



## Impact Analysis on Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill No. 334

(Patron – Stolle)

**Date Submitted:** 1/13/04

**LD #:** 04-0898134

**Topic:** Bail enforcement agents

#### Proposed Change:

This proposal establishes provisions for the Commonwealth to regulate bail enforcement agents. Regarding its major elements, the proposed legislation:

- Adds Article 11 to Title 9.1 establishing the powers of the Department of Criminal Justice Services (DCJS) and the Criminal Justice Services Board (CJSB) over bail enforcement agents; these include:
  - Adopting regulations to ensure respectable, responsible, safe and effective bail enforcement;
  - Licensure of bail enforcement agents for a two-year period;
  - Requiring a criminal history record check including a restriction that the bail enforcement agent must not have felony record and may not have a misdemeanor record (the agent may have a misdemeanor record if the conviction occurred at least five years in the past or has successfully sought an exemption from DCJS);
  - Providing DCJS with the ability to place the bail enforcement agent on probation, or to suspend, revoke, or refuse to issue or renew a license for failure to maintain professional conduct standards (these standards are established in § 9.1-193);
  - Establishing a protocol for recovery of bailees, including provisions for documentation, restricting entry of a residential structure, prior notification to local law enforcement, and a requirement not to break the laws of the Commonwealth in the act of apprehension;
- Amends § 9.1-102 to allow DCJS and CJSB to license and regulate bail enforcement agents;
- Creates four crimes relating to bail enforcement agents:
  - To engage in bail recovery in the Commonwealth without a valid license issued by DCJS is punishable as a Class 1 misdemeanor, and a third or subsequent conviction is punishable as a Class 6 felony (§ 9.1-198);
  - To engage in bail recovery in the Commonwealth, having been previously convicted of a felony, is punishable as a Class 1 misdemeanor, and a third or subsequent conviction is punishable as a Class 6 felony (§ 9.1-199).
- The provisions of this proposal become effective on October 1, 2005 except for § 9.1-199 (making it a crime for a person with a felony prior record to engage in bail recovery in the Commonwealth), which would become effective on July 1, 2004.

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The Commission provides analyses of the impact on prison and jail bed space and community corrections placement needs in accordance with § 30-19.1:4. Impact analyses do not comment on the merits of the bill under review.

**Data Analysis:**

The proposed legislation creates two new misdemeanor and two new felony crimes related to bail enforcement agents. As these crimes are not currently defined in the *Code of Virginia*, no data are available in the Commonwealth's criminal justice databases.

**Impact of Proposed Legislation:**

The proposed legislation may have an impact on state-responsible (prison) beds. The proposal creates new offenses not currently specified in the *Code of Virginia*. Therefore, the magnitude of any impact cannot be quantified. Similarly, the impact on jails and community corrections cannot be quantified.

Convictions under the proposed legislation would not be covered by the guidelines as the primary (or most serious) offense but could augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the sentencing guidelines would be necessary under the proposal.

**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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