

VIRGINIA ACTS OF ASSEMBLY - 2026 RECONVENED SESSION

CHAPTER 1043

An Act to amend and reenact § 44-75.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 44-15.1, relating to Virginia National Guard; reports to the General Assembly; work group; report.

[H 286]

Approved April 22, 2026

Be it enacted by the General Assembly of Virginia:

1. That § 44-75.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 44-15.1 as follows:

§ 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. A comprehensive overview of yearly federal funding, detailing the appropriations for key areas such as operations and maintenance, pay and allowances, and military construction projects, while also identifying any existing unfunded requirements; 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 September 30, 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. 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~~ the 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~~ the 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)~~ 981(e)(2), 19 U.S.C. § 1616a, and 21 U.S.C. § 881 ~~(e)~~ ~~(1)~~ ~~(A)~~(e)(1)(A).

C. *The Governor shall not call forth the National Guard for the purpose of intimidating, threatening, or coercing, or attempting to intimidate, threaten, or coerce, any person (i) in giving his vote or ballot or (ii) to deter or prevent such person from voting in violation of § 24.2-1005.*

2. That the Secretary of Veterans and Defense Affairs (the Secretary) shall convene a work group to assess (i) the most appropriate manner and process by which the Governor and members of the General Assembly should respond to deployments of the Virginia National Guard within or outside of the Commonwealth, including when the Governor has not approved of, consented to, or concurred in any such deployment; (ii) the proper response to mobilizations of the National Guard of another state in a state active duty status within the Commonwealth; and (iii) what safeguards, if any, are necessary to ensure that the Virginia National Guard cannot be called to duty to intimidate, harass, or threaten any person (a) in giving his vote or ballot or (b) to deter or prevent such person from voting. The work group shall report its findings and recommendations to the Governor and the Chairs of the Senate Committee on General Laws and Technology, House Committee on Public Safety, Senate Committee on Finance and Appropriations, and House Committee on Appropriations no later than November 1, 2026.