

**REPORT OF THE  
JOINT SUBCOMMITTEE**

**Studying Bail Bond  
Procedures and the  
Licensure of  
Bail Bondsmen**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**House Document No. 17**

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V. Thomas Forehand, Jr., Chairman  
Clive L. DuVal, 2d, Vice-Chairman  
Thomas M. Moncure, Jr.  
Stuart B. Fallen  
Honorable William H. Hodges  
Robert F. Horan, Jr.  
Ronald E. Luck  
Samuel W. Swanson

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**Report of the Joint Subcommittee  
Studying Bail Bond Procedures and  
Licensure of Bail Bondsmen  
To  
The Governor and the General Assembly of Virginia  
Richmond, Virginia  
December, 1983**

To: Honorable Charles S. Robb, Governor of Virginia  
and  
The General Assembly of Virginia

**INTRODUCTION**

By resolution sponsored by Delegate V. Thomas Forehand and passed during the 1983 Session, the General Assembly called for a study of Virginia law governing the forfeiture of bail bonds and the licensing of bail bondsmen (House Joint Resolution No. 36, Appendix A.). The resolution noted the lack of uniformity in application of the laws governing forfeiture of bail bonds and the need to ensure the integrity to bail bondsmen.

An eight member subcommittee was created to study these issues. The Honorable William A. Hodges, Judge of the Circuit Court of Chesapeake, Samuel W. Swanson, Clerk of the Circuit Court of Pittsylvania and Robert F. Horan, Jr., Commonwealth's Attorney for Fairfax County, were appointed by the Governor from the state at large. The Chairman of the House Committee for Courts of Justice appointed Delegates V. Thomas Forehand, Jr. and Thomas M. Moncure, Jr. and Ronald E. Luck, a bail bondsman from Hopewell, Virginia. Senator Clive L. DuVal 2d and Stuart B. Fallen, Clerk of the Circuit Court of Charlotte County were appointed by the Senate Committee on Privileges and Elections.

The joint subcommittee met on four occasions to consider the problems associated with bail bond forfeiture procedure. In addition, the joint subcommittee discussed the feasibility and desirability of alternative methods for overseeing bail bondsmen. The subcommittee reviewed the provisions of current law governing forfeiture of bail bonds (§ 19.2-143) and licensing of bail bondsmen (§ 58-371.2). Additionally, the joint subcommittee reviewed the laws of Georgia, Maryland, North Carolina and South Carolina. Testimony and valuable assistance were received from representatives of the office of the Attorney General, the Department of Commerce, the Supreme Court of Virginia and the Virginia Professional Bail Bondsmen's Association.

During their review of § 19.2-143 of the Code of Virginia, the joint subcommittee heard testimony indicating the procedures governing forfeiture were not being uniformly applied. In 1979, § 19.2-143 was amended in two relevant respects (See, Chapter 735, Acts of Assembly of 1979). First, the period for remission on a forfeited bond upon delivery of the defendant to the court was extended from sixty days to twelve months. Second, the previously discretionary authority of the court to remit all or part of the forfeited bond upon delivery of the defendant was made mandatory.

In regard to the first change, the joint subcommittee noted certain problems. When the court orders remission on a previously forfeited bond within the twelve month period, generally the funds have already been turned over to the state treasury. The joint subcommittee heard that long delays are frequently involved in actually obtaining the remitted funds. However, the joint subcommittee also heard that in some jurisdictions this problem is alleviated by delaying execution on the judgment of forfeiture until expiration of the twelve month period for remission. The joint subcommittee believes this is the correct approach. Because the joint subcommittee found that the authority of the court to delay execution is inherent, no legislative recommendation is made in this regard. However, the joint subcommittee recommends that the clerk of court be given authority to hold any funds received on a forfeited bond for one year to facilitate the remission if so ordered (See Appendix B).

The joint subcommittee was also concerned with the effects of the second 1979 change. The joint subcommittee believes that the court should have discretion to order remission in the

appropriate circumstances. Where delivery of the defendant or juvenile to the court within the twelve month period is due solely to the efforts of law enforcement personnel, remission would not be appropriate. Whether remission should be granted and the amount remitted should depend on the nature and extent of the surety's efforts in bringing the accused before the court. Therefore, the joint subcommittee recommends that § 19.2-143 be amended to grant the court discretion over remission.

Throughout the course of their deliberations, the joint subcommittee expressed greatest concern over the current scheme for regulation of bail bondsmen. It was noted that § 58-371.2 provided the only substantive regulatory requirements although it is primarily a revenue statute. Additionally, the regulatory authority granted to the circuit courts under that section does not apply to bail bondsmen acting as agents for guaranty, indemnity, fidelity or security companies (surety bondsmen). Because of the substantial impact bail bondsmen have on the criminal justice system, the joint subcommittee found the current regulatory scheme inadequate. The joint subcommittee believes more comprehensive regulation is desirable to ensure the integrity of the profession. The joint subcommittee further believes that all persons who enter into bail bonds for compensation should be regulated in the same manner.

Initially, the joint subcommittee considered creating a state board to regulate bondsmen. However, such a regulatory scheme would require a considerable expenditure of funds. Upon further reflection, the joint subcommittee found a need to retain regulatory authority in the circuit courts. Sufficient familiarity with the bondsman could be obtained only through a primarily local regulatory scheme. The joint subcommittee believes this familiarity is essential. Therefore, the joint subcommittee recommends adoption of a regulatory scheme which contains the following major provisions.

