

HOUSE BILL REPORT

HB 1022

As Passed Legislature

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: 1/21/15, 1/23/15 [DP].

Floor Activity:

Passed House: 3/10/15, 98-0.

Passed House: 2/11/16, 96-0.

Passed Senate: 3/1/16, 47-0.

Passed Legislature.

Brief Summary of Bill

- Creates a presumption of unprofessional conduct by a bail bond agent where the agent enters into a contract, including a general power of attorney, that gives the agent full authority over a person's finances, assets, and property; the presumption may be overcome by a preponderance of the evidence to the contrary.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 9 members: Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Griffey, Moscoso, Pettigrew and Wilson.

Staff: Cassie Jones (786-7303).

Background:

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.

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.

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 Bill:

Entering into a contract, including a general power of attorney, 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.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) There have been many complaints to law enforcement regarding bail bond agents requiring older people to sign a power of attorney, resulting in people losing their

assets and homes. This bill would put some parameters on that and people would be protected. The best practices in the industry should move forward. This bill will clean up the industry; bad actors engage in bad practices. Sometimes there is a general power of attorney clause that is surreptitiously placed into long contracts. Enforcement agents have walked into people's houses and taken their things in the middle of the night. This is bad practice that does not represent the industry as a whole.

(Opposed) None.

Persons Testifying: Representative Appleton, prime sponsor; and Dylan Doty, Washington Bail Agents Association.

Persons Signed In To Testify But Not Testifying: None.