or headquarters of such commands for safekeeping.

1930, p. 968; Michie Code 1942, § 2673(88).

§ 44-104. Care required and liability of officers.

All commissioned officers of the Virginia National Guard and Virginia Defense Force shall exercise the strictest care and vigilance for the preservation of the uniforms, arms, supplies, equipment and military property furnished to their several commands under the provisions of this chapter. Any officer receiving public property for military use shall be responsible for the articles so received by him; and he shall not transfer such property, or any portion thereof, to another, either as a loan or permanently, without the authority of the Adjutant General, or his duly authorized representative.

1930, p. 968; Michie Code 1942, § 2673(89); 1958, c. 393; 1984, c. 765; 2011, cc. [572](#), [586](#); 2015, c. [221](#).

§ 44-105. Repealed.

Repealed by Acts 1958, c. 393.

§ 44-106. Upon disbandment of organization, or call into active federal service, commanding officer to return certain property to Adjutant General.

Upon the disbandment of any organization, or call into active federal service of such organization, which has received arms, supplies or equipment from the Adjutant General, in accordance with the

provisions of this chapter, the commanding officer of such organization shall be responsible for the safe return to the custody of the Adjutant General of all such public property in possession of the organization, except for such federally owned property that may be required by federal law to be retained by such organization in the federal service.

1930, p. 968; Michie Code 1942, § 2673(91); 1958, c. 393.

§ 44-107. Use for private purposes forbidden.

No officer or enlisted person shall use, except upon military duty any article of military property belonging to the United States or to the Commonwealth.

1930, p. 969; Michie Code 1942, § 2673(92); 1958, c. 393.

§ 44-108. Officers and enlisted persons personally liable for military property.

Every officer and enlisted person to whom any article of military property is delivered in pursuance of the provisions of this chapter shall be held personally responsible for its care, safekeeping, and return. He shall use the same for military purposes only, and upon receiving a discharge, or otherwise leaving the military service, or upon demand of his commanding officer or the Adjutant General, shall forthwith surrender and deliver such property in as good order and condition as the same was at the time he received it, reasonable fair wear and tear excepted. As insurance for compliance with the provisions of this chapter, the Adjutant General may require the bonding of any or all such officers or enlisted persons in an amount that he may deem appropriate, commensurate with the responsibilities of such officers or enlisted persons. The cost of such bonds shall be borne from funds appropriated for the operation of the Department of Military Affairs, and shall be without cost to the individual officer and/or enlisted person bonded.

1930, p. 969; Michie Code 1942, § 2673(93); 1958, c. 393.

§ 44-109. Punishment for injuries to military property.

Whoever shall willfully or maliciously destroy, injure, or deface any arms or articles of military property belonging to the United States or to the Commonwealth, or receive any property in violation of the preceding sections of this chapter, shall be deemed guilty of a misdemeanor and be fined not exceeding double the amount of the value of the property so injured or defaced, or, in the discretion of the jury, be imprisoned in jail not less than two weeks nor more than two months.

1930, p. 969; Michie Code 1942, § 2673(94).

§ 44-110. Punishment for sale, etc., of military property.

Whoever shall secrete, sell, dispose of, offer for sale, or in any manner pawn or pledge, or receive in pawn or pledge, buy, or intentionally fail to return after having been legally discharged from the National Guard any of the arms, uniforms, or equipments, being the property of the United States or of the Commonwealth, knowing or having reason to believe the same to be the property of the United States or the Commonwealth, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be imprisoned in jail for not less than six months nor more than one year, or in the discretion of the jury or judge, be fined not less than \$50 nor more than \$1,000.

1930, p. 969; Michie Code 1942, § 2673(95); 2011, cc. [572](#), [586](#).

§ 44-111. Replacement of lost or damaged property.

Whenever any military property issued to the militia of the Commonwealth shall have been lost, damaged, or destroyed, and upon report of a disinterested survey officer of the armed forces or militia it shall appear that the loss, damage or destruction of property was due to carelessness or neglect, or that its loss, damage or destruction could have been avoided by the exercise of reasonable care, the money value of such property shall be charged against the bond of the officer or enlisted person, if bonded. If such officer or enlisted person is not bonded, the value of such property shall be charged to such officer or enlisted person, and the pay of such officer or enlisted person from both federal and state funds at any time accruing may be stopped and applied to the payment of any such indebtedness until the same is discharged. In addition thereto, any officer accountable or responsible for military property shall be liable on his bond to the Commonwealth and the United States Property and Fiscal Officer as accounting, accountable and responsible officer for any lost, damaged, or destroyed property for which he is accountable or responsible.

1930, p. 969; Michie Code 1942, § 2673(96); 1958, c. 393.

Article 12 - SUPPORT OF MILITIA

§ 44-112. Requisition for federal funds.

The Governor or such other state officer as may be authorized by law, shall make requisition upon the Secretary of Defense, through the National Guard Bureau, for such state allotment from federal funds as may be necessary for the support of the militia and as may be authorized by the laws and regulations of the United States.

1930, p. 970; Michie Code 1942, § 2673(97); R. P. 1948, § 44-112; 1958, c. 393.

§ 44-113. County, city and town appropriations.

Counties, cities, and towns may appropriate such sums of money and real and personal property as they may deem proper to the various organizations of the National Guard or the Virginia Defense Force, when such organizations are maintained within the limits of the counties, cities, and towns respectively; and counties may appropriate such sums of money and real and personal property as they may deem proper to the various organizations of the National Guard if such organizations are maintained in any incorporated town or city of the second class located within the geographical limits of such counties respectively.

1930, p. 970; 1940, p. 54; Michie Code 1942, § 2673(98); R. P. 1948, § 44-113; 1958, c. 393; 2014, cc. [30](#), [547](#); 2015, c. [221](#).

§ 44-114. Allowances made to organizations from state appropriations.

For the necessary expenses of the maintenance of the National Guard and the Virginia Defense Force, to include the providing of one flag of the Commonwealth of Virginia to the next of kin of any individual, upon his death, who was serving in, or honorably served for a period of 20 years in and

retired from, the Virginia National Guard, the Virginia Defense Force, or a combination of both, the Adjutant General shall annually allot to each organization or unit such amounts as may in his judgment be advisable, and as may be available from the appropriation to the Department of Military Affairs, such allotment to be based upon such scheme of distribution as may appear equitable to the Adjutant General and best suited to the needs of the military forces of the Commonwealth.

1930, p. 970; Michie Code 1942, § 2673(99); R. P. 1948, § 44-114; 1999, c. [667](#); 2004, c. [12](#); 2013, cc. [150](#), [198](#); 2015, c. [221](#).

Article 12.1 - ORDERS INDUCTING STATE MILITIA INTO FEDERAL SERVICE

§ 44-114.1. Orders transmitted to and through the Governor.

All orders from the federal government or any of its officers, agencies, or departments to the state militia of Virginia, including the National Guard and the unorganized militia, that relate to the call, induction, or drafting of Virginia state troops of any type or description into the federal service for active duty or otherwise and withdrawing them from the control of the Governor of Virginia shall be first transmitted to and through the Governor of Virginia. The Governor, as commander in chief of the state militia, shall not approve, consent to, or concur in any such order that has not been transmitted as herein required.

1958, c. 540, § 1; 2015, c. [221](#).

§ 44-114.2. Governor to be notified of receipt of order; no action taken until his instructions complied with.

If the Adjutant General of Virginia, or during his absence, any of his assistants, or anyone else in the Department of Military Affairs of the Commonwealth of Virginia, either in a civilian or military status, shall receive an order of the nature required in § [44-114.1](#) to be transmitted to the Governor, he shall immediately notify the Governor of Virginia of such receipt and the contents of this order by the most expeditious means, and no action shall be taken by anyone towards notifying the individuals of organizations of the Virginia militia of the contents of such orders or directions received from the federal government on this subject by any of its agencies or representatives until the Governor has been first advised and instructions from him have been complied with fully.

1958, c. 540, § 2.

§ 44-114.3. Orders void if transmitted to militia before Governor notified.

If the Adjutant General or anyone else in the Department of Military Affairs should receive such a message of the kind referred to in § [44-114.1](#) and fail to notify the Governor immediately, and subsequently transmits such orders, for the purpose of having such orders executed, to any personnel of the state militia, or to any person other than the Governor, then such order or orders shall be illegal, null and void.

1958, c. 540, § 3.

§ 44-114.4. Governor not prevented from drafting into state military service.

Nothing in this article shall prevent the Governor from drafting all citizens into the state military service if he may so desire in accordance with the military laws of Virginia.

1958, c. 540, § 4; 1973, c. 401.

Article 13 - General Provisions

§ 44-115. Custom and usage of United States army, air force and navy; applicability of §§ 44-40, 44-40.01 and Article 4 (§ 44-42 et seq.).

All matters relating to the organization, discipline and government of the Virginia National Guard, not otherwise provided for by law or by regulations, shall be decided by the custom and usage of the United States army, air force or navy, as appropriate. In addition, all members of the Virginia Defense Force and the unorganized militia on training duty or state active duty shall be subject to military discipline. Infractions of military discipline for the Virginia National Guard shall be punishable under the provisions of §§ [44-40](#) and [44-40.01](#) and Article 4 (§ [44-42](#) et seq.). Infractions of military discipline for the Virginia Defense Force and unorganized militia shall be punishable under the provisions of §§ [44-40](#) and [44-40.01](#).

1930, p. 970; Michie Code 1942, § 2673(100); 1964, c. 227; 1984, c. 765; 1989, c. 414; 2011, cc. [572](#), [586](#); 2015, c. [221](#); 2016, c. [339](#).

§ 44-116. Repealed.

Repealed by Acts 2011, cc. [572](#) and [586](#), cl. 2.

§ 44-117. Officers of Virginia Military Institute, the Virginia Women's Institute for Leadership at Mary Baldwin College, the Fishburne Military School, the Massanutten Military Academy, and Virginia Polytechnic Institute and State University to be officers of militia.

The officers of the Virginia Military Institute, the Virginia Women's Institute for Leadership at Mary Baldwin College, the Fishburne Military School, the Massanutten Military Academy, and the Commandant of Cadets and Assistant Commandants of Cadets of the Virginia Polytechnic Institute and State University shall be commissioned officers of the Virginia militia, unorganized, and subject to the orders of the Governor and the same rules and regulations as to discipline provided for other commissioned officers of the military organizations of the Commonwealth. The Governor is authorized and directed to issue commissions to the professors, assistant professors and other officers of the Virginia Military Institute, the Fishburne Military School, the Massanutten Military Academy, and the Virginia Women's Institute for Leadership at Mary Baldwin College, according to the rank prescribed by those institutions; and to the Commandant of Cadets and Assistant Commandants of Cadets of the Virginia Polytechnic Institute and State University. Such persons shall be eligible to receive and to continue to hold such commissions, regardless of age, for so long as they continue to be officers, professors or assistant professors of the Virginia Military Institute, the Virginia Women's Institute for Leadership at Mary Baldwin College, the Fishburne Military School, the Massanutten Military Academy, or the Commandant of Cadets or Assistant Commandants of Cadets of Virginia Polytechnic Institute and State University. The governing boards of each institution shall recommend to the Governor the rank to

which such eligible persons shall be commissioned, but the following determination of such rank shall be made by the Governor. Commissions in such militia issued such persons by the Governor shall not entitle any person holding the same to any pay or emolument by reason thereof unless he be assigned to duty by order of the Governor with the Virginia National Guard; and in such event, the rank of such officer shall be relatively inferior to that of all other officers of the same grade in the Virginia National Guard.

1930, p. 970; Michie Code 1942, § 2673(102); 1958, c. 393; 1978, c. 384; 2001, c. [77](#); 2006, c. [123](#); 2007, c. [818](#).

§§ 44-117.1, 44-118. Repealed.

Repealed by Acts 1958, c. 393.

§ 44-119. Retired list of officers, warrant officers and enlisted persons.

There shall be a retired list of officers, warrant officers and enlisted persons of the Virginia National Guard.

The following persons, upon their written applications through regular military channels to the Adjutant General, may be placed on the retired list of the Virginia National Guard:

1. Former Adjutant Generals who have resigned or been relieved;
2. Officers or enlisted persons in the guard who have been honorably discharged and have served for at least ten years in active service of the guard, or ten years computing the period served in the Virginia National Guard and the period of active service in the United States armed forces.

Officers who have served honorably and efficiently in the Virginia National Guard or the Virginia militia shall be commissioned on the retired list of the Virginia militia, unorganized, in their respective grade, or the highest grade held by them in the military service of the Commonwealth, except that officers who have to their credit fifteen years or more of exemplary service may, at the discretion of the Adjutant General, be retired with commission of the next higher grade to the highest grade held by them in the military service of the Commonwealth of Virginia.

Warrant officers and noncommissioned officers shall be placed on the retired list with the highest rank held by them in the Virginia National Guard.

Reentry into the active military service of the Commonwealth or of the United States shall discharge officers, warrant officers and enlisted persons from the retired list, and for any future retirement new application shall be made.

1930, p. 971; Michie Code 1942, § 2673(104); 1958, c. 393; 1983, c. 157; 2015, c. [221](#).

§ 44-120. Protection of the uniform.

It shall be unlawful for any person, not an officer, warrant officer or enlisted person in the armed forces of the United States, to wear the duly prescribed uniform thereof, or any distinctive part of such uniform, or a uniform any part of which is similar to a distinctive part of the duly prescribed uniform of the armed forces of the United States.

