

26105292D

SENATE BILL NO. 718

Offered January 14, 2026

A BILL to amend and reenact §§ 18.2-410, 44-75.1, and 44-78.1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 44-15.1 and 44-75.1:2, relating to Virginia National Guard; power of Governor to summon in certain circumstances; mobilization under federal authority; annual report.

Patron—VanValkenburg

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-410, 44-75.1, and 44-78.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 44-15.1 and 44-75.1:2 as follows:

§ 18.2-410. Power of Governor to summon law-enforcement agencies, National Guard, etc., to execute process or preserve the peace.

¶ Subject to the provisions of subsections B and C of § 44-75.1 and except as provided in § 44-75.1:2, if it appears to the Governor that the power of the locality is not sufficient to enable the sheriff or other officer to execute process delivered to him or to suppress riots and to preserve the peace, he may order law-enforcement agencies, national guard the Virginia National Guard, militia, or other agencies of the Commonwealth or localities as may be necessary to execute such process and to preserve the peace. All persons so ordered or summoned by the Governor are required to attend and act. Any person who, without lawful cause, refuses or neglects to obey the command; shall be is guilty of a Class 1 misdemeanor.

§ 44-15.1. Reports to the General Assembly.

The Adjutant General shall submit an annual report to the Chairs of the House Committee on Public Safety and the Senate Committee on General Laws and Technology detailing:

- 1. All federal and state deployments of the National Guard since the last day of the period covered by the previous annual report, including the date the deployment began, the end date or anticipated end date of such deployment, circumstances, scope, legal authority, goals, cost to the Commonwealth, and cost to the federal government;
2. Retention and readiness within the National Guard and the impact on readiness of federal deployments;
3. Any shortfall or misuse of federal funding; and
4. Use of National Guard resources by federal authorities.

The Adjutant General shall submit the initial annual report as required by this section no later than July 1, 2026. The second and subsequent annual reports shall be submitted in accordance with the provisions of this section no later than the first day of each regular session of the General Assembly.

§ 44-75.1. Militia state active duty.

A. Except as provided in § 44-75.1:2, 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

59 agreements with any law-enforcement agencies, state or federal, operating within or outside this
60 Commonwealth so long as those activities are consistent with the Governor's call. *Notwithstanding the*
61 *provisions of § 44-75.1:1, the National Guard's role is limited to support operations, and it shall not*
62 *participate in direct enforcement of the law, including conducting arrests, serving warrants, or detaining*
63 *suspects. The National Guard, operating in support of another state's counterdrug objectives under the*
64 *National Guard Mutual Assistance Counterdrug Activities Compact, shall not be deployed outside of United*
65 *States territory, including territorial waters of the United States. All activities undertaken by the National*
66 *Guard in the areas of drug interdiction, counterdrug, and drug demand reduction shall be reported by the*
67 *Adjutant General's office to the Governor and reviewed by the Governor no less frequently than every three*
68 *months; and*

69 7. When the Governor or his designee, in consultation with the Adjutant General, determines that the
70 militia or any part thereof is in need of specific training to be prepared for being called forth for any of the
71 circumstances expressed in subdivisions 1 through 6 above. Such training may be conducted with a state or
72 federal agency or agencies having the capability or responsibility to coordinate or assist with any of the
73 circumstances set forth in subdivisions 1 through 6 above.

74 B. *Notwithstanding circumstances as described in subdivisions A 4 and 5, the Governor shall inform, in*
75 *writing, the Speaker of the House of Delegates, the Senate Committee on Rules, and the Chairs of the House*
76 *Committee on Public Safety and the Senate Committee on General Laws and Technology of his calling forth*
77 *the National Guard within 48 hours of issuing such an order. The Governor shall provide all parties*
78 *information regarding the circumstances, scope, duration, legal authority, and goals for such a call to active*
79 *duty. As soon as practicable, the Governor shall also provide all parties with a plan for the restoration of*
80 *local authority in the aftermath of such a call to active duty.*

81 C. *Notwithstanding circumstances as described in subdivisions A 4 and 5, if the Governor wishes to*
82 *continue active duty for longer than two weeks, he shall summon the General Assembly within two weeks of*
83 *initially issuing the call to active duty. Such active duty may only be continued upon passage of a joint*
84 *resolution by simple majority. If a joint resolution is not passed by simple majority by the start of the third*
85 *week of active duty, the Governor's authority over the call to active duty will cease, as will the active duty*
86 *itself and any operations supporting such call to active duty.*

87 *Upon calling forth the National Guard to active duty, the Governor shall not order a subsequent*
88 *deployment to the same location within a period of one year, absent a joint resolution as passed by the*
89 *General Assembly.*

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

93 E. *Nothing in this section shall be construed to authorize the Governor to call forth the National Guard*
94 *for the purpose of intimidating, threatening, or coercing, or attempting to intimidate, threaten, or coerce, any*
95 *person (i) in giving his vote or ballot or (ii) to deter or prevent such person from voting in violation of*
96 *§ 24.2-1005.*

97 **§ 44-75.1:2. National Guard; mobilization under federal authority.**

98 A. *For purposes of this section, "mobilization" means the deployment, transfer, or assignment of the*
99 *National Guard or its members by federal authority pursuant to 10 U.S.C. § 12406.*

