

SENATE BILL REPORT

ESSB 6437

As Passed Senate, February 15, 2008

Title: An act relating to bail bond agents and bail bond recovery agents.

Brief Description: Modifying provisions relating to bail bond and bail bond recovery agents.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Carrell, Hargrove and Kline; by request of Department of Licensing).

Brief History:

Committee Activity: Judiciary: 1/16/08, 1/25/08 [DPS].

Passed Senate: 2/15/08, 48-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6437 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; Carrell, McDermott, Roach and Weinstein.

Staff: Lidia Mori (786-7755)

Background: Licensure became mandatory for bail bond agents and agencies in 1993 and bail bond recovery agents became subject to licensure in 2006. A bail bond agent is defined as a person who is employed by a bail bond agency and engages in the sale or issuance of bail bonds. A bail bond recovery agent is 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 was posted.

A number of incidents have occurred recently in which bail bond recovery agents have mistakenly entered the wrong homes and apprehended innocent people. In addition, there are documented cases of licensed bail bond recovery agents being arrested for kidnapping, impersonation of a law enforcement officer, harassment, and burglary. Proponents of this bill believe it will increase public safety.

Summary of Engrossed Substitute Bill: Before adopting or amending the prelicensing training or continuing education requirements for bail bond agents, the Director of the Department of Licensing (Director), or the Director's designee, must consult with representatives of the bail bond industry and associations. Employment for at least 18 consecutive months as a bail bond agent or submitting proof of having previously met training

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required prior to 1994 does not fulfill prelicensing training requirements. The rules adopted by the Director establishing prelicense training and testing requirements for bail bond recovery agents must include no less than 32 hours of field operations classes.

A bail bond recovery agent is required to notify the Director within ten business days after a forced entry for the apprehension of a fugitive criminal defendant, whether the forced entry is planned or not. Before a bail bond recovery agent may apprehend a person subject to a bail bond in a planned forced entry, the agent must have reasonable cause to believe the defendant is inside the dwelling or other structure. During the actual planned forced entry, the bail bond recovery agent must display a badge with the words "BAIL ENFORCEMENT" or "BAIL ENFORCEMENT AGENT."

Performing the functions of a bail bond recovery agent without exercising due care to protect the property and safety of persons other than the defendant constitutes unprofessional conduct. It is also unprofessional conduct for a bail bond recovery agent to use a dog in the apprehension of a fugitive criminal defendant.

An applicant for a bail bond recovery agent license must not have had certification as a peace officer revoked or denied, unless certification has subsequently been reinstated. The applicant must also have a current license or equivalent permit to carry a concealed pistol.

Any law enforcement officer who assists in or is in attendance during a planned forced entry is immune from civil action for damages arising out of the actions of the bail bond recovery agent or agents.

The Department of Licensing is directed to convene a work group to evaluate whether bail bond agents and bail recovery agents should provide proof of financial responsibility to obtain a license.

Appropriation: None.

Fiscal Note: Requested on January 14, 2008.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: This bill was developed with a great deal of input and there was consensus regarding the direction the bill should take. All parties believed there was a need to put some parameters around the activities of bail bond recovery agents, especially with regard to forced entry. The Department of Licensing needs more regulatory authority in this area. The recovery agents aren't bonded because it is extremely difficult to find someone to bond them. The Department of Licensing can take their license away. The additional training and education required in this bill increases public safety.

Persons Testifying: PRO: Senator Mike Carrell, prime sponsor; Denny Behrend, Gordon Walgren, Washington State Bail Bond Association; Liz Luce, Director, Department of Licensing; Ralph Osgood, Department of Licensing.