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HOUSE BILL NO. 2129

Offered January 14, 2015

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A BILL to amend and reenact §§ 9.1-139, 9.1-185.4, 9.1-186.4, and 19.2-13 of the Code of Virginia, relating to barriers to licensure or registration; certain Department of Criminal Justice Services regulated industries.

Patron—Mason

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-139, 9.1-185.4, 9.1-186.4, and 19.2-13 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-139. Licensing, certification, and registration required; qualifications; temporary licenses.

A. No person shall engage in the private security services business or solicit private security business in the Commonwealth without having obtained a license from the Department. No person shall be issued a private security services business license until a compliance agent is designated in writing on forms provided by the Department. The compliance agent shall ensure the compliance of the private security services business with this article and shall meet the qualifications and perform the duties required by the regulations adopted by the Board. A compliance agent shall have either a minimum of (i) three years of managerial or supervisory experience in a private security services business; with a federal, state or local law-enforcement agency; or in a related field or (ii) five years of experience in a private security services business; with a federal, state or local law-enforcement agency; or in a related field.

B. No person shall act as private security services training school or solicit students for private security training in the Commonwealth without being certified by the Department. No person shall be issued a private security services training school certification until a school director is designated in writing on forms provided by the Department. The school director shall ensure the compliance of the school with the provisions of this article and shall meet the qualifications and perform the duties required by the regulations adopted by the Board.

C. No person shall be employed by a licensed private security services business in the Commonwealth as armored car personnel, courier, armed security officer, detector canine handler, unarmed security officer, security canine handler, private investigator, personal protection specialist, alarm respondent, locksmith, central station dispatcher, electronic security sales representative, electronic security technician's assistant, or electronic security technician without possessing a valid registration issued by the Department, except as provided in this article.

D. A temporary license may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary license until (i) he has designated a compliance agent who has complied with the compulsory minimum training standards established by the Board pursuant to subsection A of § 9.1-141 for compliance agents, (ii) each principal of the business has submitted his fingerprints for a National Criminal Records search and a Virginia Criminal History Records search, and (iii) he has met all other requirements of this article and Board regulations.

E. No person shall be employed by a licensed private security services business in the Commonwealth unless such person is certified or registered in accordance with this chapter.

F. A temporary registration may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary registration until he has (i) complied with, or been exempted from the compulsory minimum training standards established by the Board, pursuant to subsection A of § 9.1-141, for armored car personnel, couriers, armed security officers, detector canine handlers, unarmed security officers, security canine handlers, private investigators, personal protection specialists, alarm respondents, locksmiths, central station dispatchers, electronic security sales representatives, electronic security technician's assistants, or electronic security technicians, (ii) submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search, and (iii) met all other requirements of this article and Board regulations.

G. A temporary certification as a private security instructor or private security training school may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary certification as a private security services instructor until he has (i) met the education, training and experience requirements

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HB2129

59 established by the Board and (ii) submitted his fingerprints to be used for the conduct of a National
60 Criminal Records search and a Virginia Criminal History Records search. No person shall be issued a
61 temporary certification as a private security services training school until (a) he has designated a training
62 director, (b) each principal of the training school has submitted his fingerprints to be used for the
63 conduct of a National Criminal Records search and a Virginia Criminal History Records search, and (c)
64 he has met all other requirements of this article and Board regulations.

65 H. A licensed private security services business in the Commonwealth shall not employ as an
66 unarmed security officer, electronic security technician's assistant, unarmed alarm respondent, central
67 station dispatcher, electronic security sales representative, locksmith, or electronic security technician,
68 any person who has not complied with, or been exempted from, the compulsory minimum training
69 standards established by the Board, pursuant to subsection A of § 9.1-141, except that such person may
70 be so employed for not more than 90 days while completing compulsory minimum training standards.

71 I. No person shall be employed as an electronic security employee, electronic security technician's
72 assistant, unarmed alarm respondent, locksmith, central station dispatcher, electronic security sales
73 representative, electronic security technician or supervisor until he has submitted his fingerprints to the
74 Department to be used for the conduct of a National Criminal Records search and a Virginia Criminal
75 History Records search. The provisions of this subsection shall not apply to an out-of-state central
76 station dispatcher meeting the requirements of subdivision 19 of § 9.1-140.