The foregoing provision shall not be construed so as to prevent officers, warrant officers or enlisted persons of the National Guard, nor to prevent members of the organization known as the Boy Scouts of America, or such other organizations as the Secretary of Defense may designate, from wearing their prescribed uniforms; nor to prevent persons who in time of war have served honorably as officers of the armed forces of the United States and whose most recent service was terminated by an honorable discharge, muster out, or resignation, from wearing, upon occasions of ceremony, the uniform of the highest grade they have held in such service; nor to prevent any person who has been honorably discharged from the armed forces of the United States from wearing his uniform from the place of his discharge to his home, within three months after his discharge; nor to prevent the members of military societies composed entirely of honorably discharged officers and enlisted persons, or both, of the armed forces of the United States from wearing, upon occasions of ceremony, the uniform duly prescribed by such societies to be worn by members thereof; nor to prevent the instructors and members of the duly organized cadet corps of any educational institution offering a regular course in military instruction from wearing the uniform duly prescribed by appropriate respective authority to be worn by instructors and members of such cadet corps; nor to prevent the instructors and members of such duly organized cadet corps of such institution of learning offering a regular course in military instruction and at which an officer, warrant officer or enlisted person of the armed forces of the United States is lawfully detailed for duty as instructor in military science and tactics, from wearing the uniform duly prescribed by appropriate authority to be worn by instructors and members of such cadet corps; nor to prevent civilians attending a course of military instruction authorized and conducted by the military authorities of the United States from wearing while attending such a course the uniform authorized and prescribed by such military authorities to be worn during such course of instruction; nor to prevent any person from wearing the uniform of the armed forces of the United States, in any playhouse or theater or in motion picture films or television while actually engaged in representing therein a military character not tending to bring discredit or reproach upon the armed forces of the United States.

The uniform worn by members of military societies, or the instructors and members of the cadet corps referred to in the preceding paragraph, shall include some distinctive mark or insignia approved by the Secretary of Defense, to distinguish such uniforms from the uniform of the armed forces of the United States. The members of the military societies and the instructors and members of the cadet corps hereinbefore mentioned shall not wear the insignia of rank prescribed to be worn by the officers of the armed forces of the United States, or any insignia of rank similar thereto, unless otherwise authorized.

Any person who offends against the provisions of this section shall, on conviction, be punished by a fine not exceeding \$100, or by imprisonment not exceeding 30 days, or by both such fine and imprisonment.

1930, p. 971; Michie Code 1942, § 2673(105); 1958, c. 393; 2011, cc. [572](#), [586](#).

§ 44-120.1. Manufacture of Virginia military medals and decorations in United States.

Virginia military medals and decorations shall be made in the United States. Existing stocks of Virginia military medals and decorations which are of foreign origin may be consumed without violating

the provisions of this act. All Virginia military medals and decorations shall have the words "Made in the USA" stamped on the reverse side. This act shall not limit the country of origin of United States military medals and decorations that are presented to members of the Virginia National Guard.

1999, c. [22](#).

§ 44-120.2. Commonwealth's Twenty marksmanship award.

There is hereby established the Commonwealth's Twenty marksmanship award to recognize the top 20 marksmen in Virginia. These top 20 marksmen shall be chosen from the Virginia state residents who compete at the annual Virginia State Championship matches sanctioned by the Virginia Shooting Sports Association (the Association). The award shall be administered by the Association and shall consist of (i) an enamel metal tab pin with gray background and white lettering, similar in style, shape, and size to the "President's Hundred" pin awarded by the United States Army; (ii) a fabric patch with hook and loop backing with a green background and black letters, similar in style, shape, and size to the "President's Hundred" patch awarded by the United States Army; and (iii) a certificate.

2015, c. [747](#); 2017, c. [224](#).

§ 44-121. Repealed.

Repealed by Acts 2009, c. [108](#), cl. 1.

§ 44-122. Citation of chapter.

This chapter may be cited as the "Military Laws of Virginia."

1930, p. 973; Michie Code 1942, § 2673(107).

Chapter 2 - Armories, Buildings and Grounds

§ 44-123. Repealed.

Repealed by Acts 2015, c. [221](#), cl. 2.

§ 44-123.1. Armory defined.

As used in this chapter, unless otherwise provided, the meaning of "armory" shall include training or logistical support facilities, such as, but not limited to, maintenance facilities, training areas, facilities at the State Military Reservation, Virginia Beach, Virginia, and the Fort Pickett Maneuver Training Center.

1976, c. 266; 2000, c. [296](#).

§ 44-123.2. Fort Pickett Reservation created; venue.

A. All those lands and improvements thereon constituting the special maritime and territorial jurisdiction of the United States formerly known as Fort Pickett, Virginia, shall specifically include but not be limited to those lands licensed by the Department of the Army to the Virginia Army National Guard on October 1, 1997, approximating 41,000 acres known as the Fort Pickett Maneuver Training Center, as well as those lands designated for transfer to the Nottoway County Local Reuse Authority by the

United States Base Realignment and Closure Commission of 1996 approximating 4,100 acres, are hereby designated as the Fort Pickett Reservation.

B. Venue for all civil, criminal and traffic matters occurring on the Fort Pickett Reservation shall lie in Nottoway County.

2000, c. [296](#).

§ 44-123.3. Fort Pickett Police; powers; duties; functions.

There is hereby established within the Department of Military Affairs the Fort Pickett Police Department. The Fort Pickett Police may exercise within the limits of the Fort Pickett Reservation and, when assigned to any other property owned or controlled by the Commonwealth or any agency, department, institution or commission thereof, all the powers, duties and functions that are exercised by the police of the city, or the police or sheriff of the county within which said property is located. The jurisdiction of the Fort Pickett Police shall further extend 300 feet beyond the boundary of any property they are required to protect, such jurisdiction to be concurrent with that of other law-enforcement officers of the locality in which such property is located. The Fort Pickett Police shall refer any complaint which alleges a felony violation to the Virginia State Police or the sheriff of the appropriate jurisdiction who, in cooperation with the Fort Pickett Police, shall conduct an investigation if an investigation is warranted. All members of the Fort Pickett Police shall be subject to the provisions of § [2.2-1202.1](#) and Chapter 5 (§ [9.1-500](#) et seq.) of Title 9.1. The Fort Pickett Police Department shall be under the supervision of the Adjutant General, or his designee. The pay structure for the officers and supervisors of the Fort Pickett Police Department shall be the same as that set by the Compensation Board for sheriffs' offices.

2000, c. [296](#); 2012, cc. [803](#), [835](#).

§ 44-124. Repealed.

Repealed by Acts 1976, c. 266.

§ 44-124.1. Power of Adjutant General to acquire and maintain property.

The Adjutant General may acquire for and in the name of the Commonwealth, by gift, grant, appropriation, purchase such real or personal property as is necessary for the maintenance of, the training and administration of, the logistical support of, and the safeguarding of property in the care, custody or control of the Department of Military Affairs when such real or personal property is reasonably necessary to carry out and perform the duties required by this chapter and the duties of the office of the Adjutant General. The Adjutant General may make such acquisitions in cooperation with counties, cities, or incorporated towns, private corporations, voluntary incorporated or unincorporated associations or individuals, the United States or other states or commonwealths of the United States. The Adjutant General may provide for the day-to-day operation and maintenance of said facilities to include but not limited to heat, water, light, telephone service, sewer and other costs of operation, including insurance, and may in a like manner make additions, alterations and improvements to said facilities.

1976, c. 266.

§§ 44-125 through 44-128. Repealed.

Repealed by Acts 1976, c. 266.

§ 44-129. Joint use of public buildings for armories.

The governing body of any county, city or incorporated town, wherein a unit or units of the Virginia National Guard have been, or may hereafter be established, may either severally, or acting jointly with each other, or with the Adjutant General, construct or acquire by purchase, contract, lease, gift, donation or condemnation, grounds and/or buildings which shall be suitable for public assemblages, conventions, exhibitions and entertainments; provided, that such buildings, or the plans and specifications therefor, are first approved by the Adjutant General as suitable for use as armories by such National Guard units; provided further, that such governing bodies or either of them, shall have contracted with the Adjutant General for the use of such buildings as an armory by such National Guard unit or units upon terms not inconsistent with this chapter.

1932, p. 759; Michie Code 1942, § 2673(112); R. P. 1948, § 44-129; 2015, c. [221](#).

§ 44-130. Public grounds for armory building purposes.

Any municipality or county owning lands on which no permanent building has been actually constructed whether such lands constitute part of a park or site for some public structure, is authorized to convey the same to the Commonwealth for use as a site for an armory for the Virginia National Guard; provided, that such conveyance will not prevent the reasonable use of any such structure for the purpose for which it was constructed.

1932, p. 760; Michie Code 1942, § 2673(113); R. P. 1948, § 44-130.

§ 44-131. Military property exempt from taxation.

All property actually used for armory and military training purposes, as hereinabove defined, shall be exempt from all taxation, impost or assessment.

1932, p. 760; Michie Code 1942, § 2673(114); R. P. 1948, § 44-131.

§ 44-132. Power of condemnation.

The power of condemnation herein granted to the Adjutant General and to counties, cities and incorporated towns, shall be exercised in the manner prescribed in the Code of Virginia.

1932, p. 760; Michie Code 1942, § 2673(115); R. P. 1948, § 44-132.

§ 44-133. Repealed.

Repealed by Acts 2015, c. [221](#), cl. 2.

§ 44-134. Management and care of armories and training areas.

The Adjutant General shall be responsible for the general management and care of armories and drill and training areas, and shall have the power to adopt and prescribe such rules and regulations for the management and government and for the guidance of the organizations occupying them as may be necessary and desirable; but such rules are not to conflict with the provisions of this chapter.

1932, p. 760; Michie Code 1942, § 2673(117); R. P. 1948, § 44-134.

§ 44-134.1. Repealed.

Repealed by Acts 1981, c. 219.

§ 44-135. Repealed.

Repealed by Acts 1976, c. 266.

§ 44-135.1. Armory control board for each armory; temporary renting.

Each armory erected or provided by the Commonwealth under the provisions of this chapter, excepting those armories or logistical support facilities provided for by license agreement with the United States, shall have an armory control board appointed by the Adjutant General to consist of one or more officers of the organization or organizations quartered therein, and any other persons deemed necessary by the Adjutant General. Such board of control may rent the armory and any temporary quarters or billeting facilities thereon for temporary purposes, subject to any regulations or conditions that may be prescribed by the Adjutant General or such board of control. The money derived from the rental shall be placed in a special revenue interest-earning fund, and properly accounted for. Any nonappropriated funds and interest earned from such funds shall be used to defray the cost of operating, improving, and maintaining such armory and its facilities. Any money remaining in the fund at the end of the fiscal year shall not revert to the general fund but shall remain in the fund.

1976, c. 266; 1996, cc. [137](#), [802](#).

§ 44-136. Sale or lease of armories.

When the Adjutant General shall receive information from the Governor of the disbandment of an organization of the National Guard occupying or using an armory provided by the Commonwealth under the direction of the Adjutant General, he shall determine whether such armory shall be sold or not, and if it is determined that such armory be sold after due publication as prescribed by the laws of the Commonwealth for the sale of real estate under a deed of trust, it shall be sold at public auction for the highest price to be paid for same, and upon such terms and conditions as may seem best to the Adjutant General. The proceeds of such sale shall be divided between the Commonwealth, county, city or individual, as their interest may appear.

In case an armory becomes vacant by any reason mentioned in this section, the Adjutant General may lease such armory for a period not to exceed one year, or, when duly authorized by the Governor, may lease the same for a period of years, the proceeds due the Commonwealth therefrom in either case to be turned into the state treasury to be credited to the Armory Fund. Should there be other owner or owners than the Commonwealth then the balance of the proceeds shall be equitably turned over to them as their interest may appear. During the time that the troops quartered in an armory are absent from their home station, in federal service, the armory may be leased as above provided, but not sold.

1932, p. 761; Michie Code 1942, § 2673(118); R. P. 1948, § 44-136; 2015, c. [221](#).

§ 44-137. City and county aid.

Every city and county in the Commonwealth having an active National Guard or Virginia Defense Force organization or organizations is authorized to render such financial assistance as it may deem

wise and patriotic to such organization or organizations, either by donating land or buildings, or donating the use of land or buildings, or by contributing to their equipment and maintenance.

1932, p. 761; Michie Code 1942, § 2673(119); R. P. 1948, § 44-137; 1976, c. 266; 2014, cc. [30](#), [547](#); 2015, c. [221](#).

§ 44-138. Maintenance funds.

In order that there shall be provided maintenance funds for armories and other buildings erected, and areas provided for drill and training and other military purposes under the provisions of this chapter, the Adjutant General is authorized to draw a voucher for such funds, to be paid from any appropriation provided.

1932, p. 761; Michie Code 1942, § 2673(120); R. P. 1948, § 44-138.

§ 44-139. Reversions of donations.

In the event that any real property is donated, deeded, or otherwise conveyed for a nominal sum to the Commonwealth, Department of Military Affairs, Virginia National Guard, Virginia Army or Air National Guard, Virginia Defense Force, or a subordinate element of any such entity under the provisions of this chapter for the purpose of supporting Virginia National Guard or Virginia Defense Force operations, and the organization shall fail to accept such property, or shall, after accepting it, upon determination by the Adjutant General, no longer require the property to support the organization's mission, the title to the property thus donated, deeded, or otherwise conveyed may, at the discretion of the Adjutant General, revert to the person, county, or municipality donating such property as their interest may appear. If the Adjutant General chooses not to allow the reversion or if the person, county, or municipality declines to reacquire such property, it shall be declared excess.

1932, p. 761; Michie Code 1942, § 2673(121); R. P. 1948, § 44-139; 2015, c. [221](#); 2018, c. [647](#).

§ 44-140. Liberal construction.

This chapter shall be liberally construed in favor of its purposes.

1932, p. 762; Michie Code 1942, § 2673(123); R. P. 1948, § 44-140.