100 B. *Upon mobilization of the National Guard under federal authority within the Commonwealth:*

101 1. *The General Assembly shall convene an emergency session within 72 hours of such order. If an*
102 *invasion, insurrection, or imminent threat of either event makes such a convention impossible, the Joint*
103 *Committee on Rules shall issue temporary rules and procedures to enable meeting and voting in remote*
104 *locations and on virtual channels. At the request of the Speaker of the House of Delegates and the President*
105 *pro tempore of the Senate, the National Guard shall support the General Assembly's ability to convene by*
106 *providing security;*

107 2. *The Adjutant General shall seek from the U.S. Department of Defense a written report containing*
108 *information regarding such a call to active duty, and such report shall include the circumstances, scope,*
109 *duration, legal authority, objectives for active duty, and funding for active duty. The Adjutant General shall*
110 *make such report available to the Speaker of the House of Delegates, the Senate Committee on Rules, and the*
111 *Chairs of the House Committee on Public Safety and the Senate Committee on General Laws and*
112 *Technology;*

113 3. *The Attorney General shall assess the legality of the call to active duty and shall make a written report*
114 *detailing such an assessment available to the Speaker of the House of Delegates, the Senate Committee on*
115 *Rules, and the Chairs of the House Committee on Public Safety and the Senate Committee on General Laws*
116 *and Technology. In the event the Attorney General determines such a call to active duty is illegal, he shall*
117 *bring suit in an effort to challenge, prevent, or cease such active duty operations;*

118 4. *The Governor shall provide, in writing, his support or dissent of such active duty operations to the*
119 *General Assembly;*

120 5. *If the Attorney General provides an opinion providing that the federal order calling the National Guard*

121 to active duty is illegal, or if the Governor informs the General Assembly that he is opposed to such call to
122 active duty, the National Guard and federal forces shall be prohibited from using any state-owned facility
123 and no state funding shall be used to support such deployment, absent a joint resolution as passed by the
124 General Assembly. No person operating under state funding may provide any manner of support to active
125 duty operations; and

126 6. The Governor may pursue mutual compacts with governors of other states that would mutually prohibit
127 use of state resources for any federal deployment of the National Guard against the will of those governors.

128 C. Upon mobilization of the National Guard under federal authority outside of the Commonwealth:

129 1. The Adjutant General shall seek from the U.S. Department of Defense a written report containing
130 information regarding such active duty operations, and such report shall include the circumstances, scope,
131 duration, legal authority, objectives for active duty operations, and funding for the deployment. The Adjutant
132 General shall make such report available to the Speaker of the House of Delegates, the Senate Committee on
133 Rules, and the Chairs of the House Committee on Public Safety and the Senate Committee on General Laws
134 and Technology;

135 2. The Attorney General shall assess the legality of the active duty operations and shall make a written
136 report detailing such an assessment available to the Speaker of the House of Delegates, the Senate
137 Committee on Rules, and the Chairs of the House Committee on Public Safety and the Senate Committee on
138 General Laws and Technology. In the event the Attorney General determines such active duty operations are
139 illegal, he shall bring suit in an effort to challenge, prevent, or cease such active duty operations;

140 3. The Governor shall provide, in writing, his support or dissent of such active duty operations to the
141 General Assembly;

142 4. If the Attorney General provides an opinion providing that federal order calling the National Guard to
143 active duty is illegal, or if the Governor informs the General Assembly that he is opposed to such active duty
144 operations, the National Guard and federal forces shall be prohibited from using any state-owned facility
145 and no state funding shall be used to support such deployment, absent a joint resolution as passed by the
146 General Assembly. No person operating under state funding may provide any manner of support to the active
147 duty operations; and

148 5. The Governor may pursue mutual compacts with governors of other states that would mutually prohibit
149 use of state resources for any federal deployment of the National Guard against the will of those governors.

150 D. If federal training funds for the Virginia National Guard are being used for the deployment of members
151 of the Virginia National Guard on non-training missions, the Attorney General shall pursue all legal
152 remedies to recover such funds from the federal government.

153 E. Nothing in this section shall be construed to prohibit or limit the Governor's authority to deploy the
154 Virginia National Guard into active duty for the purposes of providing defense support for civil authority
155 missions in a foreign state or elsewhere within the United States.

156 **§ 44-78.1. Request for assistance by localities.**

157 ~~It~~ Subject to the provisions of subsections B and C of § 44-75.1 and except as provided in § 44-75.1:2, in
158 the event of that the circumstances described in subdivision A 2, 4, or 5 of § 44-75.1 arise within a county,
159 city, or town of the Commonwealth, either the governing body or the chief law-enforcement officer of the
160 county, city, or town may call upon the Governor for assistance from the militia. The Governor may call forth
161 the militia or any part thereof to provide such assistance as he may deem proper in responding to such
162 circumstances, but in all instances the militia shall remain subject to military command and not to civilian
163 authorities of the county, city, or town receiving assistance.

164 **2. That this act shall be referred to as the Virginia National Guard Integrity and Democracy Protection**
165 **Act.**