77 J. The compliance agent of each licensed private security services business in the Commonwealth
78 shall maintain documentary evidence that each private security registrant and certified employee
79 employed by his private security services business has complied with, or been exempted from, the
80 compulsory minimum training standards required by the Board. Before January 1, 2003, the compliance
81 agent shall ensure that an investigation to determine suitability of each unarmed security officer
82 employee has been conducted, except that any such unarmed security officer, upon initiating a request
83 for such investigation under the provisions of subdivision A 11 of § 19.2-389, may be employed for up
84 to 30 days pending completion of such investigation. After January 1, 2003, no person shall be
85 employed as an unarmed security officer until he has submitted his fingerprints to the Department for
86 the conduct of a National Criminal Records search and a Virginia Criminal History Records search. Any
87 person who was employed as an unarmed security officer prior to January 1, 2003, shall submit his
88 fingerprints to the Department in accordance with subsection B of § 9.1-145.

89 K. No person with a criminal conviction for a misdemeanor involving (i) moral turpitude, (ii) assault
90 and battery, (iii) damage to real or personal property, (iv) controlled substances or imitation controlled
91 substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (v) prohibited sexual
92 behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or (vi) firearms; or *with*
93 *a criminal conviction for any felony or who is currently the subject of a protective order within the*
94 *Commonwealth or another state or who is required to register as a sex offender pursuant to Chapter 9*
95 *(§ 9.1-100 et seq.) or by a substantially similar law of any other state, the United States, or any foreign*
96 *jurisdiction* shall be (a) employed as a registered or certified employee by a private security services
97 business or training school; or (b) issued a private security services registration, certification as an
98 unarmed security officer, electronic security employee or technician's assistant, a private security services
99 training school or instructor certification, compliance agent certification, or a private security services
100 business license, except that, upon written request, the Director of the Department may waive such
101 prohibition.

102 L. The Department may grant a temporary exemption from the requirement for licensure,
103 certification, or registration for a period of not more than 30 days in a situation deemed an emergency
104 by the Department.

105 M. All private security services businesses and private security services training schools in the
106 Commonwealth shall include their license or certification number on all business advertising materials.

107 N. A licensed private security services business in the Commonwealth shall not employ as armored
108 car personnel any person who has not complied with, or been exempted from, the compulsory minimum
109 training standards established by the Board pursuant to subsection A of § 9.1-141, except such person
110 may serve as a driver of an armored car for not more than 90 days while completing compulsory
111 minimum training standards, provided such person does not possess or have access to a firearm while
112 serving as a driver.

113 § 9.1-185.4. Limitations on licensure.

114 A. In order to be licensed as a bail bondsman a person shall (i) be 18 years of age or older, (ii) have
115 received a high school diploma or passed a high school equivalency examination approved by the Board
116 of Education, and (iii) have successfully completed the bail bondsman exam required by the Board or
117 successfully completed prior to July 1, 2005, a surety bail bondsman exam required by the State
118 Corporation Commission under former § 38.2-1865.7.

119 B. The following persons are not eligible for licensure as bail bondsmen and may not be employed
120 nor serve as the agent of a bail bondsman:

1. Persons who have been convicted of a felony within the Commonwealth, any other state, or the United States, who have not been pardoned, or whose civil rights have not been restored;

2. Employees of a local or regional jail;

3. Employees of a sheriff's office;

4. Employees of a state or local police department;

5. Persons appointed as conservators of the peace pursuant to Article 4.1 (§ 9.1-150.1 et seq.) of this chapter;

6. Employees of an office of an attorney for the Commonwealth;

7. Employees of the Department of Corrections, Department of Criminal Justice Services, or a local pretrial or community-based probation services agency; ~~and~~

8. Spouses of or any persons residing in the same household as persons referred to in subdivisions 2 through 7 who are sworn officers or whose responsibilities involve direct access to records of inmates;

9. *Persons currently the subject of a protective order within the Commonwealth or another state; and*

10. *Persons required to register as a sex offender by pursuant to Chapter 9 (§ 9.1-100 et seq.) or by a substantially similar law of any other state, the United States, or any foreign jurisdiction.*

C. The exclusions in subsection B shall not be construed to limit the ability of a licensed bail bondsman to employ or contract with a licensed bail enforcement agent authorized to do business in the Commonwealth.

§ 9.1-186.4. Limitations on licensure.

A. In order to be licensed as a bail enforcement agent a person shall (i) be 21 years of age or older, (ii) have received a high school diploma or passed a high school equivalency examination approved by the Board of Education, and (iii) have satisfactorily completed a basic certification course in training for bail enforcement agents offered by the Department. Partial exemptions to the training requirements may be approved by the Department if the individual has received prior training.

B. The following persons are not eligible for licensure as a bail enforcement agent and may not be employed nor serve as agents for a bail enforcement agent:

1. Persons who have been convicted of a felony within the Commonwealth, any other state, or the United States, who have not been pardoned, or whose civil rights have not been restored.

2. Persons who have been convicted of any misdemeanor within the Commonwealth, any other state, or the United States within the preceding five years. This prohibition may be waived by the Department, for good cause shown, so long as the conviction was not for one of the following or a substantially similar misdemeanor: carrying a concealed weapon, assault and battery, sexual battery, a drug offense, driving under the influence, discharging a firearm, a sex offense, or larceny.