Chapter 3 - CIVIL DEFENSE [Repealed]

§§ 44-141 through 44-146.1. Repealed.

Repealed by Acts 1973, c. 260.

Chapter 3.1 - POST-ATTACK RESOURCE MANAGEMENT ACT [Repealed]

§§ 44-146.2 through 44-146.12. Repealed.

Repealed by Acts 1975, c. 11.

Chapter 3.2 - EMERGENCY SERVICES AND DISASTER LAW

§ 44-146.13. Short title.

This chapter may be cited as the "Commonwealth of Virginia Emergency Services and Disaster Law of 2000."

1973, c. 260; 2000, c. [309](#).

§ 44-146.14. Findings of General Assembly.

(a) Because of the ever present possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, resource shortage, or from fire, flood, earthquake, or other natural causes, and in order to insure that preparations of the Commonwealth and its political subdivisions will be adequate to deal with such emergencies, and generally to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property and economic well-being of the people of the Commonwealth, it is hereby found and declared to be necessary and to be the purpose of this chapter:

- (1) To create a State Department of Emergency Management, and to authorize the creation of local organizations for emergency management in the political subdivisions of the Commonwealth;
- (2) To confer upon the Governor and upon the executive heads or governing bodies of the political subdivisions of the Commonwealth emergency powers provided herein; and
- (3) To provide for rendering of mutual aid among the political subdivisions of the Commonwealth and with other states and to cooperate with the federal government with respect to the carrying out of emergency service functions.

(b) It is further declared to be the purpose of this chapter and the policy of the Commonwealth that all emergency service functions of the Commonwealth be coordinated to the maximum extent possible with the comparable functions of the federal government, other states, and private agencies of every type, and that the Governor shall be empowered to provide for enforcement by the Commonwealth of national emergency services programs, to the end that the most effective preparation and use may be made of the nation's resources and facilities for dealing with any disaster that may occur.

1973, c. 260; 1974, c. 4; 1975, c. 11; 2000, c. [309](#).

§ 44-146.15. Construction of chapter.

Nothing in this chapter is to be construed to:

- (1) Limit, modify, or abridge the authority of the Governor to exercise any powers vested in him under other laws of this Commonwealth independent of, or in conjunction with, any provisions of this chapter;
- (2) Interfere with dissemination of news or comment on public affairs; but any communications facility or organization, including, but not limited to, radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with actual or pending disaster;
- (3) Empower the Governor, any political subdivision, or any other governmental authority to in any way limit or prohibit the rights of the people to keep and bear arms as guaranteed by Article I, Section

13 of the Constitution of Virginia or the Second Amendment of the Constitution of the United States, including the otherwise lawful possession, carrying, transportation, sale, or transfer of firearms except to the extent necessary to ensure public safety in any place or facility designated or used by the Governor, any political subdivision of the Commonwealth, or any other governmental entity as an emergency shelter or for the purpose of sheltering persons;

(4) Affect the jurisdiction or responsibilities of police forces, firefighting forces, units of the armed forces of the United States or any personnel thereof, when on active duty; but state, local and inter-jurisdictional agencies for emergency services shall place reliance upon such forces in the event of declared disasters; or

(5) Interfere with the course of conduct of a labor dispute except that actions otherwise authorized by this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety.

1973, c. 260; 2000, c. [309](#); 2006, c. [458](#); 2012, cc. [42](#), [158](#).

§ 44-146.16. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Communicable disease of public health threat" means an illness of public health significance, as determined by the State Health Commissioner in accordance with regulations of the Board of Health, caused by a specific or suspected infectious agent that may be reasonably expected or is known to be readily transmitted directly or indirectly from one individual to another and has been found to create a risk of death or significant injury or impairment; this definition shall not, however, be construed to include human immunodeficiency viruses or tuberculosis, unless used as a bioterrorism weapon. "Individual" shall include any companion animal. Further, whenever "person or persons" is used in Article 3.02 (§ [32.1-48.05](#) et seq.) of Chapter 2 of Title 32.1, it shall be deemed, when the context requires it, to include any individual.

"Cyber incident" means an event occurring on or conducted through a computer network that actually or imminently jeopardizes the integrity, confidentiality, or availability of computers, information or communications systems or networks, physical or virtual infrastructure controlled by computers or information systems, or information resident thereon. "Cyber incident" includes a vulnerability in information systems, system security procedures, internal controls, or implementations that could be exploited by a threat source.

"Disaster" means (i) any man-made disaster, including any condition following an attack by any enemy or foreign nation upon the United States resulting in substantial damage of property or injury to persons in the United States including by use of bombs, missiles, shell fire, or nuclear, radiological, chemical, or biological means or other weapons or by overt paramilitary actions; terrorism, foreign and domestic; cyber incidents; and any industrial, nuclear, or transportation accident, explosion, conflagration, power failure, resources shortage, or other condition such as sabotage, oil spills, and other injurious environmental contaminations that threaten or cause damage to property, human suffering,

hardship, or loss of life and (ii) any natural disaster, including any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, communicable disease of public health threat, or other natural catastrophe resulting in damage, hardship, suffering, or possible loss of life.

"Discharge" means spillage, leakage, pumping, pouring, seepage, emitting, dumping, emptying, injecting, escaping, leaching, fire, explosion, or other releases.

"Emergency" means any occurrence, or threat thereof, whether natural or man-made, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property or natural resources and may involve governmental action beyond that authorized or contemplated by existing law because governmental inaction for the period required to amend the law to meet the exigency would work immediate and irrevocable harm upon the citizens or the environment of the Commonwealth or some clearly defined portion or portions thereof.

"Emergency services" means the preparation for and the carrying out of functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, emergency resource management, existing or properly assigned functions of plant protection, temporary restoration of public utility services, and other functions related to civilian protection. These functions also include the administration of approved state and federal disaster recovery and assistance programs.

"Hazard mitigation" means any action taken to reduce or eliminate the long-term risk to human life and property from natural hazards.

"Hazardous substances" means all materials or substances that now or hereafter are designated, defined, or characterized as hazardous by law or regulation of the Commonwealth or regulation of the United States government.

"Interjurisdictional agency for emergency management" is any organization established between contiguous political subdivisions to facilitate the cooperation and protection of the subdivisions in the work of disaster prevention, preparedness, response, and recovery.

"Local emergency" means the condition declared by the local governing body when in its judgment the threat or actual occurrence of an emergency or disaster is or threatens to be of sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate the damage, loss, hardship, or suffering threatened or caused thereby, provided, however, that a local emergency arising wholly or substantially out of a resource shortage may be declared only by the Governor, upon petition of the local governing body, when he deems the threat or actual occurrence of such an emergency or disaster to be of sufficient severity and magnitude to warrant coordinated local government

action to prevent or alleviate the damage, loss, hardship, or suffering threatened or caused thereby, and provided, however, nothing in this chapter shall be construed as prohibiting a local governing body from the prudent management of its water supply to prevent or manage a water shortage.

"Local emergency management organization" means an organization created in accordance with the provisions of this chapter by local authority to perform local emergency service functions.

"Major disaster" means any natural catastrophe, including any: hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought, or regardless of cause, any fire, flood, or explosion, in any part of the United States, which, in the determination of the President of the United States is, or thereafter determined to be, of sufficient severity and magnitude to warrant major disaster assistance under the Stafford Act (P.L. 93-288 as amended) to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby and is so declared by him.

"Political subdivision" means any city or county in the Commonwealth and, for the purposes of this chapter, the Town of Chincoteague and any town of more than 5,000 population that chooses to have an emergency management program separate from that of the county in which such town is located.

"Resource shortage" means the absence, unavailability, or reduced supply of any raw or processed natural resource or any commodities, goods, or services of any kind that bear a substantial relationship to the health, safety, welfare, and economic well-being of the citizens of the Commonwealth.

"State of emergency" means the condition declared by the Governor when in his judgment the threat or actual occurrence of an emergency or a disaster in any part of the Commonwealth is of sufficient severity and magnitude to warrant disaster assistance by the Commonwealth to supplement the efforts and available resources of the several localities and relief organizations in preventing or alleviating the damage, loss, hardship, or suffering threatened or caused thereby and is so declared by him.

1973, c. 260; 1974, c. 4; 1975, c. 11; 1978, c. 60; 1979, c. 193; 1981, c. 116; 1984, c. 743; 1993, c. 671; 2000, c. [309](#); 2004, cc. [773](#), [1021](#); 2008, cc. [121](#), [157](#); 2020, c. [483](#).

§ 44-146.17. Powers and duties of Governor.

A. The Governor shall be Director of Emergency Management. He shall take such action from time to time as is necessary for the adequate promotion and coordination of state and local emergency services activities relating to the safety and welfare of the Commonwealth in time of disasters.

The Governor shall have, in addition to his powers hereinafter or elsewhere prescribed by law, the following powers and duties:

(1) To proclaim and publish such rules and regulations and to issue such orders as may, in his judgment, be necessary to accomplish the purposes of this chapter including, but not limited to such measures as are in his judgment required to control, restrict, allocate or regulate the use, sale, production

and distribution of food, fuel, clothing and other commodities, materials, goods, services and resources under any state or federal emergency services programs.

He may adopt and implement the Commonwealth of Virginia Emergency Operations Plan, which provides for state-level emergency operations in response to any type of disaster or large-scale emergency affecting Virginia and that provides the needed framework within which more detailed emergency plans and procedures can be developed and maintained by state agencies, local governments and other organizations.

He may direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is deemed necessary for the preservation of life, implement emergency mitigation, preparedness, response or recovery actions; prescribe routes, modes of transportation and destination in connection with evacuation; and control ingress and egress at an emergency area, including the movement of persons within the area and the occupancy of premises therein.

Executive orders, to include those declaring a state of emergency and directing evacuation, shall have the force and effect of law and the violation thereof shall be punishable as a Class 1 misdemeanor in every case where the executive order declares that its violation shall have such force and effect.

Such executive orders declaring a state of emergency may address exceptional circumstances that exist relating to an order of quarantine or an order of isolation concerning a communicable disease of public health threat that is issued by the State Health Commissioner for an affected area of the Commonwealth pursuant to Article 3.02 (§ [32.1-48.05](#) et seq.) of Chapter 2 of Title 32.1.

No rule, regulation, or order issued under this section shall have any effect beyond 45 days after the date of issuance. Unless the General Assembly takes action on the rule, regulation, or order within the 45 days during which the rule, regulation, or order is effective, the Governor shall thereafter be prohibited from issuing the same or a similar rule, regulation, or order relating to the same emergency;

(2) To appoint a State Coordinator of Emergency Management and authorize the appointment or employment of other personnel as is necessary to carry out the provisions of this chapter, and to remove, in his discretion, any and all persons serving hereunder;

(3) To procure supplies and equipment, to institute training and public information programs relative to emergency management and to take other preparatory steps including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces in time of need;

(4) To make such studies and surveys of industries, resources, and facilities in the Commonwealth as may be necessary to ascertain the capabilities of the Commonwealth and to plan for the most efficient emergency use thereof;

(5) On behalf of the Commonwealth to enter into mutual aid arrangements with other states and to coordinate mutual aid plans between political subdivisions of the Commonwealth. After a state of emergency is declared in another state and the Governor receives a written request for assistance

from the executive authority of that state, the Governor may authorize the use in the other state of personnel, equipment, supplies, and materials of the Commonwealth, or of a political subdivision, with the consent of the chief executive officer or governing body of the political subdivision;

(6) To delegate any administrative authority vested in him under this chapter, and to provide for the further delegation of any such authority, as needed;

(7) Whenever, in the opinion of the Governor, the safety and welfare of the people of the Commonwealth require the exercise of emergency measures due to a threatened or actual disaster, to declare a state of emergency to exist;

(8) To request a major disaster declaration from the President, thereby certifying the need for federal disaster assistance and ensuring the expenditure of a reasonable amount of funds of the Commonwealth, its local governments, or other agencies for alleviating the damage, loss, hardship, or suffering resulting from the disaster;

(9) To provide incident command system guidelines for state agencies and local emergency response organizations;

(10) Whenever, in the opinion of the Governor or his designee, an employee of a state or local public safety agency responding to a disaster has suffered an extreme personal or family hardship in the affected area, such as the destruction of a personal residence or the existence of living conditions that imperil the health and safety of an immediate family member of the employee, to direct the Comptroller of the Commonwealth to issue warrants not to exceed \$2,500 per month, for up to three calendar months, to the employee to assist the employee with the hardship; and

(11) During a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared pursuant to subdivision (7), to establish a program through which the Governor may purchase PPE for private, nongovernmental entities and distribute the PPE to such private, nongovernmental entities. If federal funding is available to establish and fund the program, the Governor, if necessary to comply with any conditions attached to such federal funding, shall be entitled to seek reimbursement for such purchases from the private, nongovernmental entities and may establish and charge fees to recover the cost of administering the program, including the cost of procuring and distributing the PPE. However, if federal funding is not available to establish and fund the program, the Governor shall, prior to making such purchases, receive a contract for payment for purchase from the private nongovernmental entities for the full cost of procuring and distributing the PPE, which shall include any amortized costs of administering the program. Any purchase made by the Governor pursuant to this subdivision shall be exempt from the provisions of the Virginia Public Procurement Act (§ [2.2-4300](#) et seq.), except the Governor shall be encouraged to comply with the provisions of § [2.2-4310](#) when possible. The Governor shall also provide for competition where practicable and include a written statement regarding the basis for awarding any contract. Prior to implementing such a program, the Department of Emergency Management shall consult with and sur-

vey private, nongovernmental entities in order to assess demand for participation in the program as well as the quantity and types of personal protective equipment such entities would like to procure.

