

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 149

Printer's No.: 102

Sponsor: Senator Greenleaf

Prepared by: Gregg Warner

Synopsis: This bill is the Bail Bond Enforcement Agent Law providing for the licensing of bail bond enforcement agents. A bail bond enforcement agent is a person who is licensed to recapture suspects who are released on bail.

Summary: The legislation prohibits any person from representing himself as or acting in the capacity of a bail bond enforcement agent unless the person has met the licensure and registration requirements of this act. A violation of this prohibition may result in a civil penalty of up to \$10,000 imposed by a court of common pleas.

License requirements

In order to be licensed, an applicant must meet the requirements of and complete the training under the Lethal Weapons Training Act and file an application with the court of common pleas in the county in which the applicant's principal place of business is located.

A bail bond enforcement agent license shall be valid for five years unless the license is suspended or revoked for cause by the court. The court may establish fees for issuing and renewing licenses.

A license shall not be issued to a person who has been convicted of a felony.

Local law enforcement

A bail bond enforcement agent who enters a municipality for the purposes of capturing a suspect must notify the chief of police of the municipality or, where there is no municipal police, the State Police. Notification shall be by registration on a form provided by the municipal police and shall include information identifying the bail bond enforcement agent as a licensed agent, the suspect and the location of the suspect in the municipality.

In a case of exigent circumstances, written notification is not required if oral notification is given and a written report is submitted within 24 hours after any action is instituted.

In the case of an out-of-state bail bond enforcement agent, the agent must be licensed in the agent's state of residence and the licensure requirements in that state must be substantially the same as the requirements for licensure under this act.

A court of common pleas may impose a civil penalty of up to \$10,000 on a person who does not register with the municipal police or otherwise violates these requirements.

Civil action

A bail bond enforcement agent who wrongfully causes damage to any person or property shall be liable for the damages and may be liable for punitive damages.

Effective date

This act takes effect in 120 days.

Background: The Lethal Weapons Training Act, 1974 Act 235, requires that the person be at least 18 years old, be of “good character,” have a criminal background check (no crimes of violence), and complete the weapons training program.

Other terms for a bail bond enforcement agent include “bounty hunter” and “fugitive recovery agent.” Bail bond enforcement agents enforce private contracts between bail bondsmen and suspects. As such, bail bond enforcement agents are not considered agents of the state and are not bound by the same constitutional restraints. They are largely unregulated.

A law review article states: “Although many are ex-convicts, they make between 25,000 and 30,000 arrests each year. Although they enjoy broader powers than police officers, they are unlicensed, unregulated, and generally free from constitutional constraints. They are legally entitled to break into a suspect’s home without a warrant, arrest a suspect using necessary force, and search and imprison suspects without prior authorization from the state. They are America’s seven thousand bounty hunters who recapture suspects released on bail, and their unchecked authority results in injuries to suspects, third parties, and themselves.” Jonathan Drimmer, “*When Man Hunts Man: The Rights and Duties of Bounty Hunters in the American Criminal Justice System*” *Houston Law Review*, Volume 33 at pages 732 and 733 (1996).

While it is important that bail jumpers are tracked down, it is equally important that the individuals who do the tracking are responsible trained professionals.

Other states

Twenty-six states have laws regulating bounty hunters. Eleven states require licensing: Arizona, California, Connecticut, Indiana, Iowa, Louisiana, Mississippi, Nevada, South Dakota, Utah and West Virginia. Eight states have other requirements that regulate bounty hunters: Arkansas, Colorado, Georgia, New Hampshire, Oklahoma, South Carolina, Tennessee and Texas. Seven states and the District of Columbia outlaw the practice altogether: Florida, Illinois, Kentucky, North Carolina, Oregon, South Carolina and Wisconsin.

Legislative history

In 2011-2012 this legislation was introduced as Senate Bill 44 but it was not considered. In 2009-2010 the Senate Judiciary Committee reported this legislation (Senate Bill 221) from committee. In two prior sessions the Senate passed this legislation.