

HOUSE BILL REPORT

HB 2265

As Reported by House Committee On:
Public Safety

Title: An act relating to prohibiting general power of attorney provisions in bail bond agreements.

Brief Description: Prohibiting general power of attorney provisions in bail bond agreements.

Sponsors: Representatives Appleton and Goodman.

Brief History:

Committee Activity:

Public Safety: 1/28/14, 2/5/14 [DPS].

Brief Summary of Substitute Bill

- Includes, as a presumptive form of unprofessional conduct for a bail bond agent, entering into a contract to obtain full authority over another's finances, assets, real property, or personal property.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Appleton, Holy, Hope, Moscoso, Pettigrew, Ross and Takko.

Staff: Sarah Koster (786-7303).

Background:

Bail bond agencies are businesses that sell and issue corporate surety bail bonds or provide security in the form of personal or real property to ensure the appearance of a criminal defendant before a court.

To perform the functions of a bail bond agent or operate a bail bond agency, a person must be licensed by the Department of Licensing (Department). A licensee is subject to discipline by the Department for unprofessional conduct.

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.

Behavior that is categorized as unprofessional conduct may be general across all business and profession licensees, such as unlicensed practice, misrepresentations, or criminal violations, or it may be specific to bail bond agents. Unprofessional conduct specific to bail bond agents includes:

- failure to meet the qualifications of the license or comply with the profession's regulations and laws;
- mishandling funds or other collateral or improperly failing to return collateral;
- failing to keep records and maintain a trust account;
- any conduct in a bail bond transaction which demonstrates bad faith, dishonesty, or untrustworthiness;
- wearing badges or making statements to create the false impression that the bail bond agent is a sworn peace officer;
- hiring or performing as a bail bond recovery agent without proper licensing and contracts or without adequate care for the safety or property of persons other than the defendant; and
- using a dog in the apprehension of a fugitive criminal defendant.

Unprofessional conduct may be disciplined through an order by the Department's disciplinary authority requiring revocation or suspension of the license, restriction of practice, a program of education or treatment, censure, probation, denial of license renewal, or a fine of up to \$5,000 per violation.

Summary of Substitute Bill:

Entering into a contract, including general power of authority, with a person that gives the bail bond agent full authority over the person's finances, assets, real property, or personal property creates a presumption of unprofessional conduct which may be overcome by a preponderance of the evidence, determined by the Department.

Substitute Bill Compared to Original Bill:

The substitute bill makes it a rebuttable presumption, rather than a necessary determination, that entering into a power of attorney or similar contract is unprofessional conduct.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This broad ability to take someone's property damages individuals. The power of attorney is much further-reaching than necessary in this circumstance. Other collection agencies do not have the power to take someone's property or bank accounts without consent or notice. For individuals on social security, it would violate treasury laws for someone to have access to their bank account. This is unnecessary and more than unprofessional conduct, it is an unfair business practice and should be a violation of the Consumer Protection Act.

(Neutral) Most bail bond agents require some collateral to cover the cost of the bail bond agent. Consumers put up vehicle titles, cash, or other items. Some bail bond agents use a general power of attorney form as opposed to working with the consumer to identify a specific source of collateral. This gives them wide-reaching authority over homes, cars, boats, etc. It also gives the agent the right to seize payroll, bank accounts, or retirement accounts. Often the person doesn't understand the rights they are giving away and there is no recourse for the consumer, because it is a signed contract.

(Opposed) None.

Persons Testifying: (In support) Representative Appleton, prime sponsor; and Leslie Owen, Northwest Justice Project.

(Neutral) Mary Haglund, Department of Licensing.

Persons Signed In To Testify But Not Testifying: None.