As used in this subdivision, "personal protective equipment" or "PPE" means equipment or supplies worn or employed to minimize exposure to hazards that cause serious workplace injuries and illnesses and may include items such as gloves, safety glasses and shoes, earplugs or muffs, hard hats, respirators, coveralls, vests, full body suits, hand sanitizer, plastic shields, or testing for the communicable disease of public health threat.

B. No rule, regulation, or order issued by the Governor or other governmental entity pursuant to this chapter shall impose restrictions on the operation of a place of worship that are more restrictive than the restrictions imposed on any other business, organization, or activity.

1973, c. 260; 1974, c. 4; 1975, c. 11; 1981, c. 116; 1990, c. 95; 1997, c. [893](#); 2000, c. [309](#); 2004, cc. [773](#), [1021](#); 2006, c. [140](#); 2007, cc. [729](#), [742](#); 2008, cc. [121](#), [157](#); 2020, Sp. Sess. I, cc. [14](#), [15](#), [17](#), [38](#); 2022, cc. [803](#), [805](#); 2023, c. [603](#).

§ 44-146.17:1. Transmittal to General Assembly of rules, regulations, and orders.

The Governor shall cause copies of any order, rule, or regulation proclaimed and published by him pursuant to § [44-146.17](#) to be transmitted forthwith to each member of the General Assembly.

1981, c. 160.

§ 44-146.17:1.1. Certain emergency orders; additional requirements.

In any case in which an order declaring a state of emergency relating to a communicable disease of public health threat, or successive related orders, issued by the Governor pursuant to subdivision (1) of § [44-146.17](#) includes any measure that closes schools or businesses or restricts the movement of healthy persons within the area to which the order applies for more than seven days, all of the rights, protections, and procedures of Article 3.02 (§ [32.1-48.05](#) et seq.) of Chapter 2 of Title 32.1 shall apply.

2022, c. [785](#).

§ 44-146.17:2. Annual statewide drill.

The Governor shall conduct an annual statewide drill on response to a large-scale disaster, including electrical power outages. Such drill shall include the participation of local governments, affected state agencies, public utilities, law-enforcement agencies, and other entities as determined by the Governor.

2004, c. [430](#); 2019, c. [615](#).

§ 44-146.18. Department of Emergency Management; administration and operational control; coordinator and other personnel; powers and duties.

A. The State Office of Emergency Services is continued and shall hereafter be known as the Department of Emergency Management (the Department). Wherever the words "State Department of Emergency Services" are used in any law of the Commonwealth, they shall mean the Department of Emergency Management. During a declared emergency this Department shall revert to the

operational control of the Governor. The Department shall have a coordinator who shall be appointed by and serve at the pleasure of the Governor and also serve as State Emergency Planning Director. The Department shall employ the professional, technical, secretarial, and clerical employees necessary for the performance of its functions.

B. The Department shall in the administration of emergency services and disaster preparedness programs:

1. In coordination with political subdivisions and state agencies, ensure that the Commonwealth has up-to-date assessments and preparedness plans to prevent, respond to, and recover from all disasters including acts of terrorism;
2. Conduct a statewide emergency management assessment in cooperation with political subdivisions, private industry, and other public and private entities deemed vital to preparedness, public safety, and security. The assessment shall include a review of emergency response plans, which include the variety of hazards, natural and man-made. The assessment shall be updated annually;
3. Promulgate plans and programs that are conducive to adequate disaster mitigation preparedness, response, and recovery programs;
4. Prepare and maintain a State Emergency Operations Plan for disaster response and recovery operations that assigns primary and support responsibilities for basic emergency services functions to state agencies, organizations, and personnel as appropriate;
5. Coordinate and administer disaster mitigation, preparedness, response, and recovery plans and programs with the proponent federal, state, and local government agencies and related groups;
6. Provide guidance and assistance to state agencies and units of local government in developing and maintaining emergency management and continuity of operations (COOP) programs, plans, and systems;
7. Make necessary recommendations to agencies of the federal, state, or local governments on preventive and preparedness measures designed to eliminate or reduce disasters and their impact;
8. Determine requirements of the Commonwealth and its political subdivisions for those necessities needed in the event of a declared emergency which are not otherwise readily available;
9. Assist state agencies and political subdivisions in establishing and operating training programs and programs of public information and education regarding emergency services and disaster preparedness activities;
10. Consult with the Board of Education regarding the development and revision of a model school crisis and emergency management plan for the purpose of assisting public schools in establishing, operating, and maintaining emergency services and disaster preparedness activities;
11. Consult with the State Council of Higher Education in the development and revision of a model institutional crisis and emergency management plan for the purpose of assisting public and private

two-year and four-year institutions of higher education in establishing, operating, and maintaining emergency services and disaster preparedness activities and, as needed, in developing an institutional crisis and emergency management plan pursuant to § [23.1-804](#);

12. Develop standards, provide guidance, and encourage the maintenance of local and state agency emergency operations plans, which shall include the requirement for a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § [19.2-11.01](#). The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies;

13. Prepare, maintain, coordinate, or implement emergency resource management plans and programs with federal, state, and local government agencies and related groups, and make such surveys of industries, resources, and facilities within the Commonwealth, both public and private, as are necessary to carry out the purposes of this chapter;

14. Coordinate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, mitigation, preparation, response, and recovery;

15. Establish guidelines pursuant to § [44-146.28](#), and administer payments to eligible applicants as authorized by the Governor;

16. Coordinate and be responsible for the receipt, evaluation, and dissemination of emergency services intelligence pertaining to all probable hazards affecting the Commonwealth;

17. Coordinate intelligence activities relating to terrorism with the Department of State Police;

18. Develop an emergency response plan to address the needs of individuals with household pets and service animals in the event of a disaster and assist and coordinate with local agencies in developing an emergency response plan for household pets and service animals; and

19. Establish and maintain an Emergency Management Equity Working Group (the Working Group) to ensure that emergency management programs and plans provide support to at-risk individuals and populations disproportionately impacted by disasters. The Working Group shall include experts from (i) the Governor's Office of Diversity, Equity, and Inclusion and other state agencies; (ii) the public at large; and (iii) the private sector who have expertise related to at-risk and vulnerable populations and the threats faced by such populations during a disaster.

The Department of Emergency Management shall ensure that all such plans, assessments, and programs required by this subsection include specific preparedness for, and response to, disasters resulting from electromagnetic pulses and geomagnetic disturbances.

C. The Department of Emergency Management shall during a period of impending emergency or declared emergency be responsible for:

1. The receipt, evaluation, and dissemination of intelligence pertaining to an impending or actual disaster;
2. Providing facilities from which state agencies and supporting organizations may conduct emergency operations;
3. Providing an adequate communications and warning system capable of notifying all political subdivisions in the Commonwealth of an impending disaster within a reasonable time;
4. Establishing and maintaining liaison with affected political subdivisions;
5. Determining requirements for disaster relief and recovery assistance;
6. Coordinating disaster response actions of federal, state and volunteer relief agencies; and
7. Coordinating and providing guidance and assistance to affected political subdivisions to ensure orderly and timely response to and recovery from disaster effects.

D. The Department of Emergency Management shall be provided the necessary facilities and equipment needed to perform its normal day-to-day activities and coordinate disaster-related activities of the various federal, state, and other agencies during a state of emergency declaration by the Governor or following a major disaster declaration by the President.

E. The Department of Emergency Management is authorized to enter into all contracts and agreements necessary or incidental to performance of any of its duties stated in this section or otherwise assigned to it by law, including contracts with the United States, other states, agencies and government subdivisions of the Commonwealth, and other appropriate public and private entities.

F. The Department of Emergency Management shall encourage private industries whose goods and services are deemed vital to the public good to provide annually updated preparedness assessments to the local coordinator of emergency management on or before April 1 of each year, to facilitate overall Commonwealth preparedness. For the purposes of this section, "private industry" means companies, private hospitals, and other businesses or organizations deemed by the State Coordinator of Emergency Management to be essential to the public safety and well-being of the citizens of the Commonwealth.

G. The Department of Emergency Management shall establish a Coordinator of Search and Rescue. Powers and duties of the Coordinator shall include:

1. Coordinating the search and rescue function of the Department of Emergency Management;
2. Coordinating with local, state, and federal agencies involved in search and rescue;
3. Coordinating the activities of search and rescue organizations involved in search and rescue;
4. Maintaining a register of search and rescue certifications, training, and responses;

5. Establishing a memorandum of understanding with the Virginia Search and Rescue Council and its respective member agencies regarding search and rescue efforts;
6. Providing on-scene search and rescue coordination when requested by an authorized person;
7. Providing specialized search and rescue training to police, fire-rescue, EMS, emergency managers, volunteer search and rescue responders, and others who might have a duty to respond to a search and rescue emergency;
8. Gathering and maintaining statistics on search and rescue in the Commonwealth;
9. Compiling, maintaining, and making available an inventory of search and rescue resources available in the Commonwealth; and
10. Periodically reviewing search and rescue cases and developing best professional practices.

Nothing in this chapter shall be construed as authorizing the Department of Emergency Management to take direct operational responsibilities from local, state, or federal law enforcement in the course of search and rescue or missing person cases.

1973, c. 260; 1974, c. 4; 1975, c. 11; 1979, c. 193; 1984, c. 720; 1985, cc. 443, 447; 1997, c. [893](#); 2000, c. [309](#); 2001, c. [841](#); 2003, c. [622](#); 2004, c. [690](#); 2005, cc. [165](#), [490](#); 2007, c. [902](#); 2008, cc. [450](#), [526](#); 2009, cc. [222](#), [269](#); 2012, c. [418](#); 2015, cc. [97](#), [205](#), [223](#); 2017, c. [778](#); 2019, c. [615](#); 2021, Sp. Sess. I, c. [455](#).

§ 44-146.18:1. Virginia Disaster Response Funds disbursements; reimbursements.

There is hereby created a nonlapsing revolving fund which shall be maintained as a separate special fund account within the state treasury, and administered by the Coordinator of Emergency Management, consistent with the purposes of this chapter. All expenses, costs, and judgments recovered pursuant to this section, and all moneys received as reimbursement in accordance with applicable provisions of federal law, shall be paid into the fund. Additionally, an annual appropriation to the fund from the general fund or other unrestricted nongeneral fund, in an amount determined by the Governor, may be authorized to carry out the purposes of this chapter. All recoveries from occurrences prior to March 10, 1983, and otherwise qualifying under this section, received subsequent to March 10, 1983, shall be paid into the fund. No moneys shall be credited to the balance in the fund until they have been received by the fund. An accounting of moneys received and disbursed shall be kept and furnished to the Governor or the General Assembly upon request.

Disbursements from the fund may be made for the following purposes and no others:

1. For costs and expenses, including, but not limited to personnel, administrative, and equipment costs and expenses directly incurred by the Department of Emergency Management or by any other state agency or political subdivision or other entity, acting at the direction of the Coordinator of Emergency Management, in and for preventing or alleviating damage, loss, hardship, or suffering caused by emergencies, resource shortages, or disasters; and

2. For procurement, maintenance, and replenishment of materials, equipment, and supplies, in such quantities and at such location as the Coordinator of Emergency Management may deem necessary to protect the public peace, health, and safety and to preserve the lives and property and economic well-being of the people of the Commonwealth; and

3. For costs and expenses incurred by the Department of Emergency Management or by any other state agency or political subdivision or other entity, acting at the direction of the Coordinator of Emergency Management, in the recovery from the effects of a disaster or in the restoration of public property or facilities.

The Coordinator of Emergency Management shall promptly seek reimbursement from any person causing or contributing to an emergency or disaster for all sums disbursed from the fund for the protection, relief and recovery from loss or damage caused by such person. In the event a request for reimbursement is not paid within 60 days of receipt of a written demand, the claim shall be referred to the Attorney General for collection. The Coordinator of Emergency Management shall be allowed to recover all legal and court costs and other expenses incident to such actions for collection. The Coordinator is authorized to recover any sums incurred by any other state agency or political subdivision acting at the direction of the Coordinator as provided in this paragraph.

1983, c. 48; 2000, c. [309](#); 2008, cc. [121](#), [157](#).

§ 44-146.18:2. Authority of Coordinator of Emergency Management in undeclared emergency.

In an emergency which does not warrant a gubernatorial declaration of a state of emergency, the Coordinator of Emergency Management, after consultation with and approval of the Secretary of Public Safety and Homeland Security, may enter into contracts and incur obligations necessary to prevent or alleviate damage, loss, hardship, or suffering caused by such emergency and to protect the health and safety of persons and property. In exercising the powers vested by this section, the Coordinator may proceed without regard to normal procedures pertaining to entering into contracts, incurring of obligations, rental of equipment, purchase of supplies and materials, and expenditure of public funds; however, mandatory constitutional requirements shall not be disregarded.

1985, c. 443; 1990, cc. 1, 317; 2000, c. [309](#); 2014, cc. [115](#), [490](#).

§ 44-146.18:3. First informer broadcasters; coordination with Department of Emergency Management.

A. For purposes of this section, unless the context requires otherwise, "first informer" means the critical radio or television personnel of a radio or television broadcast station engaged in (i) the process of broadcasting; (ii) the maintenance or repair of broadcast station equipment, transmitters, and generators; or (iii) the transportation of fuel for generators of broadcast stations.

B. Unless it is shown to endanger public safety or inhibit recovery efforts, or is otherwise prohibited by state or federal law, state and local government agencies shall permit first informer radio or television personnel with proper identification cards to access their broadcasting station within any area

declared a state emergency area by the Governor for the purpose of provision of news, public service and public safety information and repairing or resupplying their facility or equipment.

