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HOUSE BILL NO. 776

Offered January 14, 2026

Prefiled January 13, 2026

A BILL to amend and reenact § 44-11.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 44-40.3, relating to Department of Military Affairs; biennial safety stand down; Virginia National Guard; report.

Patron—Thornton

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That § 44-11.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 44-40.3 as follows:

§ 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; *and*
9. *Conducting a biennial training among all officers of the Virginia National Guard as required by § 44-40.3.*

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

§ 44-40.3. Biennial training requirement.

The Department of Military Affairs shall conduct a biennial training among all officers of the Virginia National Guard. The curriculum for such training shall be established by the Adjutant General in consultation with the Secretary of Veterans and Defense Affairs, the Attorney General, and the Governor. Such training shall:

1. *Remind all officers of their (i) oath to upholding the Constitution of the United States and the Constitution of the Commonwealth of Virginia; (ii) obligation pursuant to the Uniform Code of Military Justice to disobey an unlawful order that violates the Constitution of the United States, laws of the United States, or military regulations or directs an officer to commit a crime or unethical act; and (iii) obligation to remain nonpartisan in the execution of their duties;*
2. *Inform all officers of the process to report the issuance of an unlawful order to the Office of the Inspector General of the Virginia National Guard, the United States Department of War and Military Services Offices of Inspector General, and the United States Senate and House Armed Services Committees;*
3. *Review the definition of a manifestly illegal order and provide the circumstances in which a member of the National Guard is required to disregard an unlawful or illegal order;*
4. *Remind officers of (i) their obligation to follow lawful orders, even when such orders are politically or publicly controversial; (ii) the consequences of failing to follow a lawful order; (iii) the burden needed to demonstrate that an order is manifestly illegal; (iv) the role of a unit's Judge Advocate General in advising officers on the legality of orders;*
5. *Review the impact of a unit of the National Guard being placed under Title 10 status including (i) the legal limitations restricting law enforcement activities; and (ii) the circumstances when a President may lawfully mobilize such unit;*
6. *Review federal and state voter intimidation laws; and*
7. *Identify the process by which an officer may report the issuance of an unlawful order to (i) the Inspector General; (ii) a Congressman; (iii) Congressional Committee; or (iv) the Office of the Virginia Attorney General and any protections provided to any officer reporting such unlawful order.*

INTRODUCED

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59 2. That by October 1, 2026, the Adjutant General shall promulgate and distribute a standard operating
60 procedure by which officers can report the issuance of an unlawful order to the Office of the Attorney
61 General, the Office of the Inspector General of the Virginia National Guard, and the United States
62 Department of War and Military Services Offices of Inspector General. Such procedures shall direct
63 the Inspector General of the Virginia National Guard to share with the Office of the Attorney General
64 any determination that a reported order or mobilization is determined to be unlawful.

65 3. That the Department of Military Affairs shall conduct the first training among all officers of the
66 Virginia National Guard as required by § 44-40.3 of the Code of Virginia, as created by this act, by
67 November 1, 2026.

68 4. That by December 1, 2026, the Adjutant General shall order officers holding command to amend
69 unit policies to explicitly state soldiers and airmen may approach their command team with concerns
70 about the legality of an order or mobilization through the commander's open door policy. Such unit
71 policies shall be amended within 90 calendar days of the order being issued.

72 5. That the Adjutant General shall require company and flight commanders to inform their Guard
73 members, via written and verbal counseling, that concerns about the legality of an order or
74 mobilization may be addressed through their unit's open door policy or by submitting a complaint to
75 the Office of the Inspector General of the Virginia National Guard, the United States Department of
76 War and Military Services Offices of Inspector General, or the Office of the Attorney General. A
77 commander shall inform their Guard members no later than 90 days after the commander's
78 completion of the training as required by § 44-40.3 of the Code of Virginia, as created by this act.

79 6. That the Governor may direct the Adjutant General to develop the training curriculum pursuant to
80 § 44-40.3 of the Code of Virginia, as created by this act, in consultation with the American Civil
81 Liberties Union, Chamberlain Network, Brennan Center for Justice, Judge Advocates Association,
82 American Bar Association, or National Security Leaders for America.