
SUBSTITUTE HOUSE BILL 2668

State of Washington

62nd Legislature

2012 Regular Session

By House Public Safety & Emergency Preparedness (originally sponsored by Representatives Hope, Hurst, and Kelley)

READ FIRST TIME 01/31/12.

1 AN ACT Relating to adopting the unanimous recommendations of the
2 bail practices work group created in section 2, chapter 256, Laws of
3 2010; amending RCW 10.19.090, 10.19.100, 10.19.160, 18.185.010,
4 18.185.040, 18.185.070, 18.185.100, and 18.185.110; and adding a new
5 section to chapter 10.19 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 10.19.090 and 1986 c 322 s 2 are each amended to read
8 as follows:

9 In criminal cases where a recognizance for the appearance of any
10 person, either as a witness or to appear and answer, shall have been
11 taken and a default entered, the recognizance shall be declared
12 forfeited by the court, and at the time of adjudging such forfeiture
13 said court shall enter judgment against the principal and sureties
14 named in such recognizance for the sum therein mentioned, and execution
15 may issue thereon the same as upon other judgments. If the surety is
16 not notified by the court in writing of the unexplained failure of the
17 defendant to appear within ((thirty)) fourteen calendar days of the
18 date for appearance, then the forfeiture shall be null and void and the
19 recognizance exonerated.

1 **Sec. 2.** RCW 10.19.100 and 1891 c 28 s 86 are each amended to read
2 as follows:

3 The parties, or either of them, against whom such judgment may be
4 entered in the superior or supreme courts, may stay said execution for
5 sixty days from the date of the notification by the court by giving a
6 bond with two or more sureties, to be approved by the clerk,
7 conditioned for the payment of such judgment at the expiration of sixty
8 days, unless the same shall be vacated before the expiration of that
9 time.

10 **Sec. 3.** RCW 10.19.160 and 1986 c 322 s 5 are each amended to read
11 as follows:

12 (1) The surety on the bond may return a person to custody (~~a~~
13 ~~person~~) for good cause in a criminal case under the surety's bond if
14 the surrender is accompanied by a notice of forfeiture or a notarized
15 affidavit specifying the reasons for the surrender. If, upon motion by
16 a party to the bail transaction, a court determines that good cause
17 does not exist for the surety to surrender a person, the surety shall
18 return the premium paid by, or on behalf of, the person, as well as any
19 recovery fee. Good cause for surrender includes, but is not limited
20 to, a reasonable belief in a substantial increase in the likelihood of
21 the risk of flight, violation of a court order, failure to appear, or
22 the concealment or intentional misrepresentation of information by the
23 person, provided that good cause does not include failure to make
24 timely payments to the surety for the bond premium. The surrender
25 shall be made to the (~~facility in which the person was originally held~~
26 ~~in custody or the~~) facility in which the person was originally held in
27 custody or the county or city jail affiliated with the court issuing
28 the warrant resulting in bail.

29 (2) A violation of this section amounts to unprofessional conduct
30 under RCW 18.185.110.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 10.19 RCW
32 to read as follows:

33 The presiding judge of a court shall notify the administrative
34 office of the courts when the court revokes or reinstates the
35 justification or certification of a bail bond agent to post bonds in
36 the court. The notice to the administrative office of the courts must

1 include the reasons for the revocation or reinstatement. Upon
2 receiving the notification, the administrative office of the courts
3 shall notify superior courts and courts of limited jurisdiction
4 statewide. No civil liability may be imposed by any court on the
5 administrative office of the courts or its employees under this section
6 except upon proof of bad faith or willful or wanton misconduct or gross
7 negligence.

8 **Sec. 5.** RCW 18.185.010 and 2004 c 186 s 2 are each amended to read
9 as follows:

10 Unless the context clearly requires otherwise, the definitions in
11 this section apply throughout this chapter.

12 (1) "Department" means the department of licensing.

13 (2) "Director" means the director of licensing.

14 (3) "Commission" means the criminal justice training commission.

15 (4) "Collateral or security" means property of any kind given as
16 security to obtain a bail bond.

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

21 (6) "Qualified agent" means an owner, sole proprietor, partner,
22 manager, officer, or chief operating officer of a corporation who meets
23 the requirements set forth in this chapter for obtaining a bail bond
24 agency license.

25 (7) "Bail bond agent" means a person who is employed by a bail bond
26 agency and engages in the sale or issuance of bail bonds, but does not
27 mean a clerical, secretarial, or other support person who does not
28 participate in the sale or issuance of bail bonds.

29 (8) "Licensee" means a bail bond agency, a bail bond agent, a
30 qualified agent, or a bail bond recovery agent.

31 (9) "Branch office" means any office physically separated from the
32 principal place of business of the licensee from which the licensee or
33 an employee or agent of the licensee conducts any activity meeting the
34 criteria of a bail bond agency.