First informer identification cards shall be issued by the Virginia Association of Broadcasters. A list of those first informers who have been issued identification cards shall be furnished to the Virginia Department of Emergency Management and the Secretary of Veterans and Defense Affairs by the Virginia Association of Broadcasters prior to December 30 of each year.

C. Nothing in this section shall be construed to limit or impair the right or ability of any news organization or its personnel to gather and report the news.

2014, c. [561](#).

§ 44-146.18:4. State Coordinator of Emergency Management responsible for annual Virginia Comprehensive Emergency Management Report.

A. The Department of Emergency Management (the Department) shall create a comprehensive tabulated annual report, known as the Virginia Comprehensive Emergency Management Report (the Report), that shall include the annual Threat Hazard Identification Risk and Assessment (THIRA) report that the Department submits to the Federal Emergency Management Agency (FEMA), as well as information on the following:

1. The current readiness of Virginia's search and rescue efforts;
2. The jurisdictions that received financial assistance during the prior fiscal year because they were located in an area declared to be in a state of emergency, but not declared to be a major disaster area for which federal assistance was provided, and the amount each such jurisdiction received;
3. The status of the Commonwealth's emergency shelter capabilities and readiness;
4. All assets received during the prior fiscal year as a result of a law-enforcement seizure and subsequent forfeiture by either a state or federal court and their estimated net worth;
5. The forfeiture of federal grant funding by any state agency that is required to return such funding as a result of not fulfilling the specifications of a grant;
6. The results of the annual statewide drill conducted by the Governor in accordance with § [44-146.17:2](#) in preparation for a potential large-scale disaster;
7. The number and types of training and exercises related to man-made and natural disaster preparedness that were conducted by the Department, the costs associated with such training and exercises, and the challenges and barriers to ensuring that state and local agencies are able and ready to respond to emergencies and natural disasters;
8. The mandates administered by state agencies and imposed on local governments, an estimate of the fiscal impact of the mandates on the affected local governments, and a written justification as to why the mandate should or should not be eliminated;

9. The status of continuity of operations programs, plans, and systems of the Commonwealth's executive branch agencies. Such plans shall include a description of how the agency or institution of higher education will continue to provide essential services or perform mission essential functions during a disaster or other event that disrupts normal operations;

10. The state of the Commonwealth's emergency prevention, protection, mitigation, response, and recovery efforts and the resources necessary to implement them; and

11. The status of emergency management response plans throughout the Commonwealth and other measures taken or recommended to prevent, respond to, or recover from disasters, including acts of terrorism. Information submitted in accordance with the procedures set forth in subdivision 14 of § [2.2-3705.2](#) shall not be disclosed unless:

a. It is requested by law-enforcement authorities in furtherance of an official investigation or the prosecution of a criminal act;

b. The agency holding the record is served with a proper judicial order; or

c. The agency holding the record has obtained written consent to release the information from the Department.

B. The State Coordinator of Emergency Management shall compile and submit the Report to the Secretary of Public Safety and Homeland Security, and shall provide copies to the Chairmen of the Senate Committee on Finance and Appropriations, the Senate Committee on the Judiciary, the House Committee on Appropriations, and the House Committee on Public Safety, by November 1 of each year. All state and local agencies of the Commonwealth shall provide information and assistance to the State Coordinator of Emergency Management, upon request.

C. The Report may, with the concurrence of the Governor, include sensitive information, which shall be excluded from disclosure in accordance with subdivisions 2, 3, 4, and 6 of § [2.2-3705.2](#) and which, if revealed publicly, would jeopardize or compromise security plans and procedures in the Commonwealth designed to protect (i) the public or (ii) public or private critical infrastructure. Any sensitive information presented to any committee of the General Assembly shall be discussed in a closed meeting as provided in subdivision A 19 of § [2.2-3711](#).

2019, c. [615](#).

§ 44-146.18:5. Division of Public Safety Communications established; appointment of Virginia Public Safety Communications Coordinator; duties of Division.

A. There is established within the Department of Emergency Management a Division of Public Safety Communications (the Division), which shall be headed by a Virginia Public Safety Communications Coordinator, appointed by the State Coordinator with the advice and consent of the 9-1-1 Services Board. The Division shall consist of such personnel as the State Coordinator deems necessary. The operating expenses, administrative costs, and salaries of the employees of the Division shall be paid from the Wireless E-911 Fund created pursuant to § [56-484.17](#).

B. The Division shall provide staff support to the 9-1-1 Services Board and encourage, promote, and assist in the development and deployment of statewide enhanced emergency telecommunications systems.

2020, c. [423](#).

§ 44-146.18:6. Geographic Information Network Division established; powers and duties; Division Coordinator.

A. As used in this section, unless the context requires a different meaning:

"Base map data" means the digitized common geographic data that is used by most geographic information systems applications to reference or link attribute or other geographic data.

"Division" means the Geographic Information Network Division.

"Geographic data" means data that contains either coordinates that reference a geographic location or area or attribute data that can be related to a geographic area or location.

"Geographic information system (GIS)" means a computerized system that stores and links geographic data to allow a wide range of information processing and display operations, as well as map production, analysis, and modeling.

B. There is established within the Department of Emergency Management a Geographic Information Network Division (the Division), which shall foster the creative utilization of geographic information and oversee the development of a catalog of GIS data available in the Commonwealth. The Division shall be headed by a Division Coordinator who shall be under the supervision of and report to the State Coordinator of Emergency Management.

C. The powers and duties of the Division shall include:

1. Requesting the services, expertise, supplies, and facilities of the Department of Emergency Management from the State Coordinator of Emergency Management on issues concerning the Division;
2. Accepting grants from the United States government and agencies and instrumentalities thereof and any other source. To those ends, the Division shall have the power to comply with such conditions and execute such agreements as may be necessary or desirable;
3. Fixing, altering, charging, and collecting rates, rentals, and other charges for the use or sale of products of, or services rendered by, the Division, at rates that reflect the fair market value;
4. Soliciting, receiving, and considering proposals for funding projects or initiatives from any state or federal agency, local or regional government, public institution of higher education, nonprofit organization, or private person or corporation;
5. Soliciting and accepting funds, goods, and in-kind services that are part of any accepted project proposal;

6. Establishing ad hoc committees or project teams to investigate related technology or technical issues and providing results and recommendations for Division action; and

7. Establishing such bureaus, sections, or units as the Division deems appropriate to carry out its powers and duties.

D. The Division Coordinator shall:

1. Oversee the development of and recommend to the Department of Emergency Management the development of those policies, standards, and guidelines required to support state and local government exchange, acquisition, storage, use, sharing, and distribution of geographic or base map data and related technologies;

2. Foster the development of a coordinated comprehensive system for providing ready access to electronic state government geographic data products for individuals, businesses, and other entities;

3. Initiate and manage projects or conduct procurement activities relating to the development or acquisition of geographic data or statewide base map data or both;

4. Plan for and coordinate the development or procurement of priority geographic base map data;

5. Develop, maintain, and provide, in the most cost-effective manner, access to the catalog of Virginia geographic data and governmental geographic data users;

6. Provide, upon request, advice and guidance on all agreements and contracts from all branches of state government for geographic data acquisition and design and the installation and maintenance of geographic information systems;

7. Compile a data catalog consisting of descriptions of GIS coverages maintained by individual executive branch and local government agencies. Nothing in this article shall be construed to require that GIS data be physically delivered to the Division. All executive branch agencies that maintain GIS databases shall report to the Division the details of the data that they develop, acquire, and maintain. Each agency shall submit quarterly reports to the Division specifying all updates to existing data as well as all data development and acquisition currently in progress. Data exempt from the Virginia Freedom of Information Act (§ [2.2-3700](#) et seq.) need not be reported to the Division;

8. Identify and collect information and technical requirements to assist the Division in setting priorities for the development of state digital geographic data and base maps that meet the needs of state agencies, institutions of higher education, and local governments;

9. Provide services, geographic data products, and access to the repository at rates established by the Division; and

10. Ensure the compliance of those policies, standards, and guidelines developed by VITA required to support and govern the security of state and local government exchange, acquisition, storage, use, sharing, and distribution of geographic or base map data and related technologies.

2020, c. [423](#).

§ 44-146.18:7. GIS Fund created.

There is hereby created in the state treasury a special nonreverting fund to be known as the GIS Fund, hereafter referred to as the Fund. The Fund shall be established on the books of the Comptroller. All moneys collected pursuant to subsection C of § [44-146.18:6](#) shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes set forth in this article. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the State Coordinator of Emergency Management.

2020, c. [423](#).

§ 44-146.18:8. Additional powers and duties of the State Coordinator of Emergency Management.

The State Coordinator of Emergency Management shall, on the recommendation of the Division Coordinator, (i) receive and disburse funds; (ii) enter into contracts for the purpose of carrying out the provisions of this article; and (iii) rent office space and procure equipment, goods, and services that are necessary to carry out the provisions of § [44-146.18:6](#).

2020, c. [423](#).

§ 44-146.18:9. Nonstock corporation to assist in the development of GIS data.

The Department of Emergency Management is hereby authorized to establish a nonstock corporation under Chapter 10 (§ [13.1-801](#) et seq.) of Title 13.1 as an instrumentality to assist the Department of Emergency Management and the Division in the development and acquisition of geographic data and statewide base map data. On or before December 1 of each year, the Department of Emergency Management shall report on the activities of the nonstock corporation to the Governor and the General Assembly.

2020, c. [423](#).

§ 44-146.19. Powers and duties of political subdivisions.

A. Each political subdivision within the Commonwealth shall be within the jurisdiction of and served by the Department of Emergency Management and be responsible for local disaster mitigation, preparedness, response, and recovery. Each political subdivision shall maintain in accordance with state disaster preparedness plans and programs an agency of emergency management which, except as otherwise provided under this chapter, has jurisdiction over and services the entire political subdivision.

B. Each political subdivision shall have a director of emergency management who, after the term of the person presently serving in this capacity has expired and in the absence of an executive order by the Governor, shall be the following:

1. In the case of a city, the mayor or city manager, who shall appoint a coordinator of emergency management with consent of council;

2. In the case of a county, a member of the board of supervisors selected by the board or the chief administrative officer for the county, who shall appoint a coordinator of emergency management with the consent of the governing body;

3. A coordinator of emergency management shall be appointed by the council of any town to ensure integration of its organization into the county emergency management organization;

4. In the case of the Towns of Chincoteague and West Point and of towns with a population in excess of 5,000 having an emergency management organization separate from that of the county, the mayor or town manager shall appoint a coordinator of emergency services with consent of council;

5. In Smyth County and in York County, the chief administrative officer for the county shall appoint a director of emergency management, with the consent of the governing body, who shall appoint a coordinator of emergency management with the consent of the governing body.

C. Whenever the Governor has declared a state of emergency, each political subdivision within the disaster area may, under the supervision and control of the Governor or his designated representative, control, restrict, allocate, or regulate the use, sale, production, and distribution of food, fuel, clothing, and other commodities, materials, goods, services, and resource systems which fall only within the boundaries of that jurisdiction and which do not impact systems affecting adjoining or other political subdivisions, enter into contracts and incur obligations necessary to combat such threatened or actual disaster, protect the health and safety of persons and property, and provide emergency assistance to the victims of such disaster. In exercising the powers vested under this section, under the supervision and control of the Governor, the political subdivision may proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, levying of taxes, and appropriation and expenditure of public funds.

D. The director of each local organization for emergency management may, in collaboration with (i) other public and private agencies within the Commonwealth or (ii) other states or localities within other states, develop or cause to be developed mutual aid arrangements for reciprocal assistance in case of a disaster too great to be dealt with unassisted. Such arrangements shall be consistent with state plans and programs and it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements. Except where a mutual aid arrangement for reciprocal assistance exists between localities, no locality shall prohibit another locality from providing emergency medical services across local boundaries solely on the basis of financial considerations.

E. Each local and interjurisdictional agency shall prepare and keep current a local or interjurisdictional emergency operations plan for its area. The plan shall include, but not be limited to, responsibilities of all local agencies and shall establish a chain of command, and a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall

be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § [19.2-11.01](#). The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies. Such plan shall also contain provisions to ensure that the plan is applied equitably and that the needs of minority and vulnerable communities are met during emergencies. Every four years, each local and interjurisdictional agency shall conduct a comprehensive review and revision of its emergency operations plan to ensure that the plan remains current, and the revised plan shall be formally adopted by the locality's governing body. In the case of an interjurisdictional agency, the plan shall be formally adopted by the governing body of each of the localities encompassed by the agency. Each political subdivision having a nuclear power station or other nuclear facility within 10 miles of its boundaries shall, if so directed by the Department of Emergency Management, prepare and keep current an appropriate emergency plan for its area for response to nuclear accidents at such station or facility.

F. All political subdivisions shall provide (i) an annually updated emergency management assessment and (ii) data related to emergency sheltering capabilities, including emergency shelter locations, evacuation zones, capacity by person, medical needs capacity, current wind rating, standards compliance, backup power, and lead agency for staffing, to the State Coordinator of Emergency Management on or before August 1 of each year.

G. By July 1, 2005, all localities with a population greater than 50,000 shall establish an alert and warning plan for the dissemination of adequate and timely warning to the public in the event of an emergency or threatened disaster. The governing body of the locality, in consultation with its local emergency management organization, shall amend its local emergency operations plan that may include rules for the operation of its alert and warning system, to include sirens, Emergency Alert System (EAS), NOAA Weather Radios, or other personal notification systems, amateur radio operators, or any combination thereof.

H. Localities that have established an agency of emergency management shall have authority to require the review of, and suggest amendments to, the emergency plans of nursing homes, assisted living facilities, adult day care centers, and child day care centers that are located within the locality.

