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HOUSE JOINT RESOLUTION NO. 201
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Rules
on February 10, 2002)

(Patrons Prior to Substitute—Delegates Melvin and Howell [HJR 62, HJR 63, HJR 93])

Directing the Virginia State Crime Commission to study certain issues pertaining to bail bondsmen, bounty hunters, and bond payment to the court.

WHEREAS, Section 19.2-152.1 of the Code of Virginia vests with circuit court judges the responsibility for the certification of bail bondsmen, but does not specify any means or standards for an employment investigation prior to certification, other than simply a review of the record of the applicant furnished by the Federal Bureau of Investigation and a review of the applicant's past conduct in that circuit court; and

WHEREAS, because § 19.2-152.1 provides that every bail bondsman "shall be subject to and governed by any reasonable rules of conduct or procedure established by the judge of the court in which he is acting as a bondsman," a bail bondsman who operates in a number of jurisdictions is likely to be subject to differing local rules; and

WHEREAS, the dispersal of certification responsibility among the respective circuit court judges, the lack of mandatory licensure or training requirements for bail bondsmen, and the lack of a statutory framework impedes the development of uniform statewide standards and procedures for the certification and regulation of bail bondsmen beyond the threshold financial criteria specified in § 19.2-152.1 of the Code of Virginia, places circuit court judges in multiple, potentially conflicting roles; and

WHEREAS, the current law does not provide a mechanism for the investigation or prosecution of complaints against bail bondsmen by a nonjudicial officer for the violation of the various local rules of conduct or procedure, the respective circuit court judges are implicitly left with both an investigative role and a prosecutorial role for such proceedings, in addition to their adjudicative role; and

WHEREAS, Virginia law authorizes a person to arrest someone for whom he has posted bond and surrender him to the court or appropriate authority, and thereby puts a bail bondsman in the same posture as a law-enforcement officer with an arrest warrant; and

WHEREAS, sworn law-enforcement officers, unlike bounty hunters, are required to have a certain level of education and successfully complete job-required training and continue their training throughout their careers; and

WHEREAS, approximately 225,000 persons are admitted to jail awaiting trial annually, and greater than 60 percent of these persons are misdemeanor defendants held in lieu of meeting the conditions of a secure bond; and

WHEREAS, 87 percent are subsequently released, the majority after paying a percentage bond, and often an administrative fee, to a corporate or private bond agent, the amounts of which are not recoverable even when bond conditions are met; and

WHEREAS, a significant number of these defendants or their families are subsequently required to pay, exclusive of fines and other fees, court costs ranging from about \$40 to \$200; and

WHEREAS, Virginia's major bail reform legislation of 1973 and 1999 reflects language similar to the federal Bail Reform Act of 1966 and bail reform in the Comprehensive Crime Control Act of 1984; and

WHEREAS, the federal bail acts historically provided the means for a defendant to pay a percentage bond to the court, the majority of which is recoverable when conditions of bail are met, and that 27 states in the nation and the District of Columbia include similar provisions in their bail legislation that is absent in Virginia's; and

WHEREAS, these bail procedures allow the court to reimburse the accused for the majority of the bail amount subject to appearance until final disposition or with the agreement of the defendant to keep the percentage bail for payment, where applicable, of fees, costs and fines upon conviction or following a deferred proceeding; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to study certain issues pertaining to bail bondsmen, bounty hunters, and bond payment to the court. In conducting the study, the Commission shall (i) determine the need for regulation, training and oversight of bail bondsmen and bounty hunters; (ii) examine the feasibility and methods of providing for a percentage of bond payment to the court; and (iii) determine whether the certification and supervision of bail bondsmen and bounty hunters should be transferred from the judicial branch to the executive branch of state government.

The Commission shall, at a minimum, solicit input and assistance from representatives of the Department of Criminal Justice Services, the Office of the Executive Secretary of the Supreme Court,

60 and local pretrial services agencies.

61 All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

62 The Commission shall complete its work by November 30, 2002, and shall submit its written
63 findings and recommendations to the Governor and the 2003 Session of the General Assembly as
64 provided in the procedures of the Division of Legislative Automated Systems for the processing of
65 legislative documents.