35 (10) "Bail bond recovery agent" means a person who is under
36 contract with a bail bond agent to receive compensation, reward, or any
37 other form of lawful consideration for locating, apprehending, and

1 surrendering a fugitive criminal defendant for whom a bail bond has
2 been posted. "Bail bond recovery agent" does not include a general
3 authority Washington peace officer or a limited authority Washington
4 peace officer.

5 ~~(11) ("Contract" means a written agreement between a bail bond
6 agent or qualified agent and a bail bond recovery agent for the purpose
7 of locating, apprehending, and surrendering a fugitive criminal
8 defendant in exchange for lawful consideration.~~

9 ~~(12))~~ "Planned forced entry" means a premeditated forcible entry
10 into a dwelling, building, or other structure without the occupant's
11 knowledge or consent for the purpose of apprehending a fugitive
12 criminal defendant subject to a bail bond. "Planned forced entry" does
13 not include situations where, during an imminent or actual chase or
14 pursuit of a fleeing fugitive criminal defendant, or during a casual or
15 unintended encounter with the fugitive, the bail bond recovery agent
16 forcibly enters into a dwelling, building, or other structure without
17 advanced planning.

18 (12) "Property bond" means a bail bond executed for compensation
19 the security for which is real property, tangible personal property, or
20 other assets.

21 (13) "Property bond agency" means a bail bond agency that issues
22 property bonds.

23 (14) "Surety bond" means a bail bond that is guaranteed by an
24 insurance company that has been qualified to transact surety insurance
25 business in Washington state by the insurance commissioner.

26 (15) "Surety bond agency" means a bail bond agency that issues
27 surety bonds.

28 **Sec. 6.** RCW 18.185.040 and 2004 c 186 s 4 are each amended to read
29 as follows:

30 (1) Applications for licenses required under this chapter shall be
31 filed with the director on a form provided by the director. The
32 director may require any information and documentation that reasonably
33 relates to the need to determine whether the applicant meets the
34 criteria, including fingerprints.

35 (2) Applicants for licensure or endorsement as a bail bond agent or
36 a bail bond recovery agent must complete a records check through the
37 Washington state patrol criminal identification system and through the

1 federal bureau of investigation at the applicant's expense. Such
2 record check shall include a fingerprint check using a Washington state
3 patrol approved fingerprint card. The Washington state patrol shall
4 forward the fingerprints of applicants to the federal bureau of
5 investigation for a national criminal history records check. The
6 director may accept proof of a recent national crime information
7 center/III criminal background report or any national or interstate
8 criminal background report in addition to fingerprints to accelerate
9 the licensing and endorsement process. The director is authorized to
10 periodically perform a background investigation of licensees to
11 identify criminal convictions subsequent to the renewal of a license or
12 endorsement.

13 **Sec. 7.** RCW 18.185.070 and 1993 c 260 s 8 are each amended to read
14 as follows:

15 (1) No bail bond agency license may be issued under the provisions
16 of this chapter unless the qualified agent files with the director a
17 bond, executed by a surety company authorized to do business in this
18 state, in the sum of ten thousand dollars for a surety agency and one
19 hundred thousand dollars for a property bond agency conditioned to
20 recover against the agency and its servants, officers, agents, and
21 employees by reason of its violation of the provisions of RCW
22 18.185.100. The bond shall be made payable to the state of Washington,
23 and anyone so injured by the agency or its servants, officers, agents,
24 or employees may bring suit upon the bond in any county in which
25 jurisdiction over the licensee may be obtained. The suit must be
26 brought not later than two years after the failure to return property
27 in accordance with RCW 18.185.100. If valid claims against the bond
28 exceed the amount of the bond or deposit, each claimant shall be
29 entitled only to a pro rata amount, based on the amount of the claim as
30 it is valid against the bond, without regard to the date of filing of
31 any claim or action.

32 (2) Every licensed bail bond agency must at all times maintain on
33 file with the director the bond required by this section in full force
34 and effect. Upon failure by a licensee to do so, the director shall
35 suspend the licensee's license and shall not reinstate the license
36 until this requirement is met.

1 (3) In lieu of posting a bond, a qualified surety agent may deposit
2 ten thousand dollars in an interest-bearing account(~~(,—ten))~~ and a
3 qualified property bond agent may deposit one hundred thousand dollars
4 in an interest-bearing account.

5 (4) The director may waive the bond requirements of this section,
6 in his or her discretion, pursuant to adopted rules.

7 **Sec. 8.** RCW 18.185.100 and 2004 c 186 s 8 are each amended to read
8 as follows:

9 (1)(a) Every qualified agent shall keep adequate records for three
10 years of all collateral and security received, all trust accounts
11 required by this section, and all bail bond transactions handled by the
12 bail bond agency, as specified by rule. The records shall be open to
13 inspection without notice by the director or authorized representatives
14 of the director.

15 (b) The department may audit licensee trust accounts every two
16 years unless the licensee submits a financial report prepared by a
17 certified public accountant to the department on an annual basis.

