



COMMONWEALTH of VIRGINIA

Office of the Attorney General
Richmond 23219

Robert F. McDonnell
Attorney General

900 East Main Street
Richmond, Virginia 23219
804 - 786 - 2071
804 - 371 - 8946 TDD

MEMORANDUM

TO: Leonard G. Cooke, Director
Department of Criminal Justice Services

FROM: James Towey
Senior Assistant Attorney General

DATE: August 11, 2006

SUBJECT: Authority to adopt regulations pursuant to Code of Virginia § 9.1-102(47) and § 9.1-186 *et seq.*

In response to a request from the Department of Criminal Justice Services (“Department”), I have reviewed the proposed regulations, titled “Regulations Relating to Bail Enforcement Agents”, to be set forth in 6 VAC 20-260-10 *et seq.*

Virginia Code § 9.1-102 has been amended to entrust the Department with the power and duty to license and regulate bail enforcement agents in accordance with a newly created Article 12 (§ 9.1-186 *et seq.*) within Chapter 1 of Title 9.1.¹ The new Article 12 grants the Department full regulatory authority and oversight of bail enforcement agents. Specifically, § 9.1-186.2 requires that the Department adopt regulations that are necessary to ensure respectable, responsible, safe and effective bail enforcement within the Commonwealth. Such regulations shall include, but not be limited to, regulations that (i) establish the qualifications of applicants for licensure and renewal, (ii) examine, or cause to be examined, the qualifications of each applicant, (iii) levy and collect fees for licensure and renewal, (iv) ensure competency and prevent deceptive or misleading practices, (v) administer the regulatory system, (vi) provide for receipt of complaints concerning the conduct of any person whose activities are regulated, (vii) provide for investigations and appropriate disciplinary action, (viii) establish standards for conduct, firearms training, uniforms and identification, reporting, and recovery and capture of bailees; (ix) allow for the suspension, revocation, or refusal to issue, reissue, or renew a license for just cause, and (x) establish an introductory training curriculum which includes search, seizure and arrest procedure, pursuit, arrest, detainment and transportation of a bailee, specific duties and responsibilities regarding entering an occupied structure, the laws and rules relating to the bail bond business, the rights of the accused, ethics and Virginia law and regulation.

¹ 2004 Va. Acts c. 397.

Upon review, I find the proposed regulations to be constitutional, consistent with the statutory authority granted by § 9.1-102(47) and § 9.1-186 *et seq.* of the Code of Virginia, and in conformity with existing statutory provisions.

Please note that this memorandum is intended to provide legal interpretations and legal advice, not policy advice. To the extent that this communication may advise you that certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency and this communication should not be construed as a comment for or against the merits of such action.