1973, c. 260; 1974, c. 4; 1975, c. 11; 1978, c. 495; 1982, c. 5; 1990, cc. 404, 945; 1993, cc. 621, 671, 781; 2000, c. [309](#); 2003, c. [622](#); 2004, c. [302](#); 2005, cc. [6](#), [205](#); 2006, c. [138](#); 2007, cc. [97](#), [129](#), [138](#); 2009, cc. [222](#), [269](#); 2012, c. [418](#); 2018, c. [228](#); 2020, cc. [94](#), [1021](#); 2021, Sp. Sess. I, c. [27](#); 2022, c. [217](#).

§ 44-146.20. Joint action by political subdivisions.

If two or more political subdivisions find that disaster operation plans and programs would be better served by interjurisdictional arrangements in planning for, preventing, or responding to disaster in that area, then direct steps may be taken as necessary, including creation of an interjurisdictional

relationship, a joint emergency operations plan, mutual aid, or such other activities as necessary for planning and services. Any political subdivision may provide or receive assistance in the event of a disaster or emergency, pursuant to this chapter, under the provisions of any local mutual aid agreement or by the Statewide Mutual Aid program if agreed to by resolution of the governing body. The action of the governing body may include terms and conditions deemed necessary by the governing body for participation in the program. The governing body may withdraw from participation in the Statewide Mutual Aid program by adoption of a resolution or ordinance upon a finding that participation is no longer in the public interest. The locality shall immediately notify the State Coordinator of Emergency Services of the adoption of a participation or withdrawal resolution.

1973, c. 260; 2000, cc. [309](#), [437](#).

§ 44-146.21. Declaration of local emergency.

A. A local emergency may be declared by the local director of emergency management with the consent of the governing body of the political subdivision. In the event the governing body cannot convene due to the disaster or other exigent circumstances, the director, or in his absence, the deputy director, or in the absence of both the director and deputy director, any member of the governing body may declare the existence of a local emergency, subject to confirmation by the governing body at its next regularly scheduled meeting or at a special meeting within 45 days of the declaration, whichever occurs first. The governing body, when in its judgment all emergency actions have been taken, shall take appropriate action to end the declared emergency.

B. A declaration of a local emergency as defined in § [44-146.16](#) shall activate the local Emergency Operations Plan and authorize the furnishing of aid and assistance thereunder.

C. Whenever a local emergency has been declared, the director of emergency management of each political subdivision or any member of the governing body in the absence of the director, if so authorized by the governing body, may control, restrict, allocate or regulate the use, sale, production and distribution of food, fuel, clothing and other commodities, materials, goods, services and resource systems which fall only within the boundaries of that jurisdiction and which do not impact systems affecting adjoining or other political subdivisions, enter into contracts and incur obligations necessary to combat such threatened or actual disaster, protect the health and safety of persons and property and provide emergency assistance to the victims of such disaster, and proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, and other expenditures of public funds, provided such funds in excess of appropriations in the current approved budget, unobligated, are available. Whenever the Governor has declared a state of emergency, each political subdivision affected may, under the supervision and control of the Governor or his designated representative, enter into contracts and incur obligations necessary to combat such threatened or actual disaster beyond the capabilities of local government, protect the health and safety of persons and property and provide emergency assistance to the victims of such disaster. In exercising the

powers vested under this section, under the supervision and control of the Governor, the political subdivision may proceed without regard to time-consuming procedures and formalities prescribed by law pertaining to public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, levying of taxes, and appropriation and expenditure of public funds.

D. No interjurisdictional agency or official thereof may declare a local emergency. However, an interjurisdictional agency of emergency management shall provide aid and services to the affected political subdivision authorizing such assistance in accordance with the agreement as a result of a local or state declaration.

E. None of the provisions of this chapter shall apply to the Emergency Disaster Relief provided by the American Red Cross or other relief agency solely concerned with the provision of service at no cost to the citizens of the Commonwealth.

1973, c. 260; 1974, c. 4; 1975, c. 11; 1976, c. 594; 1986, c. 24; 1990, c. 945; 1994, c. [75](#); 2000, c. [309](#); 2016, c. [555](#).

§ 44-146.22. Development of measures to prevent or reduce harmful consequences of disasters; disclosure of information.

A. In addition to disaster prevention measures included in state, local and interjurisdictional emergency operations plans, the Governor shall consider, on a continuing basis, hazard mitigation or other measures that could be taken to prevent or reduce the harmful consequences of disasters. At his direction, and pursuant to any other authority, state agencies, including, but not limited to, those charged with responsibilities in connection with floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, critical infrastructure protection, land use and land-use planning, and construction standards, shall make studies of disaster prevention. The Governor, from time to time, shall make recommendations to the General Assembly, local governments, and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.

B. The Governor or agencies acting on his behalf may receive information, voluntarily submitted from both public and nonpublic entities, related to the protection of the nation's critical infrastructure sectors and components that are located in Virginia or affect the health, safety, and welfare of the citizens of Virginia. Information submitted by any public or nonpublic entity in accordance with the procedures set forth in subdivision 14 of § [2.2-3705.2](#) shall not be disclosed unless:

1. It is requested by law-enforcement authorities in furtherance of an official investigation or the prosecution of a criminal act;
2. The agency holding the record is served with a proper judicial order; or
3. The agency holding the record has obtained the written consent to release the information from the entity voluntarily submitting it.

1973, c. 260; 1974, c. 4; 1975, c. 11; 2000, c. [309](#); 2003, c. [848](#); 2004, c. [690](#); 2017, c. [778](#).

§ 44-146.23. Immunity from liability.

A. Neither the Commonwealth, nor any political subdivision thereof, nor federal agencies, nor other public or private agencies, nor, except in cases of willful misconduct, public or private employees, nor representatives of any of them, engaged in any emergency services activities, while complying with or attempting to comply with this chapter or any rule, regulation, or executive order promulgated pursuant to the provisions of this chapter, shall be liable for the death of, or any injury to, persons or damage to property as a result of such activities. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, or under the Workers' Compensation Act (§ [65.2-100](#) et seq.), or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress. For the purposes of the immunity conferred by this subsection, representatives of public or private employees shall include, but shall not be limited to, volunteers in state and local services who are persons who serve in a Medical Reserve Corps (MRC) unit or on a Community Emergency Response Team (CERT).

B. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons, of emergency access or of other uses relating to emergency services shall, together with his successors in interest, if any, not be liable for negligently causing the death of, or injury to any person on or about such real estate or premises or for loss of or damage to the property of any person on or about such real estate or premises during such actual or impending disaster.

C. If any person holds a license, certificate, or other permit issued by any state, or political subdivision thereof, evidencing the meeting of qualifications for professional, mechanical, or other skills, the person, without compensation other than reimbursement for actual and necessary expenses, may render aid involving that skill in the Commonwealth during a disaster, and such person shall not be liable for negligently causing the death of, or injury to, any person or for the loss of, or damage to, the property of any person resulting from such service.

D. No person, firm or corporation which gratuitously services or repairs any electronic devices or equipment under the provisions of this section after having been approved for the purposes by the State Coordinator shall be liable for negligently causing the death of, or injury to, any person or for the loss of, or damage to, the property of any person resulting from any defect or imperfection in any such device or equipment so gratuitously serviced or repaired.

E. Notwithstanding any law to the contrary, no individual, partnership, corporation, association, or other legal entity shall be liable in civil damages as a result of acts taken voluntarily and without compensation in the course of rendering care, assistance, or advice with respect to an incident creating a danger to person, property, or the environment as a result of an actual or threatened discharge of a hazardous substance, or in preventing, cleaning up, treating, or disposing of or attempting to prevent, clean up, treat, or dispose of any such discharge, provided that such acts are taken under the direction of state or local authorities responding to the incident. This section shall not preclude liability for civil

damages as a result of gross negligence, recklessness or willful misconduct. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, or under the Workers' Compensation Act (§ [65.2-100](#) et seq.), or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress. The immunity provided by the provisions of this paragraph shall be in addition to, not in lieu of, any immunities provided by § [8.01-225](#).

F. No individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, fraternal organization, religious organization, charitable organization, or any other legal or commercial entity and any successor, officer, director, representative, or agent thereof, who, without compensation other than reimbursement for actual and necessary expenses, provides services, goods, real or personal property, or facilities:

1. Pursuant to a Governor-declared emergency or during a formal exercise or training of the State Department of Emergency Management or a responsible county or city emergency management entity; and

2. At the request and direction of the State Department of Emergency Management or a county or city employee whose responsibilities include emergency management;

shall be liable for the death of or injury to any person or for the loss of, or damage to, the property of any person where such death, injury, loss, or damage was proximately caused by the circumstances of the actual emergency or its subsequent conditions, or the circumstances of the formal exercise or training if such formal exercise or training simulates conditions of an actual emergency. This subsection shall not preclude liability for civil damages as a result of gross negligence, recklessness, or willful misconduct. The immunities of this subsection shall not extend to any manufacturer or to any retailer or distributor substantially involved in the manufacture or design of any product or good. The provisions of this subsection shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, or under the Workers' Compensation Act (§ [65.2-100](#) et seq.), or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress. The immunity provided by this subsection shall be in addition to, and not in lieu of, any immunities provided by § [8.01-225](#).

1973, c. 260; 1979, c. 193; 1984, c. 743; 2005, c. [474](#); 2008, cc. [121](#), [157](#); 2009, c. [233](#).

§ 44-146.24. Cooperation of public agencies.

In carrying out the provisions of the chapter, the Governor, the heads of state agencies, the local directors and governing bodies of the political subdivisions of the Commonwealth are directed to utilize the services, equipment, supplies and facilities of existing departments, offices, and agencies of the Commonwealth and the political subdivisions thereof to the maximum extent practicable consistent with state and local emergency operation plans. The officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the Governor and to the State Department of Emergency Management upon request.

1973, c. 260; 1974, c. 4; 1975, c. 11; 2000, c. [309](#).

§ 44-146.25. Repealed.

Repealed by Acts 2015, c. [221](#), cl. 2.

§ 44-146.26. Duties of emergency management organizations.

It shall be the duty of every organization for emergency management established pursuant to this chapter and of the officers thereof to execute and enforce such orders, rules and regulations as may be made by the Governor under authority of this chapter. Each organization shall have available for inspection at its office all such orders, rules and regulations.

1973, c. 260; 2000, c. [309](#).

§ 44-146.27. Supplementing federal funds; assistance of federal agencies; acceptance of gifts and services; appropriations by local governing bodies.

A. If the federal government allots funds for the payment of a portion of any disaster programs, projects, equipment, supplies or materials or other related costs, the remaining portion may be paid with a combination of state and local funds available for this purpose and consistent with state emergency management plans and program priorities.

B. Whenever the federal government or any agency or officer thereof offers to the Commonwealth, or through the Commonwealth to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant or loan for purposes of emergency services, the Commonwealth, acting through the Governor, or such political subdivision, acting with the consent of the Governor and through its local director or governing body, may accept such offer and agree to the terms of the offer and the rules and regulations, if any, of the agency making the offer, including, but not limited to, requirements to hold and save the United States free from damages and to indemnify the federal government against any claims arising from the services, equipment, supplies, materials, or funds provided. Upon such acceptance, the Governor or local director or governing body of such political subdivision may authorize any officer of the Commonwealth or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the Commonwealth or such political subdivision, in accordance with the terms of the agreement, and subject to the rules and regulations, if any, of the agency making the offer.

C. Whenever any person, firm or corporation offers to the Commonwealth or to any political subdivision thereof services, equipment, supplies, materials, or funds by way of gift, grant or loan, for purposes of emergency management, the Commonwealth, acting through the Governor, or such political subdivision, acting through its local director or governing body, may accept such offer and upon such acceptance the Governor or local director or governing body of such political subdivision may authorize any officer of the Commonwealth or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the Commonwealth or such political subdivision, and subject to the terms of the offer.

D. The governing bodies of the counties, cities and towns are hereby authorized to appropriate funds for expenditure by any local or regional organization for emergency management established pursuant to this chapter and for local or regional disaster service activities.

1973, c. 260; 1999, cc. [6](#), [7](#); 2000, c. [309](#).

§ 44-146.28. Authority of Governor and agencies under his control in declared state of emergency.

A. In the case of a declaration of a state of emergency as defined in § [44-146.16](#), the Governor is authorized to expend from all funds of the state treasury not constitutionally restricted, a sum sufficient. Allotments from such sum sufficient may be made by the Governor to any state agency or political subdivision of the Commonwealth to carry out disaster service missions and responsibilities. Allotments may also be made by the Governor from the sum sufficient to provide financial assistance to eligible applicants located in an area declared to be in a state of emergency, but not declared to be a major disaster area for which federal assistance might be forthcoming. This shall be considered as a program of last resort for those local jurisdictions that cannot meet the full cost.

The Virginia Department of Emergency Management shall establish guidelines and procedures for determining whether and to what extent financial assistance to local governments may be provided.

The guidelines and procedures shall include the following:

1. Participants may be eligible to receive financial assistance to cover a percentage of eligible costs if they demonstrate that they are incapable of covering the full cost. The percentage may vary, based on the Commission on Local Government's fiscal stress index. The cumulative effect of recent disasters during the preceding twelve months may also be considered for eligibility purposes.
2. Only eligible participants that have sustained an emergency or disaster as defined in § [44-146.16](#) with total eligible costs of \$4 or more per capita may receive assistance, except that (i) any town with a total population of less than 3,500 shall be eligible for disaster assistance for incurred eligible damages of \$15,000 or greater and (ii) any town with a population of 3,500 or more, but less than 5,000 shall be eligible for disaster assistance for incurred eligible damages of \$20,000 or greater and (iii) any town with a population of 5,000 or greater with total eligible costs of \$4 or more per capita may receive assistance. No site or facility may be included with less than \$1,000 in eligible costs. However, the total cost of debris clearance may be considered as costs associated with a single site.
3. Eligible participants shall be fully covered by all-risk property and flood insurance policies, including provisions for insuring the contents of the property and business interruptions, or shall be self-insured, in order to be eligible for this assistance. Insurance deductibles shall not be covered by this program.
4. Eligible costs incurred by towns, public service authorities, volunteer fire departments, and volunteer emergency medical services agencies may be included in a county's or city's total costs.

