



HB 2129 Barriers to licensure or registration; private security services businesses; bail bondsmen; bail enforcement agents; special conservators of the peace. Prohibits persons who are currently the subject of a protective order or who are required to register as a sex offender from obtaining a license or registration from the Department of Criminal Justice Services, and from being employed by a private security services business.

SUMMARY: The Private Investigators Association of Virginia (PIAVA) believes that the existing statute (§9.1-139K of the Code of Virginia), which lists specific misdemeanors (including sexual offenses), and any felonies, upon which a criminal conviction would prohibit an individual from being licensed, registered, or employed as a private investigator, in addition to the existing DCJS adjudicatory procedures related to misconduct, are sufficient to protect the citizens of the Commonwealth.

The lesser standard of proof, and possible ex parte proceedings, required to obtain a civil protective order, and the very particular prohibitions listed in a protective order, should not be sufficient to bar an otherwise qualified individual from being registered, licensed or employed as a private investigator, even temporarily. Therefore, PIAVA must respectfully oppose HB 2129.

COMMENTARY: While the Private Investigator's Association of Virginia, Inc. (PIAVA) is committed to achievement of the highest standards of professionalism in the delivery of private investigative services, it is sensitive to the efficacy of the language used in statute and regulation to achieve that purpose.

Protective Orders are issued by a judge or magistrate upon the sworn testimony of a petitioner, but certain protective orders are issued ex parte, i.e. without consideration of a response from the subject of the order. In addition, proceedings related to the issuance of protective order are civil, with a significantly lower standard of proof than the "beyond a reasonable doubt" required for a criminal conviction, and they are issued to prohibit contact with a particular person (or person's family), or location (such as a residence).

Protective Orders can be issued for anywhere from three days to two years. Therefore, in one possible scenario, under HB 2129, a private investigator would have to be fired because he became subject to a protective order that was good for only three days. In a worst case scenario, a Permanent Protective Order could be issued, based on the lower civil standard of proof, and a registrant would be rendered unemployable for two years or more (Permanent Protective Orders can be renewed after two years).

By barring the employment of any registrant who is subject to a protective order, the proposed statute would mandate that a licensed private security business terminate an employee who has only been accused of wrongdoing, and possibly prior to the individual's opportunity to respond to the allegations.