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## HOUSE BILL NO. 2129

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice  
on January 28, 2015)

(Patron Prior to Substitute—Delegate Mason)

*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.*

**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 established by the Board and (ii) submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search. No person shall be issued a temporary certification as a private security services training school until (a) he has designated a training

60 director, (b) each principal of the training school has submitted his fingerprints to be used for the  
61 conduct of a National Criminal Records search and a Virginia Criminal History Records search, and (c)  
62 he has met all other requirements of this article and Board regulations.

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

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

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

87 K. No person with a criminal conviction for a misdemeanor involving (i) moral turpitude, (ii) assault  
88 and battery, (iii) damage to real or personal property, (iv) controlled substances or imitation controlled  
89 substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (v) prohibited sexual  
90 behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or (vi) firearms, or *with*  
91 *a criminal conviction for any felony or who is required to register as a sex offender pursuant to*  
92 *Chapter 9 (§ 9.1-900 et seq.) or by a substantially similar law of any other state, the United States, or*  
93 *any foreign jurisdiction* shall be (a) employed as a registered or certified employee by a private security  
94 services business or training school, or (b) issued a private security services registration, certification as  
95 an unarmed security officer, electronic security employee or technician's assistant, a private security  
96 services training school or instructor certification, compliance agent certification, or a private security  
97 services business license, except that, upon written request, the Director of the Department may waive  
98 such prohibition.

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

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

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

110 **§ 9.1-185.4. Limitations on licensure.**

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

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

- 118 1. Persons who have been convicted of a felony within the Commonwealth, any other state, or the  
119 United States, who have not been pardoned, or whose civil rights have not been restored;
- 120 2. Employees of a local or regional jail;
- 121 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; ~~and~~

9. *Persons required to register as a sex offender pursuant to Chapter 9 (§ 9.1-900 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 (§ 9.1-900 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 peace within such geographical limitations as the court may deem appropriate within the confines of the county, city or town that makes application or within the county, city or town where the corporate applicant is located, limited, except as provided in subsection E, to the judicial circuit wherein application has been made, whenever such special conservator of the peace is engaged in the performance of his duties as such. The order may also provide that the special conservator of the peace

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

199 B. Effective September 15, 2004, no person shall seek appointment as a special conservator of the  
200 peace from a circuit court judge without possessing a valid registration issued by the Department of  
201 Criminal Justice Services, except as provided in this section. Applicants for registration may submit an  
202 application on or after January 1, 2004. A temporary registration may be issued in accordance with  
203 regulations established by the Criminal Justice Services Board while awaiting the results of a state and  
204 national fingerprint search. However, no person shall be issued a temporary registration until he has (i)  
205 complied with, or been exempted from the compulsory minimum training standards as set forth in this  
206 section, (ii) submitted his fingerprints on a form provided by the Department to be used for the conduct  
207 of a national criminal records search and a Virginia criminal history records search, and (iii) met all  
208 other requirements of this article and Board regulations. No person with a criminal conviction for a  
209 misdemeanor involving (a) moral turpitude, (b) assault and battery, (c) damage to real or personal  
210 property, (d) controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247  
211 et seq.) of Chapter 7 of Title 18.2, (e) prohibited sexual behavior as described in Article 7 (§ 18.2-61 et  
212 seq.) of Chapter 4 of Title 18.2, or (f) firearms; or ~~(g) with a criminal conviction for any felony; or who~~  
213 *is required to register as a sex offender pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 or by a*  
214 *substantially similar law of any other state, the United States, or any foreign jurisdiction* shall be  
215 registered as a special conservator of the peace. All appointments for special conservators of the peace  
216 shall become void on September 15, 2004, unless they have obtained a valid registration issued by the  
217 Department of Criminal Justice Services.

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

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

239 E. When the application is made, the circuit court shall specify in the order of appointment the name  
240 of the applicant authorized under subsection A and the geographic jurisdiction of the special conservator  
241 of the peace. Court appointments shall be limited to the judicial circuit wherein application has been  
242 made. In the case of a corporation or other business, the court appointment may also include, for good  
243 cause shown, any real property owned or leased by the corporation or business, including any  
244 subsidiaries, in other specifically named cities and counties, but shall provide that the powers of the

special conservator of the peace do not extend beyond the boundaries of such real property. Effective July 1, 2004, the clerk of the appointing circuit court shall transmit a copy of the order of appointment that shall specify the following information: the person's complete name, address, date of birth, social security number, gender, race, height, weight, color of hair, color of eyes, firearm authority or limitation as set forth in subsection F, date of the order, and other information as may be required by the Department of State Police. The Department of State Police shall enter the person's name and other information into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. The Department of State Police may charge a fee not to exceed \$10 to cover its costs associated with processing these orders. Each special conservator of the peace so appointed on application shall present his credentials to the chief of police or sheriff or his designee of all jurisdictions where he has conservator powers. If his powers are limited to certain areas owned or leased by a corporation or business, he shall also provide notice of the exact physical addresses of those areas. Each special conservator shall provide a temporary registration letter issued by the Department of Criminal Justice Services prior to seeking an appointment by the circuit court. Once the applicant receives the appointment from the circuit court the applicant shall file the appointment order with the Department of Criminal Justice Services in order to receive his special conservator of the peace photo registration card.

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

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

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