18 (2) Every qualified agent who receives collateral or security is a
19 fiduciary of the property and shall keep adequate records for three
20 years of the receipt, safekeeping, and disposition of the collateral or
21 security. Every qualified agent shall maintain a trust account in a
22 federally insured financial institution located in this state. All
23 moneys, including cash, checks, money orders, wire transfers, and
24 credit card sales drafts, received as collateral or security or
25 otherwise held for a bail bond agency's client shall be deposited in
26 the trust account not later than the third banking day following
27 receipt of the funds or money. A qualified agent shall not in any way
28 encumber the corpus of the trust account or commingle any other moneys
29 with moneys properly maintained in the trust account. Each qualified
30 agent required to maintain a trust account shall report annually under
31 oath to the director the account number and balance of the trust
32 account, and the name and address of the institution that holds the
33 trust account, and shall report to the director within ten business
34 days whenever the trust account is changed or relocated or a new trust
35 account is opened.

36 (3) Whenever a bail bond is exonerated by the court, the qualified

1 agent shall, within five business days after written notification of
2 exoneration, return all collateral or security to the person entitled
3 thereto.

4 (4) Records of contracts for fugitive apprehension must be retained
5 by the bail bond agent and by the bail bond recovery agent for a period
6 of three years.

7 **Sec. 9.** RCW 18.185.110 and 2008 c 105 s 4 are each amended to read
8 as follows:

9 In addition to the unprofessional conduct described in RCW
10 18.235.130, the following conduct, acts, or conditions constitute
11 unprofessional conduct:

12 (1) Violating any of the provisions of this chapter or the rules
13 adopted under this chapter;

14 (2) Failing to meet the qualifications set forth in RCW 18.185.020,
15 18.185.030, and 18.185.250;

16 (3) Knowingly committing, or being a party to, any material fraud,
17 misrepresentation, concealment, conspiracy, collusion, trick, scheme,
18 or device whereby any other person lawfully relies upon the word,
19 representation, or conduct of the licensee. However, this subsection
20 (3) does not prevent a bail bond recovery agent from using any pretext
21 to locate or apprehend a fugitive criminal defendant or gain any
22 information regarding the fugitive;

23 (4) Assigning or transferring any license issued pursuant to the
24 provisions of this chapter, except as provided in RCW 18.185.030 or
25 18.185.250;

26 (5) Conversion of any money or contract, deed, note, mortgage, or
27 other evidence of title, to his or her own use or to the use of his or
28 her principal or of any other person, when delivered to him or her in
29 trust or on condition, in violation of the trust or before the
30 happening of the condition; and failure to return any money or
31 contract, deed, note, mortgage, or other evidence of title within
32 thirty days after the owner is entitled to possession, and makes demand
33 for possession, shall be prima facie evidence of conversion;

34 (6) Entering into a contract, including a general power of
35 attorney, with a person that gives the bail bond agent full authority
36 over the person's finances, assets, real property, or personal
37 property;

1 (7) Failing to keep records, maintain a trust account, or return
2 collateral or security, as required by RCW 18.185.100;

3 ~~((+7))~~ (8) Any conduct in a bail bond transaction which
4 demonstrates bad faith, dishonesty, or untrustworthiness;

5 ~~((+8))~~ (9) Violation of an order to cease and desist that is
6 issued by the director under chapter 18.235 RCW;

7 ~~((+9))~~ (10) Wearing, displaying, holding, or using badges not
8 approved by the department;

9 ~~((+10))~~ (11) Making any statement that would reasonably cause
10 another person to believe that the bail bond recovery agent is a sworn
11 peace officer;

12 ~~((+11))~~ (12) Failing to carry a copy of the contract or to present
13 a copy of the contract as required under RCW 18.185.270(1);

14 ~~((+12))~~ (13) Using the services of an unlicensed bail bond
15 recovery agent or using the services of a bail bond recovery agent
16 without issuing the proper contract;

17 ~~((+13))~~ (14) Misrepresenting or knowingly making a material
18 misstatement or omission in the application for a license;

19 ~~((+14))~~ (15) Using the services of a person performing the
20 functions of a bail bond recovery agent who has not been licensed by
21 the department as required by this chapter;

22 ~~((+15))~~ (16) Performing the functions of a bail bond recovery
23 agent without being both (a) licensed under this chapter or supervised
24 by a licensed bail bond recovery agent under RCW 18.185.290; and (b)
25 under contract with a bail bond agent;

26 ~~((+16))~~ (17) Performing the functions of a bail bond recovery
27 agent without exercising due care to protect the safety of persons
28 other than the defendant and the property of persons other than the
29 defendant; ~~((or~~

30 ~~(+17))~~ (18) Using a dog in the apprehension of a fugitive criminal
31 defendant;

32 (19) Surrendering a person without good cause pursuant to RCW
33 10.19.160; or

34 (20) Failing to reasonably disclose, when requested by law
35 enforcement, information within the bail agent's possession concerning
36 the location of a fugitive criminal defendant.

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