Every person at least twenty-one years of age who wants to write bail bonds would be required to apply to the chief judge of the circuit court in which he intends to primarily engage in the bail bonding business. The joint subcommittee feels that because of the nature of the bail bonding business, bail bondsmen should be at least twenty-one. The Professional Bail Bondsmen's Association concurred in that view. The chief judge will have an opportunity to investigate the bondsman's character and qualifications. If the chief judge finds the bondsman qualified, he will issue a bondsman's certificate. The certificate authorizes the bondsman to write bonds for a period of one year throughout the judicial circuit. If the bondsman wants to engage in the bail bonding business in a court outside of the certifying circuit, he must qualify before the chief judge of the circuit in which that court is located.

The provisions for certification and qualification of all bail bondsmen are the cornerstone of the joint subcommittee's recommendations. Because of their unique role, bail bondsmen must be known in the courts in which they act. The chief judge of each circuit is given an opportunity to investigate the character and qualifications of all bondsmen acting in the circuit. The requirement that bail bondsmen become recertified each year is designed to provide the circuit courts with greater oversight. It is contemplated that generally the investigation conducted upon recertification will be more cursory. Certain guidelines concerning the nature and extent of the investigation were found to be necessary. It was suggested that providing more information to the courts upon certification or qualification would increase the accountability of bail bondsmen and thereby ensure the integrity of the profession. The infrequent compliance with the monthly reporting requirements and infrequent use now made of those reports was also noted. The joint subcommittee hopes that by decreasing the number of reports filed from twelve to four each year, compliance will be greater. It is also hoped this will allow greater opportunity for review of the reports.

The joint subcommittee also found it necessary to provide guidelines for appropriate conduct of bail bondsmen. Currently, § 58-371.2 provides that "[each bail bondsman] shall be subject to and governed by any reasonable rules of conduct or procedure set up by [any judge] of [a] court in which [the bondsman] is acting...". More certainty was believed necessary and desirable. The joint subcommittee believes the grounds for refusal to certify or qualify and suspension and revocation of a certificate once granted should be specified. The recommended grounds for such refusal, suspension or revocation (See §§ 19.2-152.5 and 19.2-152.7 of Appendix C) are based in large part on the North Carolina statutory provisions. The joint subcommittee believes these grounds properly specify conduct which is inappropriate for bail bondsmen and provide proper standards for good conduct.

## CONCLUSIONS

The joint subcommittee finds that certain changes in the procedures applicable to bail bond forfeitures are necessary. It is recommended that execution on a forfeiture be delayed until expiration of the twelve month period for remission. Within that twelve month period the court should have discretion over whether and to what extent remission should be ordered upon delivery of the defendant. In order to facilitate remission, if ordered, the joint subcommittee recommends that the proceeds of the forfeiture not be paid into the state treasury until entry of an order granting or denying remission or expiration of the twelve month period, whichever occurs first. Additionally, the joint subcommittee recommends certain technical changes in § 19.2-143 to clarify the statute and correspond to current practice regarding court records.

The joint subcommittee further finds that greater oversight of bail bondsmen by the circuit courts is desirable and necessary. It is recommended that a procedure designed to ensure that bail bondsmen and their qualifications are known in the courts in which they practice be adopted. Specific and uniform standards of conduct should also be adopted to preserve the integrity of bail bondsmen.

Respectfully submitted,

V. Thomas Forehand, Jr., Chairman  
Clive L. DuVal, 2d, Vice Chairman  
Thomas M. Moncure, Jr.  
Stuart B. Fallen  
Honorable William H. Hodges  
Robert F. Horan, Jr.  
Ronald E. Luck  
Samuel W. Swanson

APPENDIX A

HOUSE JOINT RESOLUTION NO. 36

*Requesting the establishment of a joint subcommittee to study bail bond procedures and the licensure of bail bondsmen.*

Agreed to by the House of Delegates, February 26, 1983

Agreed to by the Senate, February 26, 1983

WHEREAS, the use of bail, bail bonds and professional bail bondsmen is an integral part of our criminal justice system; and

WHEREAS, in order to insure the right of due process, the procedures used in the forfeiture of bail bonds must be uniformly applied throughout the Commonwealth; and

WHEREAS, it is essential that bail bondsmen be persons of high regard and integrity; and

WHEREAS, it appears that the procedures involved in bail bond forfeiture are not uniformly applied; and

WHEREAS, it appears that bail bondsmen are receiving licenses in localities in which their character is not well known and are then allowed to practice their profession in any county or city in the Commonwealth; and

WHEREAS, complete and detailed study of these matters is desirable and necessary; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a subcommittee is hereby created to study bail bond procedures and the licensure of professional bail bondsmen; and, be it

RESOLVED FURTHER, That the subcommittee shall consist of eight members; three members shall be appointed by the Governor from the State at large, one of whom shall be a Circuit Court Judge, one a clerk of a Circuit Court and one a Commonwealth's Attorney; two members and one citizen shall be appointed by the Chairman of the House Committee for Courts of Justice and one member of the Senate and one citizen shall be appointed by the Senate Committee on Privileges and Elections; and, be it

RESOLVED FINALLY, That the subcommittee shall report its findings and recommendations, if any, to the Governor and the 1984 Session of the General Assembly.

The cost of this study shall not exceed \$4,000.



