
Commerce & Labor Committee

HB 2313

Brief Description: Regulating bail bond recovery agents.

Sponsors: Representatives Carrell, Boldt and Mielke.

Brief Summary of Bill

- Establishes a system of mandatory certification and contracting for bail bond recovery agents (bounty hunters).
- Requires prior notice to local law enforcement and identifying clothing when bail bond recovery agents make a planned forced entry to apprehend a fugitive.

Hearing Date: 1/14/04

Staff: Susan Kavanaugh (786-7106).

Background:

Bail bond agencies post a bond to guarantee that a person will appear for a court date. A friend or relative of the defendant pays a premium, generally 10 percent of the bond amount, for this service, as well as providing collateral such as a lien on a home. If the defendant does not show up as scheduled for a court date, he or she is considered a fugitive, and the bail bond agency is liable to pay the entire amount of the bond. There is generally a grace period, the length of which varies by court, in which the bail bond agent may produce the defendant and avoid having to pay the bond amount.

Bail bond agencies and agents are licensed by Washington State. Requirements for licensure as an agent include:

- being at least 18 years old and a citizen or resident alien of the United States;
- not having been convicted of any crime in the prior ten years that, in the judgment of the Department of Licensing, directly relates to their capacity to do the work of a bail bond agent; and
- submitting an application and completing four hours of pre-licensing training.

Bail bond recovery agents, sometimes known as "bounty hunters," search for and may arrest a fugitive for whom a bail bond has been posted. Bail bond recovery agents are not regulated in Washington. Bail bond recovery agents work under a variety of arrangements in Washington, including contracting with one or more bail bond agencies and operating independently. Also, some bail bond agents act as their own bail bond recovery agents.

An 1872 Supreme Court case, *Taylor v. Taintor* (16 Wall. 366), established that "the sureties" (those who provide bail bonds) do not have to follow due process in seeking a fugitive for whom a bail bond has been posted. They may search and arrest without a warrant.

Summary of Bill:

"Bail bond recovery agent" is defined to exclude law enforcement officers as well as licensed bail bond agencies, bail bond agents, "and a qualified agent, or their designees." It is stated that the Legislature does not intend by this act to restrict or limit the powers of bail bond recovery agents under *Taylor v. Taintor*.

Certification and Contracting Requirements

Beginning January 1, 2006, no one may perform the function of a bail bond recovery agent unless the person is certified and also has entered into a contract with a licensed bail bond agency.

The Department of Licensing is directed to adopt rules, in consultation with the industry, law enforcement, and prosecutors for the bail bond recovery agent certificate. Minimum requirements for obtaining the certification include:

- education or experience appropriate for the work;
- instruction in relevant areas of criminal and civil law;
- instruction in appropriate use of force;
- training in the use of firearms;
- no felony convictions; and
- possession of a concealed pistol license.

The bail bond recovery agent certificate is good for four years, unless suspended or revoked. The bail bond recovery agent must carry a copy of the certificate while working. After December 31, 2005, it is a gross misdemeanor to function as a bail bond recovery agent without being both certified and contracted. Bail bond recovery agents from other states who are not certified may operate in Washington only under the supervision of a certified bail bond recovery agent.

Bail bond recovery agents must operate under both the law and the specific authority given them in their contract with a bail bond agency. The contract may require more than the minimums required for certification. Before contracting with a bail bond recovery agent, a bail bond agency must be satisfied that the recovery agent is certified and may require documentation to prove this. It is unprofessional conduct for a bail bond agent to use the services of a bail bond recovery agent who is not both certified and under contract.

Planned Forced Entry Notice and Identification Requirements

"Planned forced entry" is defined to mean going into a home or other structure without the permission or knowledge of the occupant in an effort to pick up a fugitive, if this action was planned in advance. It does not include situations, such as during a chase or a casual encounter, where the forced entry happens without advance planning.

Notice

Before a planned forced entry, the bail bond recovery agent must notify an appropriate local law enforcement agency. The notice has to include at least the following information:

- the name of the defendant being sought;

- the address or approximate address where the entry is anticipated;
- the name of the bail bond recovery agent;
- the name of the bail bond agency for whom the recovery agent is working; and
- the alleged offense or conduct that led to a bail bond being issued on the defendant.

Identification

During a planned forced entry, the bail bond recovery agent is required to wear a shirt or vest with the words "BAIL RECOVERY AGENT" written on the front and back in letters at least two inches high. The words must be reflective and in a color that contrasts with the color of the garment.

After December 31, 2005, it is a gross misdemeanor for a bail bond recovery agent to make a planned forced entry without complying with both the notice and the identification requirements.

Appropriation: None.

Fiscal Note: Requested on January 12, 2004.

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