
Public Safety Committee

HB 1098

Brief Description: Addressing bail practices.

Sponsors: Representatives Hope and Hurst.

Brief Summary of Bill

- Amends the licensing and professional conduct requirements of bail bond agents and bail bond recovery agents.
- Defines the circumstances under which a bail bond agent can surrender a person under their bond.
- Requires a court to provide a surety with notice of a defendant's failure to appear within 14 days.
- Requires a court to notify the administrative office of courts when the court revokes or reinstates the justification or certification of a bail bond agent to post bonds in the court.

Hearing Date: 1/30/13

Staff: Sarah Koster (786-7303).

Background:

The Bail Practices Work Group (Work Group) was created in chapter 256 of the Laws of 2010 to study bail practices and procedures in a comprehensive manner and make recommendations to the Governor, the Washington Supreme Court, and the Legislature. The Work Group issued a report with unanimous recommendations on December 1, 2010.

A "bail bond agency" means a business that sells and issues corporate surety bail bonds or that provides security in the form of personal or real property to ensure the appearance of a criminal defendant before the courts of this state or the United States.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A "bail bond recovery agent" means a person who is under contract with a bail bond agent to receive compensation, reward, or any other form of lawful consideration for locating, apprehending, and surrendering a fugitive criminal defendant for whom a bail bond has been posted. "Bail bond recovery agent" does not include a general authority Washington peace officer or a limited authority Washington peace officer.

Notification of Failure to Appear.

If a court does not notify a surety of a defendant's failure to appear within 30 calendar days of the date of appearance, the forfeiture is null and void and the recognizance is exonerated. The parties may stay the execution of the forfeiture judgment for 60 days by giving a bond with two sureties.

Surrender.

A surety may surrender, or return to custody, a person under their bond if the surrender is accompanied by a notice of forfeiture or a notarized affidavit specifying the reasons for the surrender. The surrender shall be made to the facility in which the person was originally held in custody or the county or city jail affiliated with the court issuing the warrant resulting in bail.

Licensing.

An applicant for licensure as a bail bond recovery agent must complete a records check, with fingerprints, through the Washington State Patrol (WSP) and the Federal Bureau of Investigation (FBI) at the applicant's expense. A background investigation may also be done for license renewals. For a bail bond agency license to be issued, the agency must file with the Director of the Department of Licensing (DOL) a bond for \$10,000 or maintain an interest-bearing account with a \$10,000 balance.

Summary of Bill:

Notification of Failure to Appear.

If a court does not notify a surety of a defendant's failure to appear within 14 calendar days of the date of appearance, the forfeiture is null and void and the recognizance is exonerated. The parties may stay the execution of the forfeiture judgment for 60 days from the date of notification by the courts.

Surrender.

A surety may return a person under their bond to custody for good cause. If a court determines that good cause does not exist, the surety must return the premium paid by or for the person and any recovery fee. Good cause includes, but is not limited to:

- reasonable belief in a substantial increase in the risk of flight;
- violation of a court order;
- failure to appear; and
- the concealment or intentional misrepresentations of information by the person.

Good cause may not include failure to make timely payments to the surety for the bond premium.

Unprofessional Conduct.

The statutory definition of "unprofessional conduct" for bail bond agents or bail bond recovery agents is expanded to include:

- entering into a contract, including a general power of attorney, which gives the bail bond agent full authority over the person's finances, assets, real property, or personal property;
- surrendering a person without good cause; and
- when requested, failing to reasonably disclose to law enforcement information about the location of a fugitive criminal defendant.

Licensing and Certification.

An applicant for licensure as a bail bond recovery agent or a bail bond agent must complete a records check, with fingerprints, through the WSP and the FBI at the applicant's expense. A background investigation may also be done for license renewals.

The bonding requirement for licensing of a "property bond agency," which issues bail bonds executed for compensation the security for which is real property, tangible personal property, or other assets is \$100,000. The bonding requirement or licensing of a "surety bond agency," which issues bail bonds that are guaranteed by an insurance company that has been qualified to transact surety insurance business in Washington by the Insurance Commissioner is \$10,000.

If a court revokes or reinstates the certification of a bail bond agent, the presiding judge of the court must notify the Administrative Office of the Courts (AOC) of the revocation or reinstatement and the reasons for the action. The AOC must then notify superior courts and courts of limited jurisdiction statewide.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.