

SENATE BILL REPORT

SHB 2668

As of February 22, 2012

Title: An act relating to adopting the unanimous recommendations of the bail practices work group created in section 2, chapter 256, Laws of 2010.

Brief Description: Addressing bail practices.

Sponsors: House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Hope, Hurst and Kelley).

Brief History: Passed House: 2/10/12, 94-3.

Committee Activity: Judiciary: 2/22/12.

SENATE COMMITTEE ON JUDICIARY

Staff: Juliana Roe (786-7438)

Background: In 2010 the Legislature passed SSB 6673 (Chapter 256, Laws of 2010), which created the Bail Practices Work Group to study bail practices and procedures in a comprehensive manner and to make recommendations to the Governor, the Supreme Court, and the Legislature. The Work Group and its subcommittees met many times over the 2010 interim and provided a report and recommendations to the Legislature in December, along with the following legislation.

Summary of Bill: Courts must notify sureties of a defendant's failure to appear within 14 calendar days of the date on which the defendant failed to appear, rather than 30 days.

A surety may surrender a client in a criminal case for good cause and if accompanied by a notice of forfeiture or a notarized affidavit specifying the reasons for surrender. If the court finds that good cause does not exist for the surrender, the surety must return the premium paid as well as any recovery fee. Good cause does not include circumstances in which the client failed to make timely payment to the surety for the bond premium.

The presiding judge of a court must notify the Administrative Office of the Courts (AOC) when the court revokes the justification or certification of a bail bond agent to post bonds in the court. This notice must include the reasons for revocation. Once AOC receives the information, it must notify superior courts and courts of limited jurisdiction statewide.

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 property bond is a bail bond executed for compensation, the security for which is real property, tangible personal property, or other assets. A property bond agency is a bail bond agency that issues property bonds. A surety bond is a bail bond that is guaranteed by an insurance company that has been qualified to transact surety insurance business in Washington State by the insurance commissioner. A surety bond agency is a bail bond agency that issues surety bonds.

Bail bond agent applicants are required to complete a records check through the Washington State Patrol Criminal Identification System and through the Federal Bureau of Investigation.

The surety bond, which a bail bond agent is required to either file with the Department of Licensing (DOL) or deposit into a trust account, is increased from \$10,000 to \$100,000 for property bond agencies.

DOL is allowed to audit licensee trust accounts every two years unless the licensee annually submits a financial report to DOL that has been prepared by a certified public accountant.

It is considered unprofessional conduct for a bail bond agent to enter into a contract, including a general power of attorney, with a person who gives the bail bond agent full authority over the person's finances, assets, real property, or personal property; surrender a person without good cause; or fail to reasonably disclose, when requested by law enforcement, information within the bail agent's possession concerning the location of a fugitive criminal defendant.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The workgroup put in many hours to bring this bill forward. This bill represents the unanimous recommendations from the workgroup. The first piece to come out of the workgroup was the constitutional amendment. This bill represents the second piece. The third and final piece will hopefully be some sort of consensus on the premium rate for bail. This last piece should be set aside and worked on over the interim. This bill will protect consumers of bail and smooth out the bail industry.

CON: This bill does not represent a significant step forward. The only substantive portion in the bill is the provision that cuts in half the amount of time the state has to give notice to companies when a person has failed to appear. There is limited progress and some technical fixes in the bill, but the major issue that the workgroup set out to fix has not been achieved. Our fear is that if this bill is passed, the Legislature will not address the premium or definition of bail. Until there is a minimum premium set, we will oppose this bill.

Persons Testifying: PRO: Representative Hope, prime sponsor; Holly Chisa, Two Jinn, Aladdin; Dylan Doty, WA Bail Agents Assn.; Amy Muth, WA Assn. of Criminal Defense Lawyers, WA Defender Assn.

CON: Russ Hauge, Kitsap County Prosecuting Attorney; Tom McBride, WA Assn. of Prosecuting Attorneys.