3. Persons who have been convicted of any misdemeanor within the Commonwealth, any other state, or the United States, that is substantially similar to the following: brandishing a firearm or stalking. The Department may not waive the prohibitions under this subdivision 3.

4. Persons currently the subject of a protective order within the Commonwealth or another state.

5. Employees of a local or regional jail.

6. Employees of a sheriff's office, or a state or local police department.

7. Commonwealth's Attorneys, and any employees of their offices.

8. Employees of the Department of Corrections, Department of Criminal Justice Services, or a local pretrial or community-based probation services agency.

9. *Persons required to register as a sex offender pursuant to Chapter 9 (§ 9.1-100 et seq.) or by a substantially similar law of any other state, the United States, or any foreign jurisdiction.*

C. The exclusions in subsection B shall not be construed to prohibit law enforcement from accompanying a bail enforcement agent when he engages in bail recovery.

§ 19.2-13. Special conservators of the peace; authority; jurisdiction; registration; bond; liability of employers; penalty; report.

A. Upon the application of (i) any sheriff or chief of police of any county, city, or town; (ii) any corporation authorized to do business in the Commonwealth; (iii) the owner, proprietor, or authorized custodian of any place within the Commonwealth; or (iv) any museum owned and managed by the Commonwealth, a circuit court judge of any county or city shall appoint special conservators of the peace who shall serve as such for such length of time as the court may designate, but not exceeding four years under any one appointment, upon a showing by the applicant of a necessity for the security of property or the peace and presentation of evidence that the person or persons to be appointed as a special conservator of the peace possess a valid registration issued by the Department of Criminal Justice Services in accordance with the provisions of subsection B. However, a judge may deny the appointment for good cause, and shall state the specific reasons for the denial in writing in the order denying the appointment. The order of appointment may provide that a special conservator of the peace shall have all the powers, functions, duties, responsibilities and authority of any other conservator of the

182 peace within such geographical limitations as the court may deem appropriate within the confines of the
183 county, city or town that makes application or within the county, city or town where the corporate
184 applicant is located, limited, except as provided in subsection E, to the judicial circuit wherein
185 application has been made, whenever such special conservator of the peace is engaged in the
186 performance of his duties as such. The order may also provide that the special conservator of the peace
187 is a "law-enforcement officer" for the purposes of Article 4 (§ 37.2-808 et seq.) of Chapter 8 of Title
188 37.2 or Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1. The order may also provide that the
189 special conservator of the peace is authorized to use the seal of the Commonwealth in a badge or other
190 credential of office as the court may deem appropriate. The order may also provide that the special
191 conservator of the peace may use the title "police" on any badge or uniform worn in the performance of
192 his duties as such. The order may also provide that a special conservator of the peace who has
193 completed the minimum training standards established by the Department of Criminal Justice Services,
194 has the authority to affect arrests, using up to the same amount of force as would be allowed to a
195 law-enforcement officer employed by the Commonwealth or any of its political subdivisions when
196 making a lawful arrest. The order also may (a) require the local sheriff or chief of police to conduct a
197 background investigation which may include a review of the applicant's school records, employment
198 records, or interviews with persons possessing general knowledge of the applicant's character and fitness
199 for such appointment and (b) limit the use of flashing lights and sirens on personal vehicles used by the
200 conservator in the performance of his duties. Prior to granting an application for appointment, the circuit
201 court shall ensure that the applicant has met the registration requirements established by the Criminal
202 Justice Services Board.

203 B. Effective September 15, 2004, no person shall seek appointment as a special conservator of the
204 peace from a circuit court judge without possessing a valid registration issued by the Department of
205 Criminal Justice Services, except as provided in this section. Applicants for registration may submit an
206 application on or after January 1, 2004. A temporary registration may be issued in accordance with
207 regulations established by the Criminal Justice Services Board while awaiting the results of a state and
208 national fingerprint search. However, no person shall be issued a temporary registration until he has (i)
209 complied with, or been exempted from the compulsory minimum training standards as set forth in this
210 section, (ii) submitted his fingerprints on a form provided by the Department to be used for the conduct
211 of a national criminal records search and a Virginia criminal history records search, and (iii) met all
212 other requirements of this article and Board regulations. No person with a criminal conviction for a
213 misdemeanor involving (a) moral turpitude, (b) assault and battery, (c) damage to real or personal
214 property, (d) controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247
215 et seq.) of Chapter 7 of Title 18.2, (e) prohibited sexual behavior as described in Article 7 (§ 18.2-61 et
216 seq.) of Chapter 4 of Title 18.2, or (f) firearms; or ~~(g) with a criminal conviction for any felony; or who~~
217 *is currently the subject of a protective order within the Commonwealth or another state or who is*
218 *required to register as a sex offender as provided by § 9.1-901 or by a substantially similar law of any*
219 *other state, the United States, or any foreign jurisdiction* shall be registered as a special conservator of
220 the peace. All appointments for special conservators of the peace shall become void on September 15,
221 2004, unless they have obtained a valid registration issued by the Department of Criminal Justice
222 Services.