5. Unless otherwise stated in guidelines and procedures, eligible costs are defined as those listed in the Public Assistance component of P.L. 93-288, as amended, excluding beach replenishment and snow removal.

6. State agencies, as directed by the Virginia Department of Emergency Management, shall conduct an on-site survey to validate damages and to document restoration costs.

7. Eligible participants shall maintain complete documentation of all costs in a manner approved by the Auditor of Public Accounts and shall provide copies of the documentation to the Virginia Department of Emergency Management upon request.

If a jurisdiction meets the criteria set forth in the guidelines and procedures, but is in an area that has neither been declared to be in a state of emergency nor been declared to be a major disaster area for which federal assistance might be forthcoming, the Governor is authorized, in his discretion, to make an allotment from the sum sufficient to that jurisdiction without a declaration of a state of emergency, in the same manner as if a state of emergency declaration had been made.

The Governor shall report to the Chairmen of the Senate Committee on Finance and Appropriations, the House Committee on Appropriations, and the House Committee on Finance within 30 days of authorizing the sum sufficient pursuant to this section.

B. Public agencies under the supervision and control of the Governor may implement their emergency assignments without regard to normal procedures, except mandatory constitutional requirements, pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, and expenditures of public funds.

C. Allotments may be made by the Governor from a sum sufficient to provide financial assistance to Virginia state agencies and political subdivisions responding to a declared state of emergency in another state as provided by § [44-146.17](#), whether or not a state of emergency is declared in the Commonwealth pursuant to § [44-146.16](#).

D. Allotments may be made by the Governor from a sum sufficient for the deployment of personnel and materials for the Virginia National Guard and the Virginia Defense Force to prepare for a response to any of the circumstances set forth in subdivisions A 1 through 5 of § [44-75.1](#), whether or not a state of emergency is declared in the Commonwealth pursuant to § [44-146.16](#). However, preparation authorized by this subsection shall be limited to the deployment of no more than 300 personnel and shall be limited to no more than five days, unless a state of emergency is declared.

1973, c. 260; 1974, c. 4; 1975, c. 11; 1997, c. [893](#); 2000, cc. [309](#), [1023](#); 2007, cc. [729](#), [742](#); 2011, cc. [53](#), [69](#); 2015, cc. [502](#), [503](#); 2019, c. [615](#).

§ 44-146.28:1. Compact enacted into law; terms.

The Emergency Management Assistance Compact is hereby enacted into law and entered into by the Commonwealth of Virginia with all other states legally joining therein, in the form substantially as follows:

EMERGENCY MANAGEMENT ASSISTANCE COMPACT

ARTICLE I. PURPOSE AND AUTHORITIES.

This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the Governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

ARTICLE II. GENERAL IMPLEMENTATION.

Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the Governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

ARTICLE III. PARTY STATE RESPONSIBILITIES.

A. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

1. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack;
2. Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;
3. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;
4. Assist in warning communities adjacent to or crossing the state boundaries;
5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;
6. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and
7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

B. The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty days of the verbal request.

Requests shall provide the following information:

1. A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;
2. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed; and
3. The specific place and time for staging of the assisting party's response and a point of contact at that location.

C. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

ARTICLE IV. LIMITATIONS.

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

ARTICLE V. LICENSES AND PERMITS.

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the Governor of the requesting state may prescribe by executive order or otherwise.

ARTICLE VI. LIABILITY.

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE VII. SUPPLEMENTARY AGREEMENTS.

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein shall preclude any state entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for

evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

ARTICLE VIII. COMPENSATION.

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

ARTICLE IX. REIMBURSEMENT.

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this article.

ARTICLE X. EVACUATION.

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

ARTICLE XI. IMPLEMENTATION.

A. This compact shall become effective immediately upon its enactment into law by any two states. Thereafter, this compact shall become effective as to any other state upon enactment by such state.

B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty days after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

C. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

ARTICLE XII. VALIDITY.

This compact shall be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected.

ARTICLE XIII. ADDITIONAL PROVISIONS.

Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under § 1385 of Title 18 of the United States Code.

1995, c. [280](#).

§ 44-146.28:2. Disaster relief assistance by out-of-state businesses and employees.

A. As used in this section, unless the context requires a different meaning:

"Critical infrastructure" means real and personal property and equipment owned or used to provide public utility or communications services, including communications networks, electric generation facilities, transmission and distribution systems, gas distribution systems, lines, poles, pipes, structures, towers, water and sewage pipelines and systems, and related support facilities, buildings, offices, and equipment.

"Declared disaster or emergency" means a disaster or emergency as defined in § [44-146.16](#) for which a state of emergency as defined in § [44-146.16](#) has been declared for the Commonwealth by the Governor or by an official authorized by federal law to make such declarations.

"Disaster-related or emergency-related work" means repairing, renovating, installing, building, or rendering services or other activities necessary to mitigate damage to critical infrastructure resulting from

a declared disaster or emergency during the disaster response period. "Disaster-related or emergency-related work" does not include (i) any activities that an out-of-state business or an out-of-state employee is paid to perform by the Commonwealth, a locality in the Commonwealth, or a registered business in Virginia or (ii) the sale of goods by an out-of-state business or an out-of-state employee to the Commonwealth, a locality in the Commonwealth, or a registered business in the Commonwealth.

"Disaster response period" means a period that begins 10 days prior to the first day of the declared disaster or emergency and extends for a period of 60 days after the end of the declared disaster or emergency, or any longer period as declared by the Governor.

"Out-of-state business" means a business entity (i) whose services are requested by a registered business, the Commonwealth, or a local government for purposes of performing disaster-related or emergency-related work in the Commonwealth; (ii) that, except for declared disaster-related or emergency-related work, has no presence in and conducts no business in the Commonwealth; and (iii) that had not obtained from the State Corporation Commission a certificate of authority or registration to transact business in the Commonwealth and had no registrations or tax filings or nexus in the Commonwealth other than disaster-related or emergency-related work during the tax year immediately preceding the declared disaster or emergency. A business entity that otherwise meets the definition of an out-of-state business maintains that status even though it is affiliated with a registered business if such affiliation is solely through common ownership.

"Out-of-state employee" means an employee who, except for disaster-related or emergency-related work during the disaster response period, does not work in the Commonwealth.

"Registered business" means a domestic or foreign business entity that is listed in the business entity records maintained in the office of the clerk of the State Corporation Commission, provides public utility or communications services, and was in existence or had obtained from the State Corporation Commission a certificate of authority or registration to transact business in the Commonwealth prior to the declared disaster or emergency.

B. Except as provided in subsection C:

1. Disaster-related or emergency-related work performed by an out-of-state business within the Commonwealth shall not be considered in determining and shall not result in (i) any requirement that the business file, remit, or pay any state or local taxes or fees, including any filing required for a unitary or combined group of which the out-of-state business may be a part, or (ii) any requirement that the business or its out-of-state employees be licensed or registered in any manner by the Commonwealth or local governments. These taxes, fees, and registration requirements include but are not limited to fees assessed and collected, and authorizations or registrations issued by the State Corporation Commission; unemployment insurance premiums; income taxes; state registration fees; local business, professional, and occupational taxes; and collection of sales and use tax; and

2. Disaster-related or emergency-related work performed by an out-of-state employee shall not be considered to have established such person's residency or a presence in the Commonwealth that would

require that person or that person's employer to file and pay income taxes or to be subject to tax withholdings or to file and pay any other state or local tax or fee during the disaster response period. However, nothing in this section shall be construed to affect or alter the responsibility of the out-of-state employee, or that person's employer, to file and pay income taxes or be subject to tax withholdings in the employee's home state on income earned in the Commonwealth during the disaster response period.

C. The provisions of this section shall not apply to any applicable transaction taxes and fees, including motor fuels taxes, sales and use taxes, transient occupancy taxes, and car rental taxes or fees, based on purchases, leases, or consumption in the Commonwealth.

D. The provisions of this section shall not apply to any out-of-state business or out-of-state employee for any period of presence or transaction of business in the Commonwealth after the disaster response period ends.

2015, c. [595](#).

§ 44-146.29. Expired.

Expired.

§§ 44-146.29:1, 44-146.29:2. Expired.

Expired.

§ 44-146.29:3. Emergency Shelters Upgrade Assistance Grant Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Emergency Shelters Upgrade Assistance Grant Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing matching funds to localities or entities previously outlined in a local shelter plan to install, maintain, or repair infrastructure for backup energy generation for emergency shelters, including solar energy generators, and improve the hazard-specific structural integrity of shelter facilities owned by the locality or identified in the shelter plan of the locality. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director of Emergency Management or, if designated, the State Coordinator of Emergency Management.

2020, c. [819](#); 2022, c. [337](#).

Chapter 3.3 - TRANSPORTATION OF HAZARDOUS RADIOACTIVE MATERIALS

§ 44-146.30. Department of Emergency Management to monitor transportation of hazardous radioactive materials.

The Coordinator of the Department of Emergency Management, pursuant to regulations promulgated by the Virginia Waste Management Board, will maintain a register of shippers of hazardous radioactive materials and monitor the transportation within the Commonwealth of those hazardous radioactive materials, as defined by the Virginia Waste Management Board, which may constitute a significant potential danger to the citizens of the Commonwealth in the event of accidental spillage or release. The regulations promulgated by the Board shall not be in conflict with federal statutes, rules, or regulations. Other agencies and commissions of the Commonwealth shall cooperate with the Virginia Waste Management Board in the formulation of regulations as herein provided.

1979, c. 434; 1984, c. 745; 1988, c. 30; 2000, c. [309](#).

Chapter 3.4 - FUNDING FOR STATE AND LOCAL GOVERNMENT RADIOLOGICAL EMERGENCY PREPAREDNESS

§ 44-146.31. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Department" means the Department of Emergency Management.

"Nuclear power station" means a facility producing electricity through the utilization of nuclear energy for sale to the public which is required to be licensed by the Nuclear Regulatory Commission and includes all units of the facility at a single site.

"Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision or agency thereof, and any legal successor, representative, agent or agency of the foregoing.

1982, c. 222; 2000, c. [309](#).

§ 44-146.32. One-time and annual fees.

A. For each nuclear power station in commercial operation on July 1, 1982, the person owning the station shall pay to the Department, within ninety days of such date, a one-time fee of \$55,000.

B. For each nuclear power station commencing commercial operation after July 1, 1982, the person owning the station shall pay to the Department a one-time fee of \$55,000 not less than one year prior to the scheduled commencement of operation.

C. For each nuclear power station that on July 1 of each year is validly licensed to operate by the Nuclear Regulatory Commission, the person owning the station shall pay to the Department not later than August 1 of that year an annual fee in an amount based upon the projected annual cost of administering the state and local governments' radiological emergency preparedness programs for the station.

D. The Department shall send timely invoices for such fees to the persons responsible for their payment. However, failure of the Department to send the invoices in a timely manner shall not relieve the responsible persons of their obligation to pay such fees.

1982, c. 222; 1984, c. 322; 1988, c. 56.

§ 44-146.33. Radiological Emergency Preparedness Fund.

All moneys received by the Department under this chapter shall be deposited in the state treasury and set apart in a special fund to be known as the "Radiological Emergency Preparedness Fund." Moneys deposited in this fund shall be expended by the Department to the extent appropriated only to support the activities of state agencies and the local governments in establishing, maintaining and operating such emergency plans, programs and capabilities to deal with nuclear accidents as are required by the Nuclear Regulatory Commission and the Federal Emergency Management Agency with respect to nuclear power stations.

1982, c. 222.

Chapter 3.5 - VIRGINIA HAZARDOUS MATERIALS EMERGENCY RESPONSE PROGRAM

§ 44-146.34. Purpose; definitions.

A. The purpose of this chapter is to provide for the development and implementation of a program to protect the environment and the health, safety, and welfare of the people of the Commonwealth from the threats and potential threats of accidents or incidents involving hazardous materials. This program shall be known as the Virginia Hazardous Materials Emergency Response Program.

B. As used in this chapter, unless the context requires otherwise:

"Coordinator" means the Coordinator of the Department of Emergency Management.

"Department" means the Department of Emergency Management.

"Hazardous materials" means substances or materials which may pose unreasonable risks to health, safety, property, or the environment when used, transported, stored or disposed of, which may include materials which are solid, liquid or gas. Hazardous materials may include toxic substances, flammable and ignitable materials, explosives, corrosive materials, and radioactive materials and include (i) those substances or materials in a form or quantity which may pose an unreasonable risk to health, safety, or property when transported, and which the Secretary of Transportation of the United States has so designated by regulation or order; (ii) hazardous substances as defined or designated by law or regulation of the Commonwealth or law or regulation of the United States government; and (iii) hazardous waste as defined or designated by law or regulation of the Commonwealth.

"Political subdivision" means any city or county in the Commonwealth, and for the purposes of this chapter, any town with a population of more than 5,000 which chooses to have an emergency management program separate from that of the county in which the town is located.

"Transport" or "transportation" means any movement of property by any mode and any packing, loading, unloading, or storage incidental thereto.

1987, c. 492; 2000, c. [309](#).

§ 44-146.35. Powers and duties of the Department of Emergency Management.

