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HOUSE BILL NO. 846

Offered January 10, 2024

Prefiled January 9, 2024

A *BILL to amend the Code of Virginia by adding in Chapter 1 of Title 9.1 an article numbered 12.1, consisting of sections numbered 9.1-186.15 through 9.1-186.18, relating to Department of Criminal Justice Services; certification and regulation of charitable bail organizations.*

Patron—Williams

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 1 of Title 9.1 an article numbered 12.1, consisting of sections numbered 9.1-186.15 through 9.1-186.18, as follows:

*Article 12.1**Charitable Bail Organizations***§ 9.1-186.15. Definitions.**

As used in this article, unless the context requires a different meaning:

"Charitable bail organization" means an entity or nonprofit organization that exists for the purpose of providing or posting bond for another person. "Charitable bail organization" does not include a person that pays bail for (i) three or fewer defendants in any 180-day period or (ii) a defendant's family or household member, as defined § 16.1-228.

"Crime of violence" means an act of violence as defined in § 19.2-297.1 or a violent felony offense as defined in § 17.1-805.

§ 9.1-186.16. Inapplicability of this article.

The provisions of this article shall not apply to bail bondsmen as defined in § 9.1-185 nor to bail enforcement agents as defined in § 9.1-186.

§ 9.1-186.17. Charitable bail organizations; certification, renewal, and revocation.

A. The Board shall have full regulatory authority and oversight of charitable bail organizations and shall adopt regulations that are necessary to implement the provisions of this article.

B. In order to be certified as a charitable bail organization in accordance with the provisions of this article, such organization shall (i) be located in the Commonwealth, (ii) be currently registered to conduct business in the Commonwealth, (iii) be a nonprofit organization as described in § 501(c)(3) of the Internal Revenue Code or registered as a charitable organization pursuant to § 57-49, and (iv) exist for the purpose of providing or posting bond for indigent defendants.

C. An applicant for a charitable bail organization certification shall apply for such certification in a form and manner prescribed by the Board and containing any information the Board requires.

D. Prior to the issuance of any charitable bail organization certification, each applicant shall:

1. File with the Department an application for such certification on the form and in the manner prescribed by the Board; and

2. Submit the nonrefundable \$900 application processing fee to the Department.

E. The Department may refuse to issue a charitable bail organization certification if the Department determines that an applicant, or any employee of or volunteer for the applicant, has (i) engaged in conduct that constitutes fraud, dishonesty, or deception or malfeasance, misfeasance, or nonfeasance in dealing with money; (ii) given cause for the revocation or suspension of the certification or previously had a charitable bail organization certification suspended or revoked; or (iii) failed to meet with the requirements for certification.

F. Every charitable bail organization certification issued pursuant to this article shall be for a term of two years. A charitable bail organization certification may be renewed for an ensuing two-year period, upon the filing of an application in the form prescribed by the Board and payment of the nonrefundable \$900 application fee prescribed by the Department. In addition, applicants for renewal of a charitable bail organization certification shall provide all other documentation as the Department deems appropriate.

G. On or before the first day of the month prior to the month its certification is due to expire, the charitable bail organization shall make application for certification renewal and shall at that time pay the \$900 renewal application fee. If an application for certification renewal is filed with the Department before the expiration of such certification, then the certification of the charitable bail organization sought to be renewed shall continue in full force and effect until the certification is either approved for renewal or the Department refuses to renew such certification.

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59 *H. The Department may revoke, suspend for a reasonable period, or refuse to renew a charitable*
60 *bail organization's certification for any of the following: (i) any cause for which issuance of the*
61 *certification could have been refused at the time of application had it then existed and been known; (ii)*
62 *violation of any laws of the Commonwealth in the course of the charitable bail organization's dealings*
63 *under the certification; (iii) violation of the provisions of this article or regulations adopted hereunder;*
64 *(iv) material misstatement, misrepresentation, or fraud in obtaining the certification; (v)*
65 *misappropriation, conversion, or the unlawful withholding of money belonging to donors or others that*
66 *was received in the conduct of business under the certification; (vi) fraudulent or dishonest practices in*
67 *the conduct of business under the certification; (vii) willful failure to comply with or willful violation of*
68 *any proper law or rule of the Commonwealth; or (viii) when the charitable bail organization has, in the*
69 *conduct of affairs under the certification, demonstrated (a) incompetency or untrustworthiness, (b)*
70 *conduct or practices rendering the certificate holder unfit to carry on charitable bail activities or*
71 *making the certificate holder's continuance detrimental to the public interest, or (c) that the certificate*
72 *holder is no longer in good faith carrying on as a charitable bail organization, and for these reasons is*
73 *found by the Department to be a source of detriment, injury, or loss to the public.*

74 **§ 9.1-186.18. Powers and duties of a charitable bail organization.**

75 *A. A certification granted to a charitable bail organization by the Department pursuant to this article*
76 *shall authorize such organization to solicit monetary donations from the public and to use the money*
77 *solicited to provide or post bond for an indigent defendant.*

78 *B. A charitable bail organization shall not (i) provide or post bond for a defendant who is (a)*
79 *charged with a crime of violence or (b) charged with any felony and has a prior conviction for a crime*
80 *of violence, (ii) execute a surety bond for a defendant, or (iii) charge a premium or receive any*
81 *consideration for acting as a charitable bail organization.*

82 *C. Prior to posting bond for an individual, a charitable bail organization shall execute an agreement*
83 *allowing the court to retain all or a part of the bond to pay fines, costs, fees, and restitution that the*
84 *court may order the defendant to pay if convicted. A charitable bail organization may only deposit or*
85 *post a cash bond for a defendant. If an individual for whom a charitable bail organization posted bond*
86 *fails to appear, such bond shall be forfeited in the manner prescribed by the judicial officer.*