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HOUSE BILL NO. 286
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on General Laws and Technology
on _____)
(Patron Prior to Substitute—Delegate Helmer)

A BILL to amend and reenact §§ 44-114.1 and 44-114.2 of the Code of Virginia, relating to Virginia National Guard; other state militia; certain communications prohibited.

Be it enacted by the General Assembly of Virginia:

1. That §§ 44-114.1 and 44-114.2 of the Code of Virginia are amended and reenacted as follows:

§ 44-114.1. Orders transmitted to and through the Governor; other state militia.

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.

Additionally, no armed militia from another state, territory, or district shall enter the Commonwealth for the purpose of active military duty without the permission of the Governor of Virginia unless such militia has been called into the federal service for active duty and is acting under the authority of the President of the United States pursuant to Title 10 of the United States Code.

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

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.

The Adjutant General shall not assist, facilitate, or allow communications between the federal

32 *government or any of its officers, agencies, or departments and individuals of organizations of the Virginia*
33 *militia on any matter associated with such individuals being called into active service under Title 10 or 32 of*
34 *the United States Code, unless the active service is for one of the following reasons:*

- 35 *1. To support a congressionally authorized military contingency;*
- 36 *2. To support operations in response to a national catastrophe or disaster as declared in a formal*
37 *declaration of war, congressional authorization for the use of military force, or presidential declaration;*
- 38 *3. To support a congressionally authorized mission with the U.S. Department of Homeland Security that*
39 *is consistent with federal law on the appropriate use of the Armed Forces of the United States within or*
40 *without the continental United States;*
- 41 *4. To train for duties that are part of the primary duties of the individual;*
- 42 *5. For military support of the civil authorities of another state or territory with the express permission of*
43 *such state or territory's governor or executive civil authority; or*
- 44 *6. For military support of civil authorities for other duties supported by congressional action or federal*
45 *law or tradition, but excluding law enforcement or immigration enforcement duties other than indirect*
46 *support or surveillance duties that are part of a border security operation.*

47 **2. That the provisions of this act shall not become effective unless reenacted by the 2027 Session of the**
48 **General Assembly.**