In carrying out the purposes set forth in this chapter the Department shall have the authority to:

1. Coordinate the development of hazardous materials training programs and hazardous materials emergency response programs and plans with state and local government agencies and related groups. Those state agencies and local government agencies shall retain the statutory responsibilities assigned elsewhere in this Code.

2. Administer the implementation of the Virginia Hazardous Materials Emergency Response Program.

1987, c. 492; 2000, c. [309](#); 2011, cc. [594](#), [681](#).

§ 44-146.36. Coordinator to enter into agreements with political subdivisions; immunity from liability.

A. The Coordinator may enter into agreements with political subdivisions to provide hazardous materials emergency response within a specific geographical area of the Commonwealth on a state and political subdivision cost-sharing basis. The cost-sharing agreements shall be negotiated with political subdivisions by the Coordinator.

B. Neither the Commonwealth, nor any political subdivision thereof, nor federal agencies, nor other public or private agencies, nor public or private employees, nor representatives of any of them, engaged in any emergency services activities while complying with or attempting to comply with this chapter or any regulation or executive order promulgated pursuant to the provisions of this chapter, shall be liable for the death of or injury to any person or damage to property as a result of such activities, except where such death, injury or damage results from gross negligence, recklessness or willful misconduct. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, or under the Workers' Compensation Act (§ [65.2-100](#) et seq.), or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress.

1987, c. 492; 1989, c. 378.

§ 44-146.37. Disbursements made from Virginia Disaster Response Fund.

A. Disbursements for costs and expenses, including, but not limited to equipment, material, hazardous materials emergency response operations and immediate accident or incident site cleanup costs and expenses in preventing or alleviating damage, loss, hardship, or suffering caused by accidents or incident, involving hazardous materials, shall be made from the Virginia Disaster Response Fund in accordance with the provisions of § [44-146.18:1](#).

B. The Coordinator shall promptly seek reimbursement from any party causing or contributing to an accident or incident involving hazardous materials for all sums disbursed from the Virginia Disaster Response Fund for the protection, relief, and recovery from loss or damage caused by such party.

C. The Coordinator is also authorized to recover any sums expended by any other state agency or political subdivision for preventing or alleviating damage, loss, hardship, or suffering caused by

accidents or incidents involving hazardous materials. To recover such sums the Coordinator shall provide documentation that the costs were incurred whether or not they were actually disbursed from the Virginia Disaster Response Fund.

1987, c. 492.

§ 44-146.38. Political subdivisions to appoint hazardous materials coordinator.

Each political subdivision shall appoint a hazardous materials coordinator. In appointing the hazardous materials coordinator, political subdivisions shall consider the requisite qualifications for hazardous materials coordinators as established by the Coordinator. The hazardous materials coordinator shall coordinate the hazardous materials emergency response program within the political subdivision.

1987, c. 492; 2011, cc. [594](#), [681](#).

§ 44-146.39. Repealed.

Repealed by Acts 2011, cc. [594](#) and [681](#), cl. 2.

§ 44-146.40. Joint emergency planning committee; certain localities.

Any joint emergency planning committee serving Fairfax County and the City of Fairfax shall have the authority to require any facility within its emergency planning district to submit the information required and participate in the emergency planning provided for in Subtitle A of Title 3 of Public Law 99-499. For the purposes of this section, "facility" shall include any development or installation having an aggregate storage capacity of at least one million gallons of oil as defined in § [62.1-44.34:10](#), or the potential for a sudden release of 10,000 pounds or more of any other flammable liquid or gas not exempt from the provisions of § 327 of Title 3 of Public Law 99-499. This requirement shall not occur until after public notice and the opportunity to comment. The committee shall notify the facility owner or operator of any requirement to comply with this section.

1987, c. 492; 1992, cc. 633, 656; 1994, c. [691](#); 2007, c. [813](#); 2011, cc. [594](#), [681](#); 2017, c. [512](#).

Chapter 4 - AIR RAID PRECAUTIONS

§§ 44-147 through 44-151. Repealed.

Repealed by Acts 2015, c. [221](#), cl. 2.

Chapter 5 - MOBILIZATION OF FIRE FIGHTERS

§ 44-152. Outside service by fire departments.

Whenever a state of war exists between the United States and any foreign country and at the request of the chief executive of any county, city or town in this Commonwealth the head of any other fire department may, or if so ordered by the Governor shall, detail, assign and make available for duty and use in such county, town or city any part of the officers, fire fighters, forces, fire-fighting apparatus or other equipment under his command or control.

1942, p. 369; Michie Code 1942, § 2673(137); 1977, c. 326.

§ 44-153. Powers, duties, rights, privileges and immunities.

Whenever all or any part of the regular fire-fighting forces of any county, town or city in this Commonwealth are engaged in rendering services pursuant to this chapter, the officers and members of such fire-fighting forces shall have the same powers, duties, rights, privileges and immunities as if they were performing their duties in the political subdivision in which they are normally employed.

1942, p. 369; Michie Code 1942, § 2673(138).

§ 44-154. Loss, damages, expense or cost.

The county, town or city in which any equipment is used pursuant to this chapter shall be liable for any loss or damage thereto and to the supplies therefor and shall pay any expenses incurred in the operation and maintenance thereof, including the cost of all materials and supplies therefor. No claim for any such loss, damage, expense or cost shall be allowed unless, within sixty days after the same has been sustained or incurred, a written notice of such claim, under oath and itemizing the same, is served by mail or otherwise upon the treasurer of such county, town or city where such equipment was so used.

1942, p. 369; Michie Code 1942, § 2673(139).

§ 44-155. Liability for acts or omissions.

Neither the Commonwealth nor the political subdivision of the Commonwealth whose fire-fighting forces are engaged pursuant to this chapter shall be liable or accountable in any way for or on account of any act or omission on the part of an officer or member of such forces while engaged pursuant to this chapter or for or on account of the operation, maintenance or use of any apparatus, equipment or supplies in connection therewith, nor shall any fire commissioner, fire chief or other superior officer or head of a fire department, fire company or other fire-fighting forces, acting pursuant to this chapter, be held liable or accountable in any way for or on account of any act or omission on the part of any of his subordinates without the political subdivision of their appointment while such subordinates are under the command of an officer other than himself.

1942, p. 369; Michie Code 1942, § 2673(140).

§ 44-156. Reimbursement for salaries and expenses.

The political subdivision in which aid or assistance is given pursuant to this chapter shall reimburse the political subdivision furnishing such aid and assistance for any moneys paid for the salaries or other compensation of employees furnished under this chapter during the time they shall not be performing their duties in the political subdivision by which they are employed or act and shall defray the actual traveling and maintenance expenses of such employees while they are rendering such aid and assistance. The provisions of this section and the term "employee" as used herein shall mean and apply with equal effect to paid and volunteer fire fighters.

1942, p. 370; Michie Code 1942, § 2673(141); 1977, c. 326.

§ 44-157. Temporary substitute fire-fighting forces.

Whenever all or any part of the regular fire-fighting forces of any county, city or town in the Commonwealth are engaged in rendering aid and assistance, pursuant to this chapter, substitute fire fighters, not exceeding the number of regular fire fighters engaged in rendering such aid and assistance, may be appointed in the same manner as provided by law for the appointment of such regular fire fighters. Except in the case of a volunteer fire company, the compensation of such substitute fire fighters shall be fixed at a sum not greater than the lowest rate of pay for a regular fire fighter in such fire department, company or fire-fighting force. Each person appointed under this section shall be vested with the same powers and charged with the same duties as if he were a regular member of such fire department, company or fire-fighting force. No appointment under this section shall continue for more than two days after the regular fire fighters for whom they are substituting have returned to duty. The compensation of any substitute fire fighter appointed pursuant to this section and any allowable expense actually and necessarily incurred by him in the performance of his duties shall be charged against the county, city or town in and for which he was appointed and shall be audited and allowed in the same manner as other charges against the county, city or town are audited and allowed.

1942, p. 370; Michie Code 1942, § 2673(142); 1977, c. 326.

§ 44-158. Rules and regulations.

The Governor is hereby authorized and empowered to prescribe all necessary and reasonable rules and regulations in order to carry out the provisions of this chapter.

1942, p. 370; Michie Code 1942, § 2673(143).

§ 44-159. When chapter in effect.

This chapter shall be in effect only during the time a state of war exists between the United States and any foreign country.

1942, p. 370; Michie Code 1942, § 2673(144).

Chapter 6 - EMERGENCY FAIR RENT ACT [Repealed]

§§ 44-160 through 44-203. Repealed.

Repealed by Acts 1950, p. 188.

Chapter 7 - MISCELLANEOUS LAWS

§ 44-204. Leaves of absence for employees of Commonwealth or political subdivisions.

All officers and employees of the Commonwealth, or of any political subdivision of the Commonwealth who are members of the Virginia Defense Force or National Defense Executive Reserve shall be entitled to leaves of absence from their respective duties without loss of pay, seniority, accrued leave or efficiency rating on all days during which they shall be engaged in training approved by the Governor or his designee, not to exceed 21 workdays per federal fiscal year. When relieved from such duty, they shall be restored to positions held by them when ordered to duty.

1938, p. 573; Michie Code 1942, § 2673(124); 1964, c. 227; 1986, c. 611; 2022, c. [430](#).

§ 44-205. Repealed.

Repealed by Acts 2015, c. [221](#), cl. 2.

§§ 44-206, 44-207. Repealed.

Repealed by Acts 2015, c. [221](#), cl. 2.

§ 44-208. Securing site of structural failure, fire, explosion, or industrial or transportation accident.

The official in charge of the investigation of any structural failure, fire, explosion, or industrial or transportation accident which results in the loss of human life, except when caused by a natural disaster or war, may secure for no more than twelve hours so much of the site where it occurred as, in his opinion, may be necessary to gather evidence regarding the cause of the occurrence. No owner or lessee of the site may be denied entrance except to prevent the destruction of evidence.

In cases of fire from any cause, the chief or other authorized officer of any fire department or fire company in command at the fire shall have the rights and authority granted to him and his subordinates upon his order or direction by § [27-17.1](#). Nothing in this section shall limit or otherwise affect the authority of, or be construed to deny access to such site by, any person charged by law with the responsibility of investigating any such accident.

1982, c. 213.

§ 44-209. Closure of United States government; civil relief for furloughed employees and contractors.

A. As used in this section:

"Closure of the United States government" means a closure of the United States federal government for a period of 14 consecutive days or longer as a result of a lapse of appropriation that leads to (i) the curtailment of federal agency activities and services, (ii) a shutdown of nonessential operations, (iii) nonessential workers being furloughed, and (iv) only essential employees in departments covering the safety of human life or protection of property being retained.

"Written proof" means (i) a paystub issued by a federal government agency showing zero dollars in earnings for a pay period within the period of any closure of the United States government, (ii) a copy of a furlough notification letter or essential employee status letter indicating the employee's status as nonessential, or (iii) a letter from a company under contract with the United States government issued and signed by an officer or owner of the company or by the company's human resources director stating that the employee's not receiving payment from the contractor is directly attributable to a closure of the United States government.

B. Notwithstanding any provision of law to the contrary, any tenant as defined in § [55.1-1200](#) who is a defendant in an unlawful detainer for nonpayment of rent pursuant to § [55.1-1245](#) for rent due after the commencement of a closure of the United States government seeking a judgment for the payment of money or possession of the premises shall be granted a 60-day continuance of such unlawful detainer action from the initial court date if the tenant appears on such court date and provides written proof that he was furloughed or otherwise was or is not currently receiving wages or payments as a result of a

closure of the United States government, and is (i) an employee of the United States government, (ii) an independent contractor for the United States government, or (iii) an employee of a company under contract with the United States government. The provisions of this subsection shall not apply if the landlord has filed a material noncompliance notice for a non-rent violation of the rental agreement or of the Code of Virginia.

C. Notwithstanding any provision of law to the contrary, any homeowner who, after the commencement of a closure of the United States government, defaults on a note that is secured by a one-family to four-family residential property located in the Commonwealth and is subject to a foreclosure proceeding on any mortgage or to the execution of or sale under any deed of trust shall be granted a 30-day stay of such proceeding if the homeowner, within 90 days of such closure or 90 days following the end of a closure of the United States government, whichever is later, requests a stay and provides written proof to his lender that he was furloughed or otherwise was or is not currently receiving wages or payments as a result of a closure of the United States government, and is (i) an employee of the United States government, (ii) an independent contractor for the United States government, or (iii) an employee of a company under contract with the United States government.

D. Notwithstanding any provision of law to the contrary, any owner who rents a one-family to four-family residential dwelling unit located in the Commonwealth to a tenant as defined in § [55.1-1200](#) and who, after the commencement of a closure of the United States government, defaults on a note that is secured by such dwelling unit and is subject to a foreclosure proceeding on any mortgage or to the execution of or sale under any deed of trust shall be granted a 30-day stay of such proceeding if the owner, within 90 days of such closure or 90 days following the end of a closure of the United States government, whichever is later, requests a stay and provides written proof to his lender that his tenant was furloughed or otherwise was or is not currently receiving wages or payments as a result of a closure of the United States government, and is (i) an employee of the United States government, (ii) an independent contractor for the United States government, or (iii) an employee of a company under contract with the United States government.

E. The provisions of this section shall not (i) apply in an instance where a separate, signed legal agreement exists between a landlord and tenant or homeowner and mortgage holder to stay legal action or defer the filing of an unlawful detainer motion for nonpayment of rent or foreclosure proceeding on any mortgage or to the execution of or sale under any deed of trust for a term of 30 days or greater or (ii) affect any other terms of a valid rental agreement or note secured by a one-family to four-family residential property, mortgage, or deed of trust unrelated to nonpayment of rent or default of a mortgage caused by a closure of the United States government.

2020, c. [1202](#).