223 C. Each person registered as or seeking registration as a special conservator of the peace shall be
224 covered by (i) a cash bond, or a surety bond executed by a surety company authorized to do business in
225 the Commonwealth, in a reasonable amount to be fixed by the Board, not to be less than \$10,000,
226 conditioned upon the faithful and honest conduct of his business or employment; or (ii) evidence of a
227 policy of liability insurance or self-insurance in an amount and with coverage as fixed by the Board.
228 Any person who is aggrieved by the misconduct of any person registered as a special conservator of the
229 peace and recovers a judgment against the registrant, which is unsatisfied in whole or in part, may bring
230 an action in his own name against the bond or insurance policy of the registrant.

231 D. Individuals listed in § 19.2-12, individuals who have complied with or been exempted pursuant to
232 subsection A of § 9.1-141, individuals employed as law-enforcement officers as defined in § 9.1-101
233 who have met the minimum qualifications set forth in § 15.2-1705 shall be exempt from the
234 requirements in subsections A through C. Further, individuals appointed under subsection A and
235 employed by a private corporation or entity that meets the requirements of subdivision (ii) of the
236 definition of criminal justice agency in § 9.1-101, shall be exempt from the registration requirements of
237 subsection A and from subsections B and C provided they have met the minimum qualifications set
238 forth in § 15.2-1705. The Department of Criminal Justice Services shall, upon request by the circuit
239 court, provide evidence to the circuit court of such employment prior to appointing an individual special
240 conservator of the peace. The employing agency shall notify the circuit court within 30 days after the
241 date such individual has left employment and all powers of the special conservator of the peace shall be
242 void. Failure to provide such notification shall be punishable by a fine of \$250 plus an additional \$50
243 per day for each day such notice is not provided.

244 E. When the application is made, the circuit court shall specify in the order of appointment the name
245 of the applicant authorized under subsection A and the geographic jurisdiction of the special conservator
246 of the peace. Court appointments shall be limited to the judicial circuit wherein application has been
247 made. In the case of a corporation or other business, the court appointment may also include, for good
248 cause shown, any real property owned or leased by the corporation or business, including any
249 subsidiaries, in other specifically named cities and counties, but shall provide that the powers of the
250 special conservator of the peace do not extend beyond the boundaries of such real property. Effective
251 July 1, 2004, the clerk of the appointing circuit court shall transmit a copy of the order of appointment
252 that shall specify the following information: the person's complete name, address, date of birth, social
253 security number, gender, race, height, weight, color of hair, color of eyes, firearm authority or limitation
254 as set forth in subsection F, date of the order, and other information as may be required by the
255 Department of State Police. The Department of State Police shall enter the person's name and other
256 information into the Virginia Criminal Information Network established and maintained by the
257 Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. The Department of State Police may
258 charge a fee not to exceed \$10 to cover its costs associated with processing these orders. Each special
259 conservator of the peace so appointed on application shall present his credentials to the chief of police
260 or sheriff or his designee of all jurisdictions where he has conservator powers. If his powers are limited
261 to certain areas owned or leased by a corporation or business, he shall also provide notice of the exact
262 physical addresses of those areas. Each special conservator shall provide a temporary registration letter
263 issued by the Department of Criminal Justice Services prior to seeking an appointment by the circuit
264 court. Once the applicant receives the appointment from the circuit court the applicant shall file the
265 appointment order with the Department of Criminal Justice Services in order to receive his special
266 conservator of the peace photo registration card.

267 If any such special conservator of the peace is the employee, agent or servant of another, his
268 appointment as special conservator of the peace shall not relieve his employer, principal or master, from
269 civil liability to another arising out of any wrongful action or conduct committed by such special
270 conservator of the peace while within the scope of his employment.

271 Effective July 1, 2002, no person employed by a local school board as a school security officer, as
272 defined in § 9.1-101, shall be eligible for appointment as a conservator for purposes of maintaining
273 safety in a public school in the Commonwealth. All appointments of special conservators of the peace
274 granted to school security officers as defined in § 9.1-101 prior to July 1, 2002, are void.

275 F. The court may limit or prohibit the carrying of weapons by any special conservator of the peace
276 initially appointed on or after July 1, 1996, while the appointee is within the scope of